



**TEHAMA COUNTY
LOCAL AGENCY FORMATION COMMISSION**

444 Oak Street Rm "I"
Red Bluff, CA 96080
Phone (530) 527-2200 Fax (530) 527-2655

January 23, 2023

Honorable Judge
Matthew C. McGlynn Presiding Judge
Tehama County Superior Court,
1740 Walnut St. Red Bluff, CA 96080

RE: 2022 Grand Jury
Response to Findings and Recommendations

Dear Judge McGlynn,

Pursuant to Penal Code § 933 (c), the Tehama LAFCo presents the following responses to the findings and recommendation contained with the 2022 Grand Jury Report which pertain to the Tehama LAFCo operations.

Findings-

F1. Tehama LAFCo Commissioners and staff were unaware of who is on the commission and regular members of alternates. This makes it difficult to have a cohesive, well-function Commission.

Response to Finding: Tehama LAFCo agrees with the finding.

F2. Tehama LAFCo does not have an updated set of written PPS which include procedural requirements of the CKH Act. The absence of an up-to-date policy document to guide LAFCo activities may result in a failure to properly execute responsibilities.

Response to Finding: Tehama LAFCo agrees with the finding.

F3. Funding splits for the annual Tehama LAFCo budget is not secured from the cities in Tehama County as required by the CKH Act, resulting in the full burden of Tehama LAFCo funding solely on the county

Response to Finding: Partially disagree; there was a funding agreement reached through negotiation and discussion by LAFCo members in 2019 during an agenized meeting.

F4. Tehama LAFCo does not have a contract with county employees for LAFCo staffing as required by the CKH Act (GC§ 56380). The lack of a contract results in the inability for Tehama LAFCo to provide the appearance of autonomy from the County.

Response to Finding: Disagree; a contract is optional as the commission **may** choose to contract with any public agency or private party for personnel and facilities, pursuant to CKH Act GC § 56380. CKH Act GC§ 56384 states "(a) The commission **shall appoint an executive officer** who shall conduct and perform the day-to-day business of the commission. If the executive officer is subject to a conflict of interest on a matter before the commission, the commission shall appoint an alternate executive officer. "The courts have already ruled on a Planning Director as LAFCo Executive Officer, finding no conflict of interest thereby allowing the dual role per CKH Act GC§ 56380 and CKH Act GC§ 56384; Case No. 6729SIERRA VALLEY DEVELOPMENT COMPANY, LLC, a California Limited 10 Liability Company and JOHN K. 11 GULLIXSON, 14 BOARD OF SUPERVISORS OF SIERRA 15 COUNTY AND SIERRA COUNTY.

Furthermore, CKH Act GC§ 56375 Powers subsection (k) allows LAFCo the discretion to appoint or contract personnel as it states "To appoint and assign staff personnel and to employ or contract for professional or consulting services to carry out and effect the functions of the commission." LAFCo officially appointed the Tehama County Planning Director on January 14, 1987.

F5. Tehama LAFCo has neither completed nor plans to complete at least one full round of SOI reviews and updates and accompanying MSR's (as called for by CHK Act GC§ 56425 and GC§ 56430 of the CKH Act) on all 33 special districts in Tehama County.

Response to Finding: Disagree, The Grand Jury uses a term of "one full round of SOI review and updates and accompanying MSR's" as a way to measure Tehama LAFCo's performance. This is a fictional term. Rounds of SOI review and updates does not exist in the CKH Act Government Code and there is no basis as a requirement and/or standard in the CKH Act Government Code to complete a full round of SOI reviews, updates, or anything else. TC LAFCo follows the Government code as specifically adopted in the CH. Policies should not be confused for binding regulations, especially when they are almost 20 years old even if they did appear in Office of Planning and Research Publications and/or CALAFCo (501(c)3 non-profit), which is what is referenced in the Grand Jury Report. These forms of information are subject to interpretation and local application based on CKH Gov. Code Section 56301 "Among the purposes of a commission are discouraging urban sprawl, preserving open-space and prime agricultural lands, efficiently providing government services, and encouraging the orderly formation and development of local agencies based upon local conditions and circumstances." In fact, rather than referencing 2003 and 2006 policy publications, a more recent publication from 2013 " 50 years of LAFCo's: a guide to LAFCo's California Local Agency Formation Third Editions published by the Senate government and Finance Committee (signed by Lois wolk Chair)" indicates on Page 14 section "13-What's a "municipal service review? Before LAFCo's adopt or update a sphere of influences, they conduct municipal service reviews." Since 2000, LAFCo's must conduct a MSR, which is a study prepared before LAFCo updates a city or special district's sphere of influence. In a MSR, LAFCo can review all of the agencies that provide the

public services within the study area. MSR's raise questions and important issues getting people talking. **The CKH act requires LAFCo's to update, as necessary, the local government's spheres of influence every 5 years.** Logically, LAFCO's must also update MSR's before revising a SOI. See Attachment A.

