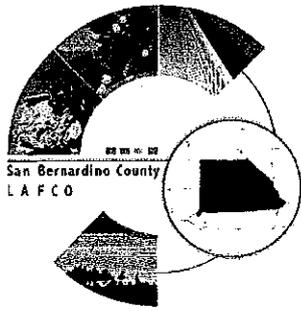


(K)



LOCAL AGENCY FORMATION COMMISSION

215 North "D" Street, Suite 204 • San Bernardino, CA 92415-0490
(909) 383-9900 • Fax (909) 383-9901
E-mail: lafco@lafco.sbcounty.gov • www.sbclafco.org

Established by the State of California to serve the Citizens, Cities, Special Districts and the County of San Bernardino

June 28, 2010

Sent Via E-mail and U.S. Mail

COMMISSIONERS

JIM BAGLEY
Public Member

PAUL BIANE
Board of Supervisors

KIMBERLY COX
Special District

JAMES V. CURATALO, Vice Chair
Special District

LARRY McCALLON
City Member

BRAD MITZELFELT, Chair
Board of Supervisors

MARK NUAIMI
City Member

ALTERNATES

BOB COLVEN
Public Member

NEIL DERRY
Board of Supervisors

ROBERT W. SMITH
Special District

DIANE WILLIAMS
City Member

STAFF

KATHLEEN ROLLINGS-McDONALD
Executive Officer

SAMUEL MARTINEZ
Senior LAFCO Analyst

MICHAEL TUERPE
LAFCO Analyst

Vacant
Clerk to the Commission

ANGELA M. SCHELL
Deputy Clerk to the Commission

REBECCA LOWERY
Deputy Clerk to the Commission

LEGAL COUNSEL

CLARK H. ALSOP

The Honorable Juan Arambula
California State Assembly
State Capitol
P.O. Box 942849
Sacramento, CA 94249-0031

SUBJECT: AB 853 – Letter of Opposition

Dear Assembly Member Arambula:

The Local Agency Formation Commission (LAFCO) for San Bernardino County has received the proposed amendments to AB 853 for discussion by the Senate Local Government Committee on June 30, 2010. While we appreciate your efforts and those of the Senate Local Government Committee to address concerns expressed to the legislation, it is the position of San Bernardino LAFCO that they do not go far enough to address our issues. Specifically, the amendments do not address one of the primary concerns, that the bill represents an unfunded mandate at a time of critical funding crisis for all levels of government in the State of California.

This position is taken in response to the additions made to Government Code Sections 56425(e)(2) and 56430 which requires a separate analysis of "disadvantaged inhabited communities" and their infrastructure needs, Section 56425(g) by changing the location of the term "as necessary" appears to undo a prior change in this section to allow for deferral of reviews if they are deemed unnecessary due to a lack of changed circumstance, and the addition of Section 56650 which requires the County to be the applicant for a proposed annexation.

In addition, San Bernardino LAFCO disagrees with Section 5 of the bill specifying that there is no reimbursement required from the State. This position is taken based upon the lack of authority to charge fees or service charges for a service review. The revenue for these changes would be through the overall apportionment of LAFCO costs to every type of agency with a seat on the respective Commission.

We are also forwarding a copy of this letter in opposition to AB 853 as amended to Mr. Peter Detwiler, Consultant for the Senate Local Government Committee. Please contact Kathleen Rollings-McDonald, Executive Officer of San Bernardino LAFCO, at the address listed above or at (909) 383-9900, should you wish to discuss the Commission's position of opposition on this legislation.

Sincerely,



BRAD MITZELFELT
Chairman

cc: Peter Detwiler, Consultant, Senate Local Government Committee
William Chiat, Executive Director, CALAFCO
Lance Larson, Director, Legislative Affairs, San Bernardino County
San Bernardino County Legislators:
Senator George C. Runner
Senator Roy Ashburn
Senator Robert Huff
Senator Robert Dutton
Senator Gloria Negrete-McLeod
Assemblymember Jean Fuller
Assemblymember Connie Conway
Assemblymember Steve Knight
Assemblymember Anthony Adams
Assemblymember Norma Torres
Assemblymember Curt Hagman
Assemblymember Wilmer A. Carter
Assemblymember William J. Emmerson
Assemblymember Paul Cook

AMENDED IN SENATE JUNE 23, 2010

AMENDED IN SENATE JUNE 9, 2010

AMENDED IN ASSEMBLY MAY 18, 2009

AMENDED IN ASSEMBLY MAY 5, 2009

AMENDED IN ASSEMBLY APRIL 14, 2009

CALIFORNIA LEGISLATURE—2009—10 REGULAR SESSION

ASSEMBLY BILL

No. 853

Introduced by Assembly Member Arambula

February 26, 2009

An act to amend ~~Section~~ *Sections 56425 and 56430* of, and to add Sections ~~56375.6 56033.5 and 56435 56650.1~~ to, the Government Code, relating to local government.

