

**LOCAL AGENCY FORMATION COMMISSION  
COUNTY OF SAN BERNARDINO**

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**DATE:** FEBRUARY 11, 2010

**FROM:** KATHLEEN ROLLINGS-McDONALD, Executive Officer



**TO:** LOCAL AGENCY FORMATION COMMISSION

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**SUBJECT:** AGENDA ITEM #17 – LEGISLATIVE REPORT

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**RECOMMENDATION:**

Staff recommends that the Commission note receipt of report and provide direction to staff on items of interest.

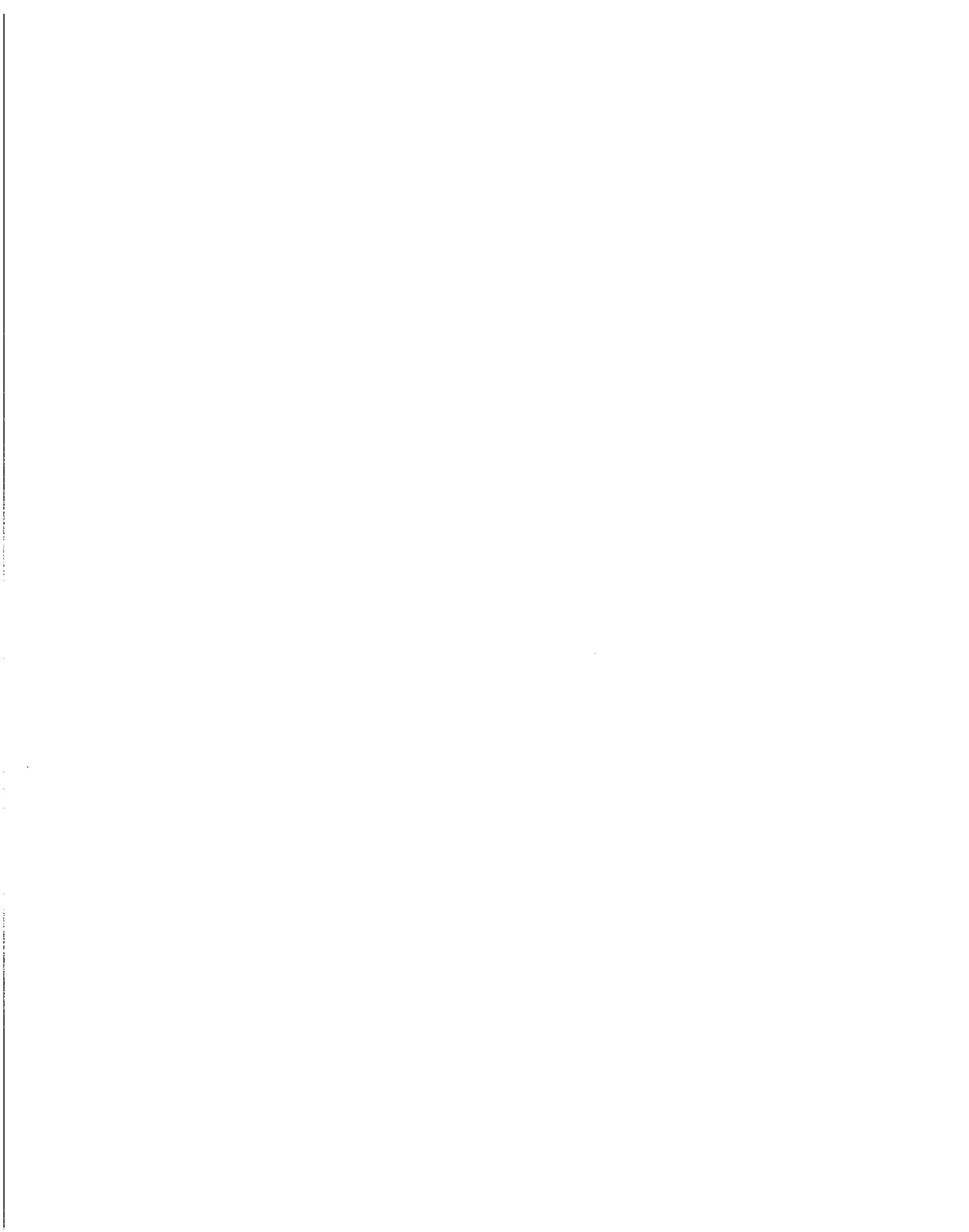
**BACKGROUND:**

On January 25, 2010, the members of the Coalition of California LAFCOs (CCL) approved by consensus a Legislative Program Outline, copy included as Attachment #1. As the organization moves forward a legislative platform will be prepared and the methods for maintaining coordination and representation outlined. The San Diego LAFCO has offered to man this effort until such time as either a Legislative Committee is put together for CCL or further participation in CALAFCO is determined.

As a part of the communications, staff is providing the information received from CALAFCO related to its legislative committee (Attachment #2). As a paid member of CALAFCO up through July 2010, we continue to receive this material even though staff participation on the committee has ceased. The materials are:

1. Legislative Update as of February 10, 2010
2. Legislative Committee Minutes from December 18, 2009 and January 29, 2010 meetings.
3. Tentative Legislative Calendar for Assembly and Senate