The state legislature never intended for LAFCo's to be constrained by time limits for its MSR and SOI updates as indicated in its CHK Gov. Code section 56301, which is noted above and specifically gives local LAFCo's the right to conduct their business based on Local conditions and circumstances, which is why the State Legislature crafted the language adding/using the term "as Necessary" after the third reading of the Law. In the original law, there was no flexibility and the term "as Necessary" was not present. Please see Attachment B-First reading of the Law and the Third reading of the Law. Furthermore, as indicated in the Grand Jury's report, this term "as Necessary" removes any requirement to update spheres of influence on a specific time frame after 2008 thereby in the Grand Jury's opinion (Section 2, Page 6 Grand Jury Report) necessitating a "definition for when MSR or SOI reviews or updates are required or considered "necessary" (CKH Act GC§ 56425 and CKH Act GC§ 56430). If the CHK Law and Stature was clear, a definition would not be required. In fact, the Legislation, while crafting and adopting CHK laws, stated at a May 4, 2005 hearing that "as statutes go into effect, local officials often discover problems or inconsistencies in the language of the law", please see Attachment C.

Staff will accept and process any application for a Sphere of Influence update pursuant to CKH Gov. Code 56017.2(b) Application means any of the following-(b) states-A request for a sphere of influence amendment or update pursuant to section CKH Act GC§ 56425, please see Attachment D.

F6. No information on special districts in Tehama County can be found through the Tehama LAFCo website resulting in members of the public having no consolidated electronic access to information on special districts in the County.

Response to Finding: Tehama LAFCo agrees with the finding.

F7. Having no formal LAFCo training, Tehama LAFCo Commissioners are not adequately prepared to fully implement the requirements of the CKH Act.

Response to Finding: partially agree, City Councils, Board of Supervisors, Committee, Commission members of large and small organizations retain qualified staff to recommend actions regarding a broad range of topics and issues encountered during a jurisdiction's operation; a couple days of workshops and/or trainings will never compare to staff experience and training gained on a daily basis over many years.

F8. Tehama LAFCo does not hold regularly scheduled meetings resulting in lack of continuity of LAFCo business, LAFCo business being superseded by other Commissioner responsibilities and general loss of tracking of Commission appointments.

Response to Finding: Partially disagree, LAFCo has calendared a schedule of regular meetings on the second Wednesday of every month at 2 p.m. for 2023, In the Tehama

County Board Chambers. LAFCo agrees that it should not go two to three years without holding a meeting.

F9. Some Tehama LAFCo Commissioners seem unaware of their legal requirement to cooperate with Tehama County Grand Jurors, resulting in unnecessary delays to grand Jury timelines for completing interviews and writing reports.

Response to Finding: Disagree, this statement is subjective, and not measurable. According to CKH Act GC§ 56331.4. "While serving on the commission, all commission members shall exercise their independent judgment on behalf of the interests of residents, property owners, and the public as a whole in furthering the purposes of this division. Any member appointed on behalf of local governments shall represent the interests of the public as a whole and not solely the interests of the appointing authority." This section does not require the abstention of any member on any matter, nor does it create a right of action in any person.

Recommendations-

R1. By April 1, 2023 Tehama LAFCo Commissioners and staff names should be listed and maintained on the Tehama LAFCo website to confirm Commission appointment.

Response to Recommendation: The recommendation has not yet been implemented, but will be implement in the future and no later than April 1, 2023.

R2. By April 1, 2023 Tehama LAFCo Commissioners and staff should implement a regular meeting schedule, at least quarterly, to help all participants remain aware of current issues, updated legal responsibilities and Commission appointments.

Response to Recommendation: The recommendation has been implemented; LAFCo has calendared a schedule of regular meetings on the second Wednesday of every month at 2 p.m. for 2023 In the Tehama County Board Chambers. LAFCo concurs that it should not go two to three years without holding a meeting.