LEGISLATIVE COUNSEL'S DIGEST

AB 853, as amended, Arambula. Local government: organization.

(1) The Cortese-Knox-Hertzberg Act of 2000 governs the organization and reorganization of local governmental entities, including, among other things, the annexation of island territories to a city or county.

~~This bill would provide procedures for annexing unincorporated fringe communities and unincorporated island communities, as defined, to a city under specified circumstances.~~

The bill would require a board of supervisors, within 180 days of receiving a petition to apply for annexation to a city or reorganization that includes an annexation to a city, to adopt a resolution of application for an annexation to a city or reorganization that includes an annexation

to a city if the affected territory meets specified conditions, thereby imposing a state-mandated local program.

(2) The Cortese-Knox-Hertzberg Act of 2000 requires a local agency formation commission to develop and determine the sphere of influence of each local governmental agency within the county and to enact policies designed to promote the logical and orderly development of areas within the sphere, and requires the commission, ~~in determining the sphere of influence of each local agency, to consider and prepare a written statement of its determination with respect to the present and planned land uses in the area, the present and probable need for public facilities and services in the area, the present capacity of public facilities and adequacy of public services that the agency provides or is authorized to provide, and the existence of any social or economic communities of interest in the area, as specified~~ *preparing and updating spheres of influence to conduct a service review of the municipal services provided in the county or other area designated by the commission, and to prepare a written statement of its determinations with respect to the growth and population projections for the affected area, the present and planned capacity of public facilities and adequacy of public services, including infrastructure needs or deficiencies, financial ability of agencies to provide services, status of, and opportunities for, shared facilities, accountability for community service needs, including governmental structure, and operational efficiencies, as specified.*

~~This bill would also require the commission to adopt a comprehensive plan to address infrastructure deficiencies for unincorporated fringe communities, unincorporated island communities, and unincorporated legacy communities, as defined, and would require the commission to prepare a written statement of its determinations with respect to the existence of that comprehensive plan with regard to the commission's determination of spheres of influence, thereby imposing a state-mandated local program. The bill would also prohibit a commission from approving a change to a sphere of influence unless all relevant agencies are in compliance with the comprehensive plan.~~

This bill would also require the agency to include in its written statement a determination with respect to the location and characteristics, including infrastructure needs or deficiencies, or any disadvantaged inhabited communities, thereby imposing a state-mandated local program. The bill would also require a commission, upon the review and update of a sphere of influence on or after July 1, 2010, to include in the review or update of each sphere of

influence of a city or special district that provides public facilities or services related to sewers, nonagricultural water, or structural fire protection to include the present and probable need for public facilities and services of disadvantaged inhabited communities.

(3) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 56033.5 is added to the Government Code,
2 to read:

3 56033.5. "Disadvantaged inhabited community" means
4 inhabited territory that constitutes all or a portion of a
5 "disadvantaged community," as defined by Section 75005 of the
6 Public Resources Code.

7 SECTION 1. Section 56375.6 is added to the Government
8 Code, to read:

9 56375.6. (a) ~~As used in this section, the following terms have~~
10 ~~the following meanings:~~

11 (1) ~~"Unincorporated fringe community" means any inhabited~~
12 ~~unincorporated territory that is within 1.5 miles of a city or within~~
13 ~~or adjacent to a city's sphere of influence.~~

14 (2) ~~"Unincorporated island community" means any inhabited~~
15 ~~unincorporated territory that is surrounded or substantially~~
16 ~~surrounded by one or more cities or by one or more cities and a~~
17 ~~county boundary or the Pacific Ocean.~~

18 (3) ~~"Disadvantaged community" means a community with an~~
19 ~~annual median household income that is less than 80 percent of~~
20 ~~the statewide annual median household income. Income evidence~~
21 ~~may be provided by a community household survey.~~