4. CALAFCO Sponsored Assembly Omnibus Bill provisions

Staff is providing copies of two bills contained in the Legislative Update for further discussion.



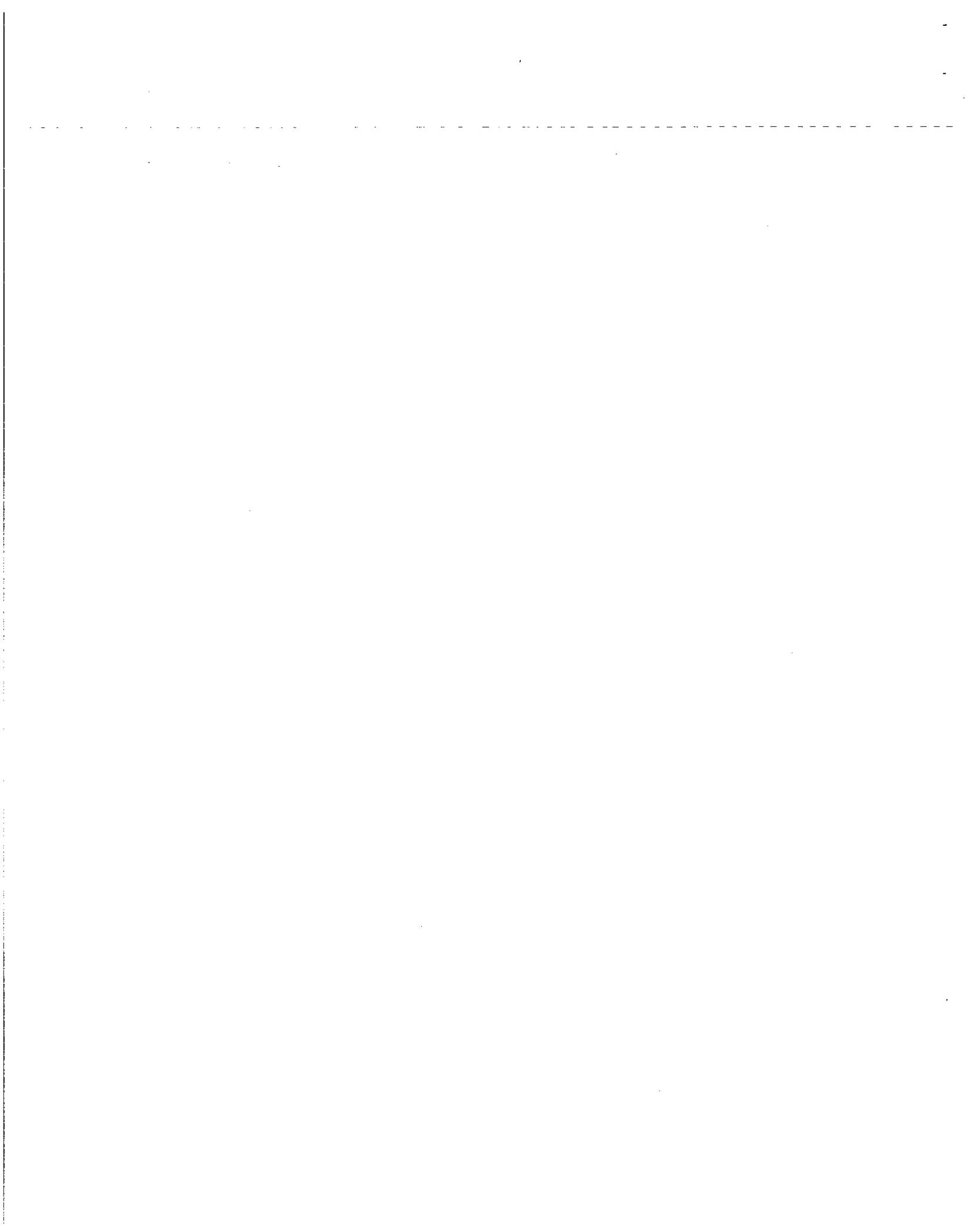
1. **AB 853 (ARAMBULA)** – This bill was discussed at length last year regarding its implications for the annexation of what it defined as “unincorporated fringe communities” and “unincorporated island communities”. A copy of the Commission’s letter of concern is attached. To date, staff is unaware that any changes to the bill language have occurred; while the minutes from the CALAFCO Legislative Committee imply that movement is taking place. A review of website references indicate that the May 18, 2009 amendment is the most current which added the language related to “unincorporated island communities” and removed reference to areas within 1.5 miles of a city boundary. This bill passed out of the Assembly and is currently at the Senate Local Government Committee. CALAFCO continues to work with the Author and the Rural Legal Assistance Foundation (primary sponsor) to address concerns that the language as currently drafted would require initiation of the annexation by the Board of Supervisors if 25% of the voters or landowners petition for such change so long as the area met income criteria and lacked infrastructure; it specifically excludes financial considerations from the Commission’s review of such a proposal; and excludes a discussion of the effects upon special districts. Staff believes that there remain issues with the bill as currently written and the Commission’s position of concern should be maintained.
  