R3. By April 1, 2023 Tehama LAFCo Commissioners and staff should revisit and redraft their PPS document to ensure they comply with the mandates, requirements and timelines of the CKH Act. Tehama LAFCo should define timelines and include criteria for when review and updates of SOI's and creation of accompanying MSR's are required to be completed.

Response to Recommendation: The recommendation requires further study, there is a current working draft. However, the scope of the draft's contents may need to be expanded based on new state legislation and the Grand Jury's recommendations. A Final Draft will be presented to the Tehama LAFCO no later than July 1, 2023.

R4. By April 1, 2023 Tehama LAFCo Commissioners should resume discussion to attempt to secure funding splits from the cities in Tehama County as required by the CKH Act.

Response to Recommendation: The recommendation requires further study, there was a funding agreement reach through negotiation and discussion by LAFCo members in 2019 during an agenized meeting. It will take some time to study other LAFCo agencies funding negotiations and enforcement processes. A funding proposal will be presented to the Tehama LAFCo no later than July 1, 2023.

R5. By April 1, 2023 Tehama LAFCo Commissioners should develop contracts annually with the County or others for Tehama LAFCo staffing consistent with GC § 56380, such as the example provided in Appendix C.

Response to Recommendation: The recommendation requires further study, it appears that Tehama LAFCo currently complies with CKH Act GC's 56380, 56384, 56375(k) and judicial law.

However, Tehama LAFCo will analyze the CKH Act further and study the possibility of a contract, which is an option, as the commission may choose to contract with any public agency or private party for personnel and facilities, pursuant to CKH Act GC 56380. CKH Act GC 56384 states "(a) The commission shall appoint an executive officer who shall conduct and perform the day-to-day business of the commission. If the executive officer is subject to a conflict of interest on a matter before the commission, the commission shall appoint an alternate executive officer." The courts have already ruled on a Planning Director as LAFCo Executive Officer, finding no conflict of interest thereby allowing the dual role per the courts have already ruled on a Planning Director as LAFCO Executive Officer, finding no conflict of interest thereby allowing the dual role per CKH Act GC 56380 and CKH Act GC 56384; Case No. 6729SIERRA VALLEY DEVELOPMENT COMPANY, LLC, a California Limited 10 Liability Company and JOHN K. 11 GULLIXSON, 14 BOARD OF SUPERVISORS OF SIERRA 15 COUNTY AND SIERRA COUNTY.

Furthermore, CKH Act GC 56375 Powers subsection (k) allows LAFCo the discretion to appoint or contract personnel as it states "To appoint and assign staff personnel and to employ or contract for professional or consulting services to carry out and effect the functions of the commission." LAFCo officially appointed the Tehama County Planning Director on January 14, 1987.

A study item will be agenized at a regular scheduled LAFCO meeting no later July 1, 2023.

R6. By April 1, 2023 Tehama LAFCo should develop annual work plans that outline schedules for the proactive reviews and updates of SOI's and production of MSR's, consistent with the CKH Act, as well as any other expected work in the given fiscal years. These work plans should put an emphasis on the completion of MSR's and SOI review and updates for special districts.

Response to Recommendation: The recommendation requires further study to determine what an appropriate definition of “as necessary” is, which is what would trigger a review and/or Sphere of Influence update (Section 2, Page 6 Grand Jury Report). Currently as the state statute reads -The term “as Necessary” removes any requirement to update spheres of influence on a specific time frame after 2008 thereby in the Grand Jury’s opinion (Section 2, Page 6 Grand Jury Report) necessitating a “definition for when MSR or SOI reviews or updates are required or considered “necessary” (CKH Act GC 56425 and CKH Act GC 5630). If the CHK Law and Statute was clear, a definition would not be required. In fact, the Legislation, while crafting and adopting CHK laws, stated at a May 4, 2005 hearing that “as statutes go into effect, local officials often discover problems or inconsistencies in the language of the law”.

A plausible definition for “as necessary” could include- At the point and time the status quo of a City or Special Districts Sphere of Influence Boundary is changed.

During this analysis, staff will still accept and process any application for a Sphere of Influence update pursuant to CHK Gov. Code 56017.2(b) Application means any of the following-(b) states-A request for a sphere of influence amendment or update pursuant to section 56425.

A study item will be agendaized at a regular scheduled LAFCO meeting no later July 1, 2023.

