

CALAFCO Letter of Opposition to SB 239

Attachment 3

April 2, 2015

**2014-2015
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Senator Robert Hertzberg
California State Senate
State Capitol, Room 4038
Sacramento, CA 95814

RE: **SB 239 (Hertzberg) – Local Services: Contracts: Fire Protection Services – OPPOSE**

Dear Senator Hertzberg:

The California Association of Local Agency Formation Commissions (CALAFCO) has reviewed your bill (**SB 239**), which establishes an entirely new hybrid process pursuant to which Local Agency Formation Commissions (LAFCos) will consider the extension, by contract or agreement, of fire protection services outside a public agency's boundaries. Based on our review, we must respectfully **Oppose** the bill at this time. Simply put, we find the current version of **SB 239** flawed in various respects as follows:

1. **Is Unnecessary in Light of Current Statutory Provisions/Amends the Wrong Provisions of the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 (CKH):** The bill amendments, which not only revises several provisions in CKH, but also proposes to add entire new sections to CKH (including an entire new Article) related to the extension of fire services, by contract or agreement, outside a public agency's boundaries, are unnecessary. Specifically, Government Code section 56133, in CKH, already fully addresses the provision of all types of out of area service extensions by local public agencies and empowers LAFCos to independently consider all relevant factors associated with such requests prior to rendering a decision. CALAFCO fails to see why the provision of fire protection services, by contract or agreement, outside of a public agency's boundaries, requires a different level of review than other types of equally vital services or demands a heightened or weighted review from any commenter or affected agency. In sum, while CALAFCO believes that Government Code section 56133 fully addresses the issue of out of area services, any new provisions deemed necessary to specifically address the provision of out of area fire protection services should be included in 56133 instead of the statutory revisions and additions provided for in SB 239.
2. **Would Unnecessarily Categorize the Provision of Extraterritorial Fire Protection Services as a "Change of Organization" under CKH and Unnecessarily Require the Same Level of Review Currently Required Only for Incorporations:** Not only will the bill amendments make LAFCo's review of the provision of extraterritorial fire protection services under contract or agreement a "change of organization" under CKH, thereby triggering the tax exchange negotiation requirements of Revenue and Taxation Code section 99 and compliance with CEQA, but also will require LAFCo's review to entail activities currently only reserved for proposals involving incorporations. Specifically, the bill amendments introduced last week require LAFCos to undertake a comprehensive fiscal analysis—an analysis used by LAFCos to analyze whether the creation of an entirely new city is fiscally feasible. We want to point out that in great many instances the provision of any service (including fire protection services) outside an agency's boundaries involves extension of services

to a very limited area—sometimes just a few homes/properties or neighborhoods. In light of this, CALAFCO finds that requiring this level of review for provision of fire protection services outside an agency’s boundaries excessive. The bill completely fails to demonstrate how the proposed requirements will be synthesized with all relevant code sections in CKH or the Revenue and Taxation Code thus creating future conflicts to its implementation.

3. **Would for the First Time Require State Agencies to Obtain LAFCo Approval Authority:** LAFCos are charged with “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.” (Government Code section 56301, emphasis added.) Under CKH, the term “local agency” is defined as including only a county, city or district. While LAFCos actions certainly at times involve interaction with public agencies of all types, including the State of California and its state agencies, **SB 239** would for the first time require a California state agency to apply for, and request LAFCo approval prior to undertaking an action that involves the provision of services outside of a public agency’s current service area under contract or agreement.

4. **Would Remove Discretion From Elected and Appointed Boards of Public Agencies Throughout the State as Well as From State Agencies by Requiring Pre-Approval of Recognized Employee Associations That are Already Fully Protected by the Meyers Milias Brown Act (MMBA):** The State legislature has provided for LAFCos to exist in each of the 58 counties for the purpose of promoting the efficient delivery of services and encouraging the orderly formation and development of local agencies. This structure ensures that all decisions are made in a transparent and orderly fashion and by locally elected and appointed officials representing the very agencies and voters affected by those decisions. To abrogate this critical function for a single category of services is not only inconsistent with CKH, but also obstructs the democratic process. Additionally, the rights of recognized employee associations is fully covered by the Meyers Milias Brown Act (MMBA), which already requires local agencies to “meet and confer” over decisions made by the agency that may result in changed work conditions. **SB 239** would require each and every possible contract or agreement involving the provision of extraterritorial fire protection services to be “pre-approved” by the affected labor associations, not only prior to moving forward with any such contract or agreement, but also prior to seeking LAFCo approval. CALAFCO fails to see why such “pre-approval” is appropriate or necessary when the interests of labor are already protected by the MMBA.

CALAFCO is gravely concerned about the precedent being set in **SB 239** by inappropriately and exclusively allowing fire protection services labor associations this kind of approval.

Furthermore, removing local control and authority of agency Boards and LAFCo decisions goes against one of CALAFCO’s core policies of preserving LAFCo authority and ability to make decisions and enact recommendations related to the delivery of services and the agencies providing those services.

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CALAFCO remains committed to supporting legislation that maintains and/or enhances the ability of LAFcos throughout the state to fulfill the legislative goals behind CKH, and specifically the efficient provision of government services. We appreciated the opportunity to meet with your staff and the bill's sponsor. However, we believe that the current statutory provisions governing the review and/or approval of the provision of services outside an agency's boundaries more than fully provide LAFcos with the means to completely evaluate the feasibility, both from a fiscal and service level perspective. As a result, we must respectfully **oppose SB 239**.

Yours sincerely,

A handwritten signature in cursive script, appearing to read "Pamela Miller".

Pamela Miller
Executive Director

Cc: Committee Members, Senate Local Governance and Finance Committee
Brian Weinberger, Consultant, Senate Local Governance and Finance Committee
Ryan Eisberg, Consultant, Senate Republican Caucus
Christy Bouma, CA Professional Firefighters Association