22 (b) ~~The board of supervisors shall petition the commission in~~
23 ~~the board's county to approve the annexation to a city of any~~
24 ~~unincorporated island community or unincorporated fringe~~
25 ~~community after notice and hearing if all of the following~~
26 ~~conditions exist:~~

1 ~~(1) Twenty-five percent of the registered voters or landowners~~
2 ~~in the unincorporated fringe community or unincorporated island~~
3 ~~community file a petition with the board to initiate an annexation~~
4 ~~of that community to a municipality.~~

5 ~~(2) The territory contained in the annexation petition constitutes~~
6 ~~an unincorporated island community or constitutes an~~
7 ~~unincorporated fringe community that has infrastructure~~
8 ~~deficiencies, such as lacking wastewater, drinking water services,~~
9 ~~storm drainage, paved streets, sidewalks, or streetlights, or there~~
10 ~~exists a serious infrastructure-related health hazard.~~

11 ~~(3) The territory that is the subject of the annexation petition~~
12 ~~constitutes a disadvantaged community. Income evidence may be~~
13 ~~provided by a community household survey.~~

14 SEC. 2. Section 56425 of the Government Code is amended
15 to read:

16 56425. (a) In order to carry out its purposes and responsibilities
17 for planning and shaping the logical and orderly development and
18 coordination of local governmental agencies to advantageously
19 provide for the present and future needs of the county and its
20 communities, the commission shall develop and determine the
21 sphere of influence of each local governmental agency within the
22 county and enact policies designed to promote the logical and
23 orderly development of areas within the sphere.

24 (b) Prior to a city submitting an application to the commission
25 to update its sphere of influence, representatives from the city and
26 representatives from the county shall meet to discuss the proposed
27 new boundaries of the sphere and explore methods to reach
28 agreement on development standards and planning and zoning
29 requirements within the sphere to ensure that development within
30 the sphere occurs in a manner that reflects the concerns of the
31 affected city and is accomplished in a manner that promotes the
32 logical and orderly development of areas within the sphere. If an
33 agreement is reached between the city and county, the city shall
34 forward the agreement in writing to the commission, along with
35 the application to update the sphere of influence. The commission
36 shall consider and adopt a sphere of influence for the city consistent
37 with the policies adopted by the commission pursuant to this
38 section, and the commission shall give great weight to the
39 agreement to the extent that it is consistent with commission
40 policies in its final determination of the city sphere.

1 (c) If the commission's final determination is consistent with
2 the agreement reached between the city and county pursuant to
3 subdivision (b), the agreement shall be adopted by both the city
4 and county after a noticed public hearing. Once the agreement has
5 been adopted by the affected local agencies and their respective
6 general plans reflect that agreement, then any development
7 approved by the county within the sphere shall be consistent with
8 the terms of that agreement.

9 (d) If no agreement is reached pursuant to subdivision (b), the
10 application may be submitted to the commission and the
11 commission shall consider a sphere of influence for the city
12 consistent with the policies adopted by the commission pursuant
13 to this section.

14 (e) In determining the sphere of influence of each local agency,
15 the commission shall consider and prepare a written statement of
16 its determinations with respect to each of the following:

17 (1) The present and planned land uses in the area, including
18 agricultural and open-space lands.

19 (2) The present and probable need for public facilities and
20 services in the area. *Upon the next review and update of a sphere*
21 *of influence that occurs pursuant to subdivision (g) on or after*
22 *July 1, 2011, the review and update of each sphere of influence of*
23 *a city or special district that provides public facilities or services*
24 *related to sewers, nonagricultural water, or structural fire*
25 *protection shall include the present and probable need for public*
26 *facilities and services of any disadvantaged inhabited communities.*

27 (3) The present capacity of public facilities and adequacy of
28 public services that the agency provides or is authorized to provide.

29 (4) The existence of any social or economic communities of
30 interest in the area if the commission determines that they are
31 relevant to the agency.

32 ~~(5) The existence of a comprehensive plan adopted pursuant to~~
33 ~~Section 56435 and local agency compliance with that plan, if~~
34 ~~applicable.~~

35 (f) Upon determination of a sphere of influence, the commission
36 shall adopt that sphere.

37 (g) On or before January 1, 2008, and every five years thereafter,
38 the commission shall review and update, as necessary, each sphere
39 of influence.