R7. By April 1, 2023 Tehama LAFCo should annually develop a budget and seek adequate funding to allow accomplishment of annual work plans called for in Recommendations 6. MSR’s and SOI’s should be scheduled and budgeted over time to reduce the burden of costs,

Response to Recommendation: The recommendation requires further study to determine what adequate funding post Grand Jury precipitated analysis reveals. The analysis will include whether or not it is appropriate for LAFCo to spend public funds on updating other independently funded agencies Spheres of Influence, which would trigger a Municipals Service Review on an as necessary basis or whether it would be considered a gift of public funds. Currently, as the state statute reads -The term “as Necessary” removes any requirement to update spheres of influence on a specific time frame after 2008 thereby in the Grand Jury’s opinion (Section 2, Page 6 Grand Jury Report) necessitating a “definition for when MSR or SOI reviews or updates are required or considered “necessary” (CKH Act GC 56425 and CKH Act GC 5630). If the CHK Law and Statute was clear, a definition would not be required. In fact the Legislation while crafting and adopting CHK laws states at a May 4, 2005 hearing that “as statutes go into effect, local officials often discover problems or inconsistencies in the language of the law”.

A plausible definition for “as necessary” could include- At the point and time the status quo of a City or Special Districts Sphere of Influence Boundary is changed. If this is determined to be an appropriate definition, then a city and/or special district will submit an application with a fee to update their Sphere of Influence based on an actual change to the size and/or shape of their current Sphere of Influence rather than an arbitrary review of a boundary line that will not move from its current state.

During this analysis, Staff will still accept and process any application for a Sphere of Influence update pursuant to CHK Gov. Code 56017.2(b) Application means any of the following-(b)states-A request for a sphere of influence amendment or update pursuant to section 56425.

A study item will be agenzized at a regular scheduled LAFCO meeting no later than July 1, 2023.

R8. By April 1, 2023 Tehama LAFCo should have updated information on their webpage which provides a complete inventory (i.e. special district name, service9s) provided, contract information. Etc.) of all the special districts in the County, as well as links to all the updated SOI's and MSR's that have been completed and should reference the CKH Act.

Response to Recommendation: The recommendation requires further study to determine what level of information will be placed on the LAFCo webpage and what information will be provided through links to other resources already available on the internet. Tehama LAFCo only receives about 4 to 5 phone calls a year and about 5 to 6 emails a year, which justifies its current budget and resource allocation. The current information on the website along with the names of the LAFCo commissioners and staff may be adequate and meet the needs of the public based on the low public demand.

A study item will be agenzized at a regular scheduled LAFCo meeting no later July 2023.

R9. By April 1, 2023 Tehama LAFCo Commissioners should be required to have Grand Jury training and have subsequent refresher training at some interval to be determined.

Response to Recommendation: The recommendation requires further study to determine what form, if any, a Grand Jury Training would take place and if it is warranted and required by law. These elements of the study will be presented to the Tehama LAFCo prior to July 1, 2023.

R10. By April 1, 2023 Tehama LAFCo should develop checklist, such as those created in Yolo County, to document when MSR and SOI reviews are conducted and if SOU updates are found to be deemed necessary or not.

Response to Recommendation: The recommendation requires further study to determine what form, if any, would meet the organization needs of Tehama LAFCo.

A study item will be agenzized at a regular scheduled LAFCo meeting no later July 1, 2023.

R11. By October 18, 2023 Tehama LAFCo commissioners and staff should begin attending Annual CALAFCo Conference Workhops. The 2023 Conference will be held on October 18-23, 2023.

Response to Recommendation: The recommendation requires further study to determine what form of training is most appropriate and feasible given individual's health concerns related to COVID and the various strains still evolving. LAFCo 101 training is readily available online and could be beneficial.

A study item will be agendized at a regular scheduled LAFCo meeting no later July 2023.

R12.By January 1, 2024 all Tehama LAFCo Commissioners and staff should receive formal training in the requirements of CKH Act.

Response to Recommendation: The recommendation requires further study to determine what form of training is most appropriate and feasible given individual's health concerns related to COVID and the various strains still evolving. LAFCO 101 training is readily available online and could be beneficial.

A study item will be agendized at a regular scheduled LAFCo meeting no later July 2023.