2. **AB 300 (CABALLERO)** – This bill, among other provisions, will require a mechanism for water providers and land use authorities to measure and enforce “voluntary demand management measures”. These would include water conservation measures as defined by the public water systems and the enforcement would be through deed restrictions. LAFCO staff is providing this information as the bill proposed amendments to the Subdivision Map Act and the requirements for determination of the availability of water as required by the Cortese-Knox-Hertzberg Act may be affected. This is an information item, no position is proposed.

Staff will be happy to answer any questions prior to or at the hearing. No action is required of the Commission other than to note receipt of this information.

/krm

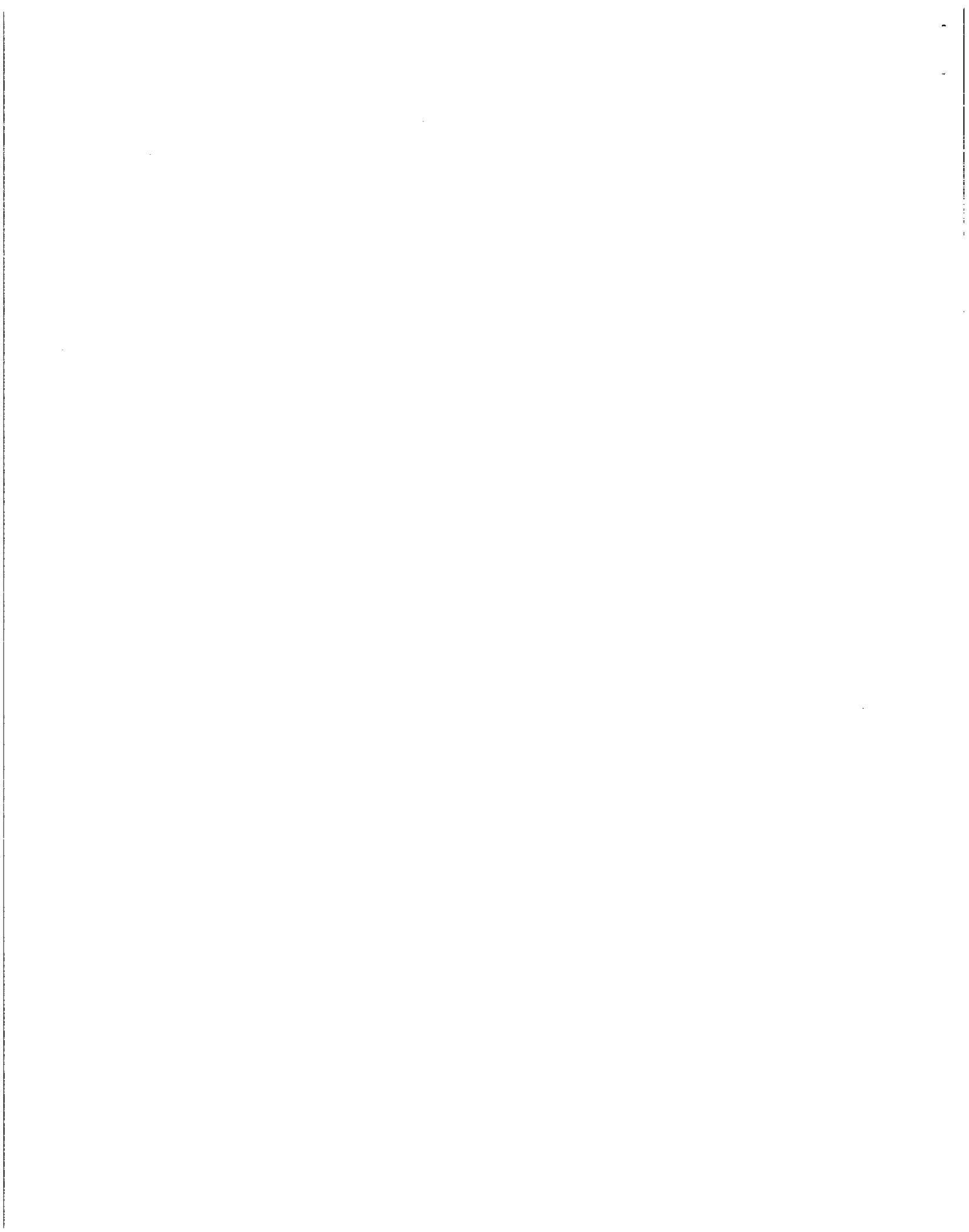
Attachments:

1. Coalition of California LAFCOs Legislative Program Outline
2. CALAFCO Legislative Committee Information
  - a. LAFCO Legislative Update for February 10, 2010
  - b. Minutes from the December 18, 2009 and January 29, 2010 Legislative Committee Meetings
  - c. Tentative Legislative Calendar for State Assembly and Senate
  - d. Language of CALAFCO sponsored Omnibus Bill
3. Assembly Bill 853 Arambula – Letter of Concern by San Bernardino LAFCO and Current Bill Language
4. Assembly Bill 300 (Caballero) – Senate Committee on Natural Resources and Water Bill Analysis dated July 6, 2009 and Current Bill Language



**Coalition of California LAFCOs  
Legislative Program Outline**

**Attachment 1**



California Coalition of LAFCO's (CCL)

Legislative Program Outline

APPROVED BY CONSENSUS AT  
MEETING ON January 25, 2010

**Objective:** Establish a framework for the expected initial six (6) LAFCO members of the **California Coalition of LAFCO's (CCL)** to monitor and respond to legislative issues that impact the purpose and mission of LAFCO's.

**Background:** It is anticipated that six (6) LAFCO's in Southern California will become member partners in a new organization initially termed "The **California Coalition of LAFCO's**" or **CCL** by July 1, 2010. These LAFCO's are Imperial, Los Angeles, Orange, Riverside, San Bernardino and San Diego. The exact structure and bylaws of the CCL are not in place so this memorandum represents a preliminary outline that the group may utilize to continue involvement in legislative issues.

**Approach:** The six members of CCL have vested interests in legislative issues and proposals due to the potential impact on LAFCO authority, policy and process. While each member of CCL is capable and able to monitor, track, propose and influence legislation at the local and state level, it is anticipated that a coordinated effort by the six agencies would be beneficial plus increase cooperation and effectiveness.