1 (h) The commission may recommend governmental
2 reorganizations to particular agencies in the county, using the
3 spheres of influence as the basis for those recommendations. Those
4 recommendations shall be made available, upon request, to other
5 agencies or to the public. The commission shall make all reasonable
6 efforts to ensure wide public dissemination of the
7 recommendations.

8 (i) When adopting, amending, or updating a sphere of influence
9 for a special district, the commission shall do all of the following:

10 (1) Require existing districts to file written statements with the
11 commission specifying the functions or classes of services provided
12 by those districts.

13 (2) Establish the nature, location, and extent of any functions
14 or classes of services provided by existing districts.

15 ~~(3) The commission shall not approve any change to a sphere
16 of influence unless all relevant local agencies are in compliance
17 with Section 56435.~~

18 ~~SEC. 3. Section 56435 is added to the Government Code, to
19 read:~~

20 ~~56435. (a) As used in this section, the following terms have
21 the following meanings:~~

22 ~~(1) "Unincorporated fringe community" means any inhabited
23 unincorporated territory that meets all of the following conditions:~~

24 ~~(A) The community is within 1.5 miles of a city or within or
25 adjacent to a city's sphere of influence.~~

26 ~~(B) The community has infrastructure deficiencies, such as
27 lacking wastewater, drinking water services, storm drainage, paved
28 streets, or there exists a serious infrastructure-related health hazard.~~

29 ~~(C) The community constitutes a disadvantaged community.~~

30 ~~(2) "Disadvantaged community" means a community with an
31 annual median household income that is less than 80 percent of
32 the statewide annual median household income. Income evidence
33 may be provided by a community household survey.~~

34 ~~(3) "Unincorporated island community" means any inhabited
35 unincorporated territory that meets all of the following conditions:~~

36 ~~(A) The community is surrounded or substantially surrounded
37 by one or more cities or by one or more cities and a county
38 boundary or the Pacific Ocean.~~

1 ~~(B) The community has infrastructure deficiencies, such as~~
2 ~~lacking wastewater, drinking water services, storm drainage, paved~~
3 ~~streets, or there exists a serious infrastructure-related health hazard.~~

4 ~~(C) The community constitutes a disadvantaged community.~~

5 ~~(4) “Unincorporated legacy community” means any inhabited~~
6 ~~unincorporated territory that meets all of the following conditions:~~

7 ~~(A) The community is more than 1.5 miles from a city and not~~
8 ~~adjacent to a city’s sphere of influence.~~

9 ~~(B) The community has infrastructure deficiencies, such as~~
10 ~~lacking wastewater, drinking water services, storm drainage, paved~~
11 ~~streets, or there exists a serious infrastructure-related health hazard.~~

12 ~~(C) The community constitutes a disadvantaged community.~~

13 ~~(b) The commission shall adopt a comprehensive plan to address~~
14 ~~infrastructure deficiencies for unincorporated fringe communities,~~
15 ~~unincorporated island communities, and unincorporated legacy~~
16 ~~communities.~~

17 ~~(1) The comprehensive plan must include a feasibility analysis~~
18 ~~that includes at least one of the following:~~

19 ~~(A) Extension of municipal services.~~

20 ~~(B) Annexation.~~

21 ~~(C) Consolidation of agencies.~~

22 ~~(D) Other actions within the commission’s authority.~~

23 ~~(2) The comprehensive plan shall include potential federal, state~~
24 ~~or local funding sources, including, but not limited to, community~~
25 ~~development block grants, redevelopment funds, the Clean Water~~
26 ~~State Revolving Fund, and the Safe Drinking Water Revolving~~
27 ~~Fund. For any single infrastructure category, the plan shall not~~
28 ~~include an assessment for capital costs levied on residents of a~~
29 ~~disadvantaged community that exceeds 1.5 percent of the median~~
30 ~~household income in that community.~~

31 ~~(3) The comprehensive plan shall include a timeline for each~~
32 ~~action.~~

33 ~~(4) The relevant local agencies shall be consulted by the~~
34 ~~commission and may provide guidance or comments prior to the~~
35 ~~adoption of the plan.~~

36 ~~(5) The comprehensive plan may be developed using the process~~
37 ~~described in subdivisions (b) and (c) of Section 56425.~~

38 ~~(e) The comprehensive plan shall be adopted concurrent with~~
39 ~~the commission’s review pursuant to subdivision (g) of Section~~

1 56425, or prior to acting on any request pursuant to Section 56428,
2 whichever occurs first.