Sincerely,



LAFCo Acting Chair
Bill Moule

Cc: Tehama County Grand Jury's, P.O. Box 1061 Red Bluff, CA 96080

Attachments:
A Thru D

10. Where can I get a copy of the Cortese-Knox-Hertzberg Act?

The Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 starts with Section 56000 of the California Government Code. The California Assembly Local Government Committee publishes the Guide to Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 in print copy and on their website: <http://alcl.assembly.ca.gov/publications>. A print copy costs \$12 and may be purchased from:

Assembly Publications
c/o Office of the Chief Clerk
State Capitol, Room 3196
Sacramento, CA 95814

11. Where can I get more information about LAFCOs?

The best place to start is with your LAFCO's executive officer or staff. You can usually find LAFCO's telephone number in the government pages of your telephone book, or use the Internet to find the LAFCO in your county.

Also, if you are interested in attending a LAFCO meeting, most LAFCOs meet every month, or every other month. Agendas are publicly posted online and at their office. Another place to get good information is from the California Association of Local Agency Formation Commissions (CALAFCO). The directory on CALAFCO's website lists the names and phone numbers of the LAFCO executive officers: www.calafco.org.

12. What's a "sphere of influence?"

Sphere of influence (SOI) is a term that means the plan for the probable long-term boundary and service area of a city or special district, given population projections and future service needs. It's a planning tool used by LAFCOs to help determine if future annexations make sense. In effect, a sphere of influence tells landowners, residents, and public officials where the LAFCO thinks a city or district will "grow" in the future. All boundary changes must be consistent with spheres of influence.

13. What's a "municipal service review?"

Before LAFCOs adopt or update spheres of influences, they conduct "municipal service reviews." Since 2000, LAFCOs must conduct a MSR, which is a study prepared before LAFCO updates a city or special district's sphere of influence. In a MSR, a LAFCO can review all of the agencies that provide the public services within the study area. MSRs raise questions and important issues, and get people talking. The CKH Act requires LAFCOs to update, as necessary, the local government's sphere of influence every five years. Logically, LAFCOs must also update MSRs before revising a SOI.

Assembly Bill 2838
SOI Update LAW Origin
First Reading

ATTACHMENT B

BILL ANALYSIS

AB 2838
Page 1

Date of Hearing: April 5, 2000

ASSEMBLY COMMITTEE ON LOCAL GOVERNMENT
John Longville, Chair
AB 2838 (Hertzberg) - As Amended: February 28, 2000

SUBJECT : Local agency formation commissions.

SUMMARY : Comprehensively revises the Cortese-Knox Local Government Reorganization Act of 1985 (Act). Specifically, this bill :

- 1) Transfers the authority to conduct proceedings subsequent to local agency formation commission (LAFCO) approval or disapproval of changes of organization or reorganization from counties and other designated public agencies to the LAFCO.
- 2) Authorizes any city to annex noncontiguous territory that constitutes a state correctional training or correctional facility upon approval by a LAFCO.
- 3) Deletes the provision that currently allows a city or district to provide new or extended services outside its jurisdictional boundaries by contracts or agreements between public agencies without written LAFCO approval.
- 4) Requires that notice of proceedings by a LAFCO shall be given in electronic format on a website provided by the LAFCO.
- 5) Requires a LAFCO to provide written notice of any proposed reorganization that may affect school attendance to the countywide school district and each school superintendent whose district would be affected.
- 6) Requires a LAFCO to provide mailed notice to all registered voters and owners of property within 300 feet of the exterior boundary of property that is the subject of a LAFCO hearing.
- 7) Defines "landowner" or "owner of land" as any person shown as the owner of land on the most recent assessment roll being prepared by the county at the time a LAFCO adopts a resolution of application except where that person is no longer the owner.
- 8) Requires that notices of LAFCO hearings be published at least

AB 2838
Page 2

20 days prior to the date of the hearing.

- 9) Declares the intent of the Legislature that each LAFCO establish written policies and procedures, including lobbying disclosure and reporting requirements and forms to be used for submittals to the LAFCO, and provides that if a LAFCO has not adopted written policies and procedures by July 1, 2001, any actions taken by that LAFCO may be voidable.
- 10) Adds the preservation of open-space and agricultural lands and the efficient provision of government services to the stated purposes of a LAFCO.
- 11) Requires a LAFCO, when considering a request to form a new government entity, to make a determination as to whether existing agencies can feasibly provide the needed services in a more efficient and accountable manner.
- 12) Adds two additional positions to a standard LAFCO, to be filled by presiding officers or legislative body members of independent special districts selected by an independent special district selection committee.
- 13) Requires a LAFCO to make the rezoning by a city of any territory proposed for annexation a mandatory precondition to any such annexation, and requires that the approval of an annexation be consistent with the planned and probable use of the property based on a review of the general plan and rezoning designations.
- 14) Authorizes a LAFCO to enter into an agreement with the LAFCO of an adjoining county to establish procedures for considering proposals that may affect either or both counties.