**Proposed Procedures:**

1. Maintain communication concerning and knowledge of legislative activities primarily at the State of California level in the Legislature, local legislators' staff, the Governor's Office and with local government offices. Establish and support interaction as may be deemed needed with legislators and their staff. CCL is **not** established to be a lobbying organization.
2. Monitor activities, identify proposed legislation, and track the progress of those bills or regulations that may have a positive or negative impact upon members of the CCL relating to the Cortese-Knox-Hertzberg Act plus other codes and regulations affecting LAFCO activities.
3. Report activities as needed or at least monthly on proposed bills and their impacts to CCL members. Provide these reports in summary form utilizing either/both the Leginfo or CapitolTrack systems for ease of reporting. Email is expected to be the customary method of report distribution and communication.
4. Establish and maintain communication as needed with other organizations potentially involved with the CKH including but not limited to CSDA, League of Cities, CSAC, CASA and CALAFCO. Request those organizations to include

liaison and interaction with CCL on legislative issues in their regular activities (since CCL has member agencies in each organization and mutual interests to consider).

5. Members of the CCL will regularly communicate concerns or information on legislation to the other members in a collaborative manner. If specific legislative proposals justify a position by CCL, the Chair of the CCL will request support to take a position on the issue or bill, either in writing or verbal in nature.
6. In the event that specific legislation is of great concern to one or more member, the CCL will meet and determine if more active efforts are required on the bill and what action is to be taken.

**Responsibilities:** The members of the CCL will determine the method and level of effort to be allocated to the Legislative Program from time to time. Initially it is expected that volunteer services by members will provide support for this program. Members will identify and agree on persons and authority to speak for and take positions on issues for the CSCL from time to time. It is anticipated that eventually a CCL Legislative Committee will be established. Until such a committee is established, the San Diego LAFCO has agreed to make Harry Ehrlich available to coordinate the CCL Legislative Program as proposed herein.