3 ~~(d) All local agencies identified in a comprehensive plan shall~~
4 ~~comply with the adopted actions and timelines of the commission.~~
5 ~~A local agency may present a challenge to the comprehensive plan;~~
6 ~~as it relates to that local agency, to the commission. The~~
7 ~~commission shall adopt a written response to that challenge within~~
8 ~~90 days.~~

9 ~~(e) The commission shall not approve an annexation to a city~~
10 ~~if that city is not in compliance with a comprehensive plan action~~
11 ~~related to a community that lacks wastewater or drinking water~~
12 ~~services constituting a serious public health hazard.~~

13 *SEC. 3. Section 56430 of the Government Code is amended to*
14 *read:*

15 56430. (a) In order to prepare and to update spheres of
16 influence in accordance with Section 56425, the commission shall
17 conduct a service review of the municipal services provided in the
18 county or other appropriate area designated by the commission.
19 The commission shall include in the area designated for service
20 review the county, the region, the subregion, or any other
21 geographic area as is appropriate for an analysis of the service or
22 services to be reviewed, and shall prepare a written statement of
23 its determinations with respect to each of the following:

24 (1) Growth and population projections for the affected area.

25 (2) *The location and characteristics, including infrastructure*
26 *needs or deficiencies, of any disadvantaged inhabited communities.*

27 ~~(2)~~

28 (3) Present and planned capacity of public facilities and
29 adequacy of public services, including infrastructure needs or
30 deficiencies.

31 ~~(3)~~

32 (4) Financial ability of agencies to provide services.

33 ~~(4)~~

34 (5) Status of, and opportunities for, shared facilities.

35 ~~(5)~~

36 (6) Accountability for community service needs, including
37 governmental structure and operational efficiencies.

38 ~~(6)~~

39 (7) Any other matter related to effective or efficient service
40 delivery, as required by commission policy.

1 (b) In conducting a service review, the commission shall
2 comprehensively review all of the agencies that provide the
3 identified service or services within the designated geographic
4 area.

5 (c) The commission shall conduct a service review before, or
6 in conjunction with, but no later than the time it is considering an
7 action to establish a sphere of influence in accordance with Section
8 56425 or Section 56426.5 or to update a sphere of influence
9 pursuant to Section 56425.

10 *SEC. 4. Section 56650.1 is added to the Government Code, to*
11 *read:*

12 *56650.1. (a) Within 180 days of receiving a petition that meets*
13 *the qualifications described in subdivision (b), a board of*
14 *supervisors shall adopt a resolution of application for an*
15 *annexation to a city or a reorganization that includes an*
16 *annexation to a city if the affected territory meets all of the*
17 *following conditions:*

18 *(1) The territory is all or a portion of a disadvantaged inhabited*
19 *community.*

20 *(2) The territory is an inhabited territory.*

21 *(3) The territory is within the city's sphere of influence.*

22 *(4) The territory is contiguous to the city.*

23 *(b) A petition to request a board of supervisors to apply for an*
24 *annexation to a city or reorganization that includes an annexation*
25 *to a city shall be signed by either of the following:*

26 *(1) Not less than 25 percent of the registered voters residing in*
27 *the territory proposed to be annexed, as shown on the county*
28 *register of voters.*

29 *(2) Not less than 25 percent of the number of owners of land*
30 *within the territory proposed to be annexed who also own 25*
31 *percent of the assessed value of land within the territory as shown*
32 *on the last equalized assessment roll.*

33 ~~SEC. 4.~~

34 *SEC. 5. No reimbursement is required by this act pursuant to*
35 *Section 6 of Article XIII B of the California Constitution because*
36 *a local agency or school district has the authority to levy service*
37 *charges, fees, or assessments sufficient to pay for the program or*

- 1 level of service mandated by this act, within the meaning of Section
- 2 17556 of the Government Code.

O

State law lists the factors that a LAFCO must consider when it reviews proposals. One factor is the extent to which the proposal will promote environmental justice; the fair treatment of people of all races, cultures, and incomes regarding the location of public facilities and provision of public services (SB 162, Negrete McLeod, 2007).