15) Authorizes a LAFCO to require establishment of a community growth plan for an unincorporated area or to review the consistency of a proposal within a city's general plan when a proposed action would require the extension of critical services.

16) Prohibits a LAFCO from approving proposals that would enable the change in use of existing prime agricultural lands or open-space lands where feasible alternatives exist elsewhere that are not prime agricultural lands or open-space lands dedicated or otherwise restricted to open-space use.

AB 2838
Page 3

17) Repeals the current requirement that LAFCO facilities and expenses be provided by the county board of supervisors only, and instead requires those expenses to be provided by cities, counties, and special districts.

18) Requires that the signatures on a petition presented to a LAFCO be verified by the county election official, and that costs of verification be provided for in the same manner and by the same agencies that bear those costs for an initiative petition in the same jurisdiction.

19) Authorizes a LAFCO to waive petition fees in the public interest and to request a loan from the Controller for specified petition proceedings for an incorporation.

20) Requires a LAFCO to appoint an executive officer and legal counsel, authorizes the appointment of staff, and provides for alternatives in cases of conflict of interest.

21) Requires a LAFCO to review and update the spheres of influence it establishes for local agencies within the county not less than once every five years.

22) Requires a LAFCO to obtain written statements from existing districts specifying the functions or classes of services provided and establish the nature, location, and extent of functions or services provided by existing districts before approving a sphere of influence or a sphere of influence including a special district.

23) Requires LAFCO to conduct service reviews of municipal services prior to the preparation or update of spheres of influence.

24) Requires LAFCO approval for any extension of "backbone" (water supply, sewer, wastewater, or roads) infrastructure to previously undeveloped or underdeveloped lands. In the case of cities, LAFCO shall approve a finding of general plan consistency. In unincorporated areas, LAFCO shall either approve a special district sphere of influence amendment (if applicable) or a community growth plan.

25) Establishes criteria for determining whether a proposal for an extension of "backbone" infrastructure has the potential

**Assembly Bill 2838 First Reading
SOI Update LAW originally intended to
mandate a review and update of SOI's
every 5 yrs.; No Question or Flexibility**

AB 2838
Page 4

for causing significant effects on the orderly extension of government services, as follows:

- a) A residential development of more than 500 units;
- b) A shopping center of business employing more than 1,000 persons or encompassing more than 500,000 square feet of floor space;
- c) A commercial office building or buildings employing more than 1,000 persons or encompassing more than 250,000 square feet of floor space;
- d) A hotel or motel development of more than 500 rooms;
- e) An industrial, manufacturing, or processing plant or industrial park planned to house more than 1,000 persons occupying more than 40 acres of land, or encompassing more than 650,000 square feet of floor space;

Assembly Bill 2838
SOI Update LAW Origin
Third Reading

ASSEMBLY THIRD READING
AB 2838 (Hertzberg)
As Amended May 18, 2000
Majority vote

LOCAL GOVERNMENT 5-2 APPROPRIATIONS 14-7

Ayes:	Longville, Corbett, Kuehl, Thomson, Torlakson	Ayes:	Migden, Alquist, Aroner, Cedillo, Corbett, Davis, Kuehl, Papan, Romero, Shelley, Thomson, Wesson, Wiggins, Wright
Nays:	Kaloogian, Thompson	Nays:	Campbell, Ackerman, Ashburn, Brewer, Maldonado, Runner, Zettel

SUMMARY : Revises the Cortese-Knox Local Government Reorganization Act of 1985 (Act). Specifically, this bill :

- 1) Transfers the authority to conduct proceedings subsequent to local agency formation commission (LAFCO) approval or disapproval of changes of organization or reorganization from counties and other designated public agencies to LAFCO.
- 2) Authorizes any city to annex noncontiguous territory that constitutes a state correctional training or correctional facility upon approval by a LAFCO.
- 3) Permits a city or district to provide new or extended services outside its jurisdictional boundaries by contracts or agreements between public agencies without written LAFCO approval only when the services are already being provided by a public service provider and when the proposed level of service is consistent with the existing actual or planned level of service.
- 4) Requires that notice of proceedings by a LAFCO shall be given in electronic format on a website.
- 5) Requires a LAFCO to provide mailed notice to all registered voters and owners of property within 300 feet of the exterior

