

18 March 2016

Senator Lois Wolk  
California State Senate  
State Capitol Room 5114  
Sacramento, CA 95814

Information presented to  
the Commission at the

3-15-16 LAFCO hearing.

RE: **DRAFT LETTER** - OPPOSITION TO SB 1318

Dear Senator Wolk:

The California Association of Local Agency Formation Commissions (CALAFCO) regretfully must oppose your bill SB 1318. Local Agency Formation Commissions (LAFCOs) are aware of and concerned about the disparity of local public services, especially for residents and properties located within disadvantaged unincorporated communities (DUCs). All Californians deserve adequate and safe drinking water and wastewater facilities. CALAFCO supports your ongoing efforts to address these problems, which persist in many counties, and would like to partner with you to find the appropriate solutions.

Our primary concern is that the outcome of this legislation does not result in any changes to community services or facilities, or address the root causes of the lack of acceptable drinking water and wastewater facilities to these communities. We've shared our concerns with your staff and the bill's sponsor, and offer our comments below. While these comments address only the primary concerns, additional concerns exist.

Specific primary concerns include:

1. **Creates a Significant Unfunded Mandate to LAFCO and Local Agencies.** The studies, analysis and preparation of recommendations regarding underserved disadvantaged communities that would be required imposes an unfunded mandate on all LAFCOs. By law LAFCO is forced to pass those costs on to cities, counties - and in 30 counties - special districts which fund the commissions. In these challenging economic times for local agencies this is a difficult proposition. LAFCOs have no other revenue source to fund the required studies. With limited staff, many of these studies will require outside consultants at an added cost.
2. **Studies Outside of a Sphere.** The legislation would require LAFCOs, for the first time, to study territory outside of an agency's sphere of influence (sphere). This is a significant new requirement and costly study process. The term "adjacent" is undefined and since these communities have no boundary it is impossible to know what constitutes "adjacent."
3. **Studies of Non-Public Agencies.** The legislation would also require LAFCOs, for the first time, to identify the level of water and wastewater services provided by public or private utilities and mutual water companies that serve disadvantaged communities and DUCs. LAFCO has no authority over these entities, and would be prohibited from allowing an extension of service from a city or public agency within or adjacent to a sphere for influence if a private company, public or private utility or mutual water company provided unsafe drinking water or inadequate wastewater infrastructure or services within or adjacent to the same sphere of influence. While LAFCOs support efficient delivery of public services to all residents, the Legislature has not granted LAFCO the authority to regulate or approve service extensions of the non-public service providers included in this legislation. This will surely lead to confusion, potential conflict and likely litigation.

4. **Precedent-setting Change in Final Authority of Spheres.** The bill changes existing law by removing from LAFCo authority the final sphere approval and instead puts that authority in the hands of the voters. This is in direct conflict with the existing definition of a sphere. The legislature has established a framework that gives voters and landowners the final say in changes of jurisdiction. Spheres are not jurisdictional changes; they are planning tools. Planning functions are not typically delegated to voters. In addition, the bill proposes an inconsistent use of the term "voters" and "residents", thereby creating confusion as to the intent.
5. **Removes LAFCo Discretion.** When considering a change of organization pursuant to Government Code Section 56133, LAFCo has the discretion to consider the unique local circumstances and conditions that exist. This is an important and basic construct within the legislatively stated purpose of LAFCos. This bill removes that discretion and authority.
6. **One size does not fit all.** We are concerned that the bill has unintended consequences in the ability to provide necessary services to an existing DUC. For example, if it is reasonable to extend services to a particular DUC but not to others, this bill prevents the extension of services to the area that can reasonably be serviced. The same is true for those areas currently contained within a city's sphere, where it may make better sense to have another service provider providing the service. In the latter case, the bill proposes an election, and we are concerned not only with the precedent-setting nature of a voter-approved sphere, but also the cost of the election. These changes are complicated by the fact the bill interchangeably uses the term "disadvantaged community" and "disadvantaged unincorporated community".
7. **Changes Governmental Reorganization Recommendations from May to Shall.** The amended language requires LAFCo to assess governmental reorganizations and non- governmental service provisions in all sphere determinations, rather than allowing commission discretion. This will add costly, time consuming and often wasted studies to every sphere review and can create unintended litigation issues. Current law allows LAFCo to determine those cases where a reorganization study may be appropriate to further the goals of orderly development as well as efficient and affordable service delivery. To require it in all cases creates costly, unnecessary studies.

CALAFCO remains committed to help find solutions to the disparities in service delivery to disadvantaged communities. We recognize, however, that simply changing the boundaries or spheres of local agencies does little to ensure adequate services are actually delivered. A major obstacle remains the infrastructure and operational funding for these services. We believe that addressing the needs of disadvantaged communities through the planning process and finding tools to support the infrastructure deficiencies remain a very important part of the solution.

To that end, we are happy to work with you and your staff on finding appropriate solutions to these challenges. Please contact us if we can answer any questions or be of assistance.

Yours sincerely,

Pamela Miller  
Executive Director

Cc: Members, Senate Governance & Finance Committee  
Brian Weinberger, Consultant, Senate Local Governance and Finance Committee  
Ryan Eisberg, Consultant, Senate Republican Caucus