□

Proposed Law

I. Disadvantaged community . When the voters passed Proposition 84, "The Safe Drinking Water, Water Quality and Supply, Flood Control, River and Coastal Protection Bond Act of 2006," they authorized \$5.4 billion in state bonds. Proposition 84 set aside some of that money for disadvantaged communities, which it defined as communities with median household incomes less than 80% of statewide average. Assembly Bill 853 adds a definition of "disadvantaged inhabited community" to the Cortese-Knox-Hertzberg Act, relying on the Proposition 84 definition, but requiring it to be inhabited territory.

II. Municipal service reviews . In the late 1990s, the Commission on Local Governance for the 21st Century reviewed the LAFCOs' activities, including how they prepared their spheres of influence. The Legislature adopted the recommendation that LAFCOs must periodically conduct "municipal service reviews" to inform their decisions about spheres of influence. Municipal service reviews must analyze and make determinations about six topics (AB 2838, Hertzberg, 2000; AB 1744, Assembly Local Government Committee, 2007):

Growth and population projections.

Present and planned capacity of public facilities and adequacy of public services, including infrastructure needs or deficiencies.

Agencies' financial abilities to provide services.

Opportunities for sharing facilities.

Accountability for community service needs.

Other matters relating to effective or efficient services.

Assembly Bill 853 adds disadvantaged inhabited communities' location and characteristics, including infrastructure needs or deficiencies, to the required contents of municipal service reviews.

III. Spheres of influence . Starting January 1, 2008, and then every five years, a LAFCO must, as needed, review and update the spheres of influence for each city and special district in its county. For each sphere, the LAFCO must prepare written determinations regarding:

Present and planned land uses.

Present and probable need for public facilities and

□

services.

Present capacity of public facilities and adequacy of public services.

Any relevant social and economic communities of interest.

Assembly Bill 853 requires a LAFCO to review its spheres of influence every five years and update them, as necessary. For the next review and update after July 1, 2011, AB 853 requires the sphere of influence for a city or special district that provides sewers, nonagricultural water, or structural fire protection to include the present and probable need for public facilities and services of any disadvantaged inhabited community.

IV. City annexation applications . Boundary change procedures, such as city annexations, require four or possibly five steps:

An application to the LAFCO.

A public hearing for the LAFCO's review and approval.

Another formal hearing to measure public protests.

The possibility of an election, if there was significant protest.

The ministerial filing of final documents.

An application begins when (1) a local agency submits a resolution of application to the LAFCO, (2) when voters or landowners submit a petition to the LAFCO, or (3) in limited cases, when the LAFCO itself initiates the proposal. In addition to maps, data, and other information, boundary change proposals require environmental review. The LAFCO's executive officer cannot accept a city annexation application unless the city and county have negotiated a property tax exchange.

Assembly Bill 853 requires a county board of supervisors to adopt a resolution of application for a city annexation, or a reorganization that includes a city annexation, within 180 days of receiving a petition from the voters or landowners of a disadvantaged inhabited community. The petition must be signed by either at least 25% of the affected territory's voters or at least 25% of the affected territory's landowners who own 25% of the land's assessed value. AB 853 limits this provision to affected territory which is:

□

AB 853 -- 6/23/10 -- Page 5

All or part of a disadvantaged community.
Inhabited territory.
Within the city's sphere of influence.
Contiguous to the city.

Comments

1. The wrong side of the tracks . Disparities in public facilities and services are nothing new. For decades, some neighborhoods have enjoyed good schools, parks, libraries, street lights, and police protection, while other areas have endured rutted streets, low water pressure, inadequate sewers and storm drains, and no curbs or sidewalks. There are plenty of reasons for these differences, including fiscal limits and political realities. A coalition of advocates has compiled compelling information about these persistent patterns. They want legislators to change the rules for allocating public works funds, land use decisions, and annexations so that disadvantaged unincorporated communities can remedy their past problems. AB 853 tackles that challenge by inserting these concerns into the LAFCOs' municipal service reviews, spheres of influence, and city annexation applications. The Legislature told the LAFCOs nearly 40 years ago to adopt spheres of influence to guide their thinking about cities' future service areas and boundaries. Ten years ago, legislators told the LAFCOs to examine infrastructure deficiencies in their municipal service reviews. Nevertheless, unfair disparities still persist. By putting the conditions faced by disadvantaged communities squarely in front of the LAFCOs, the bill makes it harder for local officials to ignore the questions of social equity.