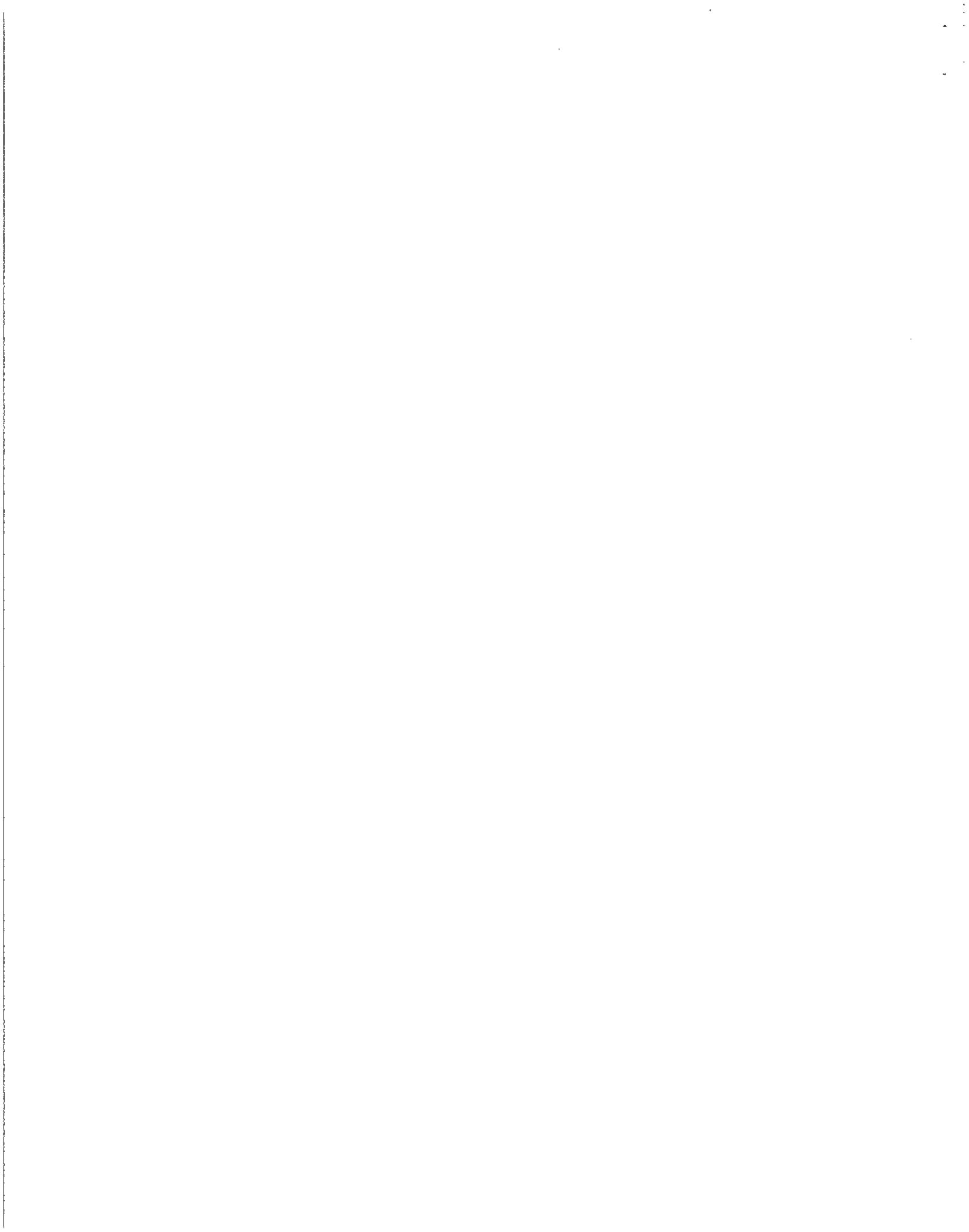
Drafted on 1-14-2010 by Harry Ehrlich

CSCLLegdoc2010a

**CALAFCO**  
**Legislative Committee Information**

**LAFCO Legislative Update for**  
**February 10, 2010**

**Attachment 2a**



# CALAFCO Member Resources



Member's Home | Legislation | Inside CALAFCO | Library | Clerks

Legislation

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Current Leg Report  
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Committee Resource  
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Committee Hearings  
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Floor Hearings  
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Committees

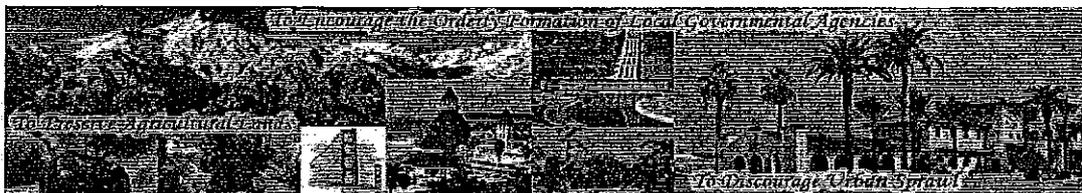
Local Government  
Committees  
Mailing Labels

QuickList to  
Legislative Citations

Cortese-Knox-  
Hertzberg - 2007  
Update

Search All Bills

Search California Law [AB 853](#)



## LAFCO Legislative Update as of 2/10/2010

I

[AB 419](#)

**(Caballero) Local government: change of organization or reorganization: elections.**

**Last Amended:** 01/14/2010

**Status:** 01/28/2010-In Senate. Read first time. To Com. on RLS. for assignment.

**Current Location:** 01/28/2010-S RLS.

[2YR/Dead](#) | [1st Desk](#) | [1st Policy](#) | [1st Fiscal](#) | [1st Floor](#) | [2nd Desk](#) | [2nd Policy](#) | [2nd Fiscal](#) | [2nd Floor](#) | [Conf./Conc.](#) | [Enrolled](#) | [Vetoed](#) | [Chapters](#)

Existing law requires a local agency formation commission to inform a board of supervisors or a city council when the commission makes a determination that will require an election to be conducted by that board or council, and requires the board of supervisors or the city council to direct the elections official to conduct the necessary election, as specified. This bill would, beginning January 1, 2011, require the board of supervisors or the city council to take action, to order and place the item on the ballot, within 45 days of notification by the local agency formation commission, and would require the elections official to place the item on the ballot at the next regular election if the board of supervisors or the city council fails to take action within 45 days of the notification. This bill would also make conforming changes.