- boundary of property that is the subject of a LAFCO hearing.
- 6) Defines "landowner" or "owner of land" as any person shown as the owner of land on the most recent assessment roll being prepared by the county at the time a LAFCO adopts a resolution of application except where that person is no longer the owner.
 - 7) Requires that notices of LAFCO hearings be published at least 21 days prior to the date of the hearing.
 - 8) Declares the intent of the Legislature that each LAFCO establish written policies and procedures not later than January 1, 2002, including lobbying disclosure and reporting requirements and forms to be used for submittals to LAFCO.
 - 9) Adds the preservation of open-space and agricultural lands, the efficient provision of government services, and the provision of housing to persons and families of all incomes to the stated purposes of a LAFCO.
 - 10) Requires a LAFCO, when considering a request to form a new government entity, to make a determination as to whether existing agencies can feasibly provide the needed services in a more efficient and accountable manner.
 - 11) Adds two additional positions to standard LAFCOs not currently including independent special district representatives, to be filled by presiding officers or legislative body members of independent special districts selected by an independent special district selection committee.
 - 12) Requires a LAFCO to make the rezoning by a city of any

territory proposed for annexation a mandatory precondition to any such annexation, and requires that the approval of any annexation for a period of two years be consistent with the planned and probable use of the property based on a review of the general plan and rezoning designations, unless a substantive change has occurred that necessitates a departure from the rezoning.

- 13) Authorizes a LAFCO to enter into an agreement with the LAFCO of an adjoining county to establish procedures for considering proposals that may affect either or both

counties.

- 14) Authorizes a LAFCO to require establishment of a community growth plan for an unincorporated area or to review the consistency of a proposal within a city's general plan when a proposed action would require the extension of critical services.
- 15) Directs a LAFCO to guide proposals that would enable a change in use of existing prime agricultural lands or open-space lands towards feasible alternatives elsewhere that are not prime agricultural lands or open-space lands dedicated or otherwise restricted to open-space use.
- 16) Requires that LAFCO facilities and expenses be provided by cities, counties, and special districts, as specified.
- 17) Requires that the signatures on a petition presented to a LAFCO be verified by the county election official, and that costs of verification be provided for in the same manner and by the same agencies that bear those costs for an initiative petition in the same jurisdiction.
- 18) Authorizes a LAFCO to waive specified petition fees in the public interest and to request a loan from the Controller for specified petition proceedings for an incorporation.
- 19) Requires a LAFCO to appoint an executive officer and legal counsel, authorizes the appointment of staff, and provides for alternatives in cases of conflict of interest.
- 20) Requires a LAFCO to review and update the spheres of influence it establishes for local agencies within the county not less than once every five years, as necessary.
- 21) Requires a LAFCO to obtain written statements from existing districts specifying the functions or classes of services provided and establish the nature, location, and extent of functions or services provided by existing districts before approving a sphere of influence or a sphere of influence including a special district.
- 22) Requires LAFCO to conduct service reviews of municipal services prior to the preparation or update of spheres of influence.

**Assembly Bill 2838 Third Reading
SOI Update Law now includes "as necessary"
because Legislators decided the review &
update of SOI's needed to be flexible.**

- 23) States legislative intent that LAFCOs should review any proposed extension of "backbone" (i.e., water supply, sewer, wastewater, or roads) infrastructure to previously undeveloped or underdeveloped lands for consistency with the purposes of the Act.
- 24) Requires each application to a LAFCO from a city to include steps taken to increase density within existing territory.
- 25) Deletes the provisions creating the Special Commission on Los Angeles Boundaries.
- 26) Requires that proceedings for a reorganization that includes the detachment of territory from a city or city and county and the incorporation of that territory as a city be conducted in accordance with procedures otherwise prescribed for the incorporation of a city.
- 27) Requires that expenditures and contributions for political

Date of Hearing: May 4, 2005

ASSEMBLY COMMITTEE ON LOCAL GOVERNMENT
Sim?n Salinas, Chair

AB 1746 (Committee on Local Government) - As Introduced: March
3, 2005

SUBJECT : Local government reorganization.