2. Scarce resources . The classic definition of politics is that it's the process by which a society allocates scarce resources. Without enough money to satisfy every need, each community sorts out its priorities and spends its revenues accordingly. In a state that's geographically large, economically varied, and demographically diverse, it's no wonder that different communities make different choices about where to provide public services and facilities. The local elected officials who set policy for the 58 counties, 480 cities, and 3,400 special districts struggle with the classic question of "who gets what." When combined with the constitutional limits on raising new

□

AB 853 -- 6/23/10 -- Page 6

local revenues, the state's archaic revenue and taxation laws result in the fiscalization of land use. Hemmed in by these fiscal realities, local officials often chase land uses that generate more revenue while shunning low revenue neighborhoods that need expensive public works. Before legislators tell the cities and LAFCOs what to do about disadvantaged communities, they need to straighten out the state-local fiscal relationship.

3. Focused attention . To help disadvantaged communities get better public facilities and services, AB 853 changes the contents of the LAFCOs' municipal service reviews and spheres of influence, and requires county supervisors to apply for certain city annexations. The bill inserts disadvantaged communities' concerns in three, increasingly focused ways. First, AB 853 inserts a general reference to disadvantaged communities' needs as part of the LAFCOs' broad municipal service reviews. Second, based on the municipal service reviews, the bill targets the spheres of influence for cities and districts that provide sewers, nonagricultural water, and structural fire protection --- the three services that are essential to suburban and urban development. Third, the bill requires county supervisors to help disadvantaged communities by applying for limited city annexations, when asked. The bill's petition threshold is five times higher than what current law requires for directly petitioning a LAFCO for a city annexation. This focused attention adapts the structure of the Cortese-Knox-Hertzberg Act to the disadvantaged communities' concerns.

4. Dodging districts ? Not every city provides the full range of municipal services; many rely on special districts to provide sewers, water, and fire protection. AB 853 tells the LAFCOs to consider disadvantaged communities' infrastructure and service needs when they prepare municipal service reviews and spheres of influence for both cities and special districts. However, the bill's implementation requirement applies only to cities and not special districts. When disadvantaged communities ask for help, AB 853 requires county supervisors to apply for city annexations. Why not districts? The Committee may wish to consider why the bill targets the 480 cities, but not the 3,400 special districts.

5. Legislative history . The Senate Local Government

□

AB 853 -- 6/23/10 -- Page 7

Committee heard AB 853 at its June 16 hearing, listening to a dozen witnesses. The Committee members discussed the bill with Assembly Member Arambula who then wanted more time to work on his bill. The June 23 amendments deleted the proposal for the LAFCOs to adopt new "comprehensive plans" and deleted the proposal to prevent the LAFCOs from approving annexations to cities that weren't in compliance with the comprehensive plans. The amendments also deleted complicated definitions of disadvantaged, fringe, island, and legacy communities and instead rely on Proposition 84's vocabulary to define disadvantaged communities. The Committee will hear the amended bill on June 30.

6. Two related bills . In 2008, the Committee passed SB 194 (Florez) to raise the questions of disadvantaged communities' needs in local general plans, Proposition 84 funding, air pollution control grants, federal Community Development Block Grant funds, and wastewater project funds. The Assembly Housing and Community Development Committee will hear the Florez bill on June 30. In April, the Committee passed SB 1174 (Wolk) to require cities and counties to plan for disadvantaged communities in their general plans. The Assembly Local Government Committee will hear the Wolk bill on June 30. AB 853 raises similar policy concerns, but within the context of LAFCOs and boundary laws.

7. Back to Rules . When the Senate Rules Committee referred AB 853 last year, it said that the bill must come back to the Senate Rules Committee for further consideration if it passed the Senate Local Government Committee.

Assembly Actions

Assembly Local Government Committee: 5-2
Assembly Floor: 47-30

Support and Opposition (6/24/10)

Support : California Rural Legal Assistance Foundation, PolicyLink.

□

AB 853 -- 6/23/10 -- Page 8

Opposition : American Planning Association-California Chapter, California Association of Local Agency Formation Commissions, California State Association of Counties, League of California Cities, City of Lynwood, Regional Council of Rural Counties, Counties of Los Angeles and Sacramento, Orange LAFCO, San Bernardino LAFCO, San Diego LAFCO.