SUMMARY : Makes several minor and non-controversial changes to
the Cortese-Knox-Hertzberg Local Government Reorganization Act
of 2000. Specifically, this bill :

- 1)Deletes the requirement that all subject agencies consent in writing to a waiver of protest proceedings in order for a local agency formation commission (LAFCO) to waive proceedings:
 - a) With respect to uninhabited territory, if all the owners of land within the affected territory have given written consent, and
 - b) With respect to inhabited city and district annexations or detachments, or both, if LAFCO has provided written notice of its proceedings to all registered voters and landowners within the affected territory and has received no written opposition.
- 2)Permits the filing of written protests by any owner of land or registered voter within inhabited territory or any owner of land within uninhabited territory concerning territory that is the subject of a proposed change of organization or reorganization, rather than territory proposed to be annexed or detached.
- 3)Makes technical changes to certain mailed notice requirements.

EXISTING LAW governs the procedures for the formation, change of organization, and reorganization of cities, counties, and special districts.

FISCAL EFFECT : None

COMMENTS :

AB 1746
Page 2

- 1)As statutes go into effect, local officials often discover problems or inconsistencies in the language of the law. Each year, local officials approach the Legislature to correct those problems. These minor problems do not warrant separate bills, particularly since, according to the Legislative Analyst, in 2001-02 the cost of producing a single bill was \$17,890.
- 2)In the past, the Assembly Local Government Committee has responded by combining several of these minor topics into an annual "omnibus bill." This is an expeditious and relatively inexpensive way to respond to multiple requests. Since AB 720, Chapter 388, Statutes of 2001, which was specifically intended as a clean-up to AB 2838 (Hertzberg), Chapter 761, Statutes of 2000, the massive reform of the Cortese-Knox-Hertzberg Local Government Reorganization Act, the Assembly Local Government Committee has focused its omnibus bill efforts on LAFCO-related issues, most recently with AB 3077, Chapter 355, Statutes of 2004. The Committee hopes to carry on this practice by addressing a number of minor and non-controversial, but still necessary, issues relating to LAFCOs with AB 1746. The bill will be amended as it moves through the legislative process and local LAFCOs and others bring proposals and issues to the Committee. All proposals are thoroughly vetted by a large number of stakeholders. Any proposal that provokes any controversy or opposition will be rejected for inclusion in AB 1746, or removed from the bill if already a part of it.

Support

CA Association of Local Agency Formation Commissions

Opposition

None on file

Analysis Prepared by : J. Stacey Sullivan / L. GOV. / (916)
319-3958

AB 1746

Page 3

ATTACHMENT D

- "Agricultural lands"** 56016. "Agricultural lands" means land currently used for the purpose of producing an agricultural commodity for commercial purposes, land left fallow under a crop rotational program, or land enrolled in an agricultural subsidy or set-aside program.
- "Annexation"** 56017. "Annexation" means the inclusion, attachment, or addition of territory to a city or district.
- "Applicant"** 56017.1. "Applicant" means a local agency or person or persons that submits an application, as defined by Section 56017.2.
- "Application"** 56017.2. "Application" means any of the following:
(a) A resolution of application or petition initiating a change of organization or reorganization with supporting documentation as required by the commission or executive officer.
(b) A request for a sphere of influence amendment or update pursuant to Section 56425.
(c) A request by a city or district for commission approval of an extension of services outside the agency's jurisdictional boundaries pursuant to Section 56133.
(d) A request by a public agency for commission approval of an extension of services outside the agency's jurisdictional boundaries pursuant to Section 56134.
56018. [Repealed by Stats. 2011, Ch. 300]
- "Board of directors"** 56019. "Board of directors" means the legislative body or governing board of a district.
- "Board of supervisors"** 56020. "Board of supervisors" means the legislative body or governing board of a county.
- "Certificate of completion"** 56020.5. "Certificate of completion" means the document prepared by the executive officer and recorded with the county recorder that confirms the final successful completion of a change of organization or reorganization.
- "Certificate of filing"** 56020.6. "Certificate of filing" means the document issued by the executive officer that confirms an application for a change of organization or reorganization has met submission requirements and is accepted for filing.
- "Certificate of termination of proceedings"** 56020.7. "Certificate of termination" or "certificate of termination of proceedings" means the document prepared by the executive officer and retained by the commission that indicates that a proposal for a change of organization or reorganization was