**Attachments:**

[CALAFCO Support Letter](#)

**Notes:** This bill was a gut-and-amend to specify that a Board or Council has 45 days to place an item on the next general election ballot when requested by a LAFCo. Current law does not specify the number of days nor state what happens if the item is not placed on the ballot. If the Board or Council does not act within 45 days it requires the election official to place the item on the next General Election ballot. Adds a requirement that LAFCo must notify the election official as well as the Board or Council of an item to be placed on the ballot. It provides clarity to the process.

**Position:** Support

**Priority:** I

[AB 853](#)

**(Arambula) Local government: organization.**

**Last Amended:** 05/18/2009

**Status:** 06/11/2009-Referred to Coms. on L. GOV. and RLS.

**Current Location:** 06/11/2009-S L. GOV.

[2YR/Dead](#) | [1st Desk](#) | [1st Policy](#) | [1st Fiscal](#) | [1st Floor](#) | [2nd Desk](#) | [2nd Policy](#) | [2nd Fiscal](#) | [2nd Floor](#) | [Conf./Conc.](#) | [Enrolled](#) | [Vetoed](#) | [Chapters](#)

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, including provisions for a revenue neutrality agreement between the affected local government entities.

**Attachments:**

[CALAFCO Letter of Concern](#)

**Notes:** This bill provides a mechanism for residents to petition to a Board of Supervisors to be annexed to a city if they are within 1.5 miles of a boundary or within or adjacent to an existing city SOI. It requires the Board to send a resolution to LAFCo for the annexation and requires LAFCo to approve the annexation. It creates new definitions for "islands" and for "unincorporated fringe communities." It also prohibits affected districts from terminating the annexation. This bill is sponsored by California Rural Legal Assistance and is tied to their other bill, SB 194. CALAFCO has significant concerns and is working with the author and sponsor on language before taking a position.

**Position:** Oppose unless amended

**Priority:** I

[AB 1109](#)

**(Blakeslee) The Cortese-Knox-Hertzberg Act of 2000.**

Last Amended: 04/13/2009

Status: 01/22/2010-Failed Deadline pursuant to Rule 61(b)(2). (Last location was 2 YEAR on 6/8/2009)

Current Location: 01/22/2010-A DEAD

2YR/Dead | 1st Desk | 1st Policy | 1st Fiscal | 1st Floor | 2nd Desk | 2nd Policy | 2nd Fiscal | 2nd Floor | Conf./Conc. | Enrolled | Vetoed | Chaptered

The Cortese-Knox-Hertzberg Act of 2000 authorizes a local agency formation commission to, among other things, initiate proceedings for the consolidation, dissolution, and formation of new districts, as specified. This bill would authorize a commission to order the administration of nonperforming districts. The bill would require the commission to, upon placing a district under temporary administration, prepare a performance study, as specified.

**Notes:** This bill would create a category of nonperforming districts and authorize LAFCo to assign the administration and operations to another local agency while a study is performed on the ultimate disposition of the district. Liabilities would remain with the district but the board would be eliminated. The author has agreed to make this a two-year bill while the details are negotiated with stakeholders.

**Position:** Watch

**Priority:** 1

**AB 1668**

**(Knight) Local government: city councils.**

Status: 01/27/2010-Referred to Coms. on E. & R. and L. GOV.

Current Location: 01/27/2010-A E. & R.

2YR/Dead | 1st Desk | 1st Policy | 1st Fiscal | 1st Floor | 2nd Desk | 2nd Policy | 2nd Fiscal | 2nd Floor | Conf./Conc. | Enrolled | Vetoed | Chaptered

Existing law requires a city council to, within 30 days of a vacancy in an elective office, fill that vacancy by appointment or call a special election to fill the vacancy, as specified. This bill would require the city council to, within 120 days of a vacancy in an elective office, fill that vacancy by appointment or call a special election to fill the vacancy, as specified. This bill contains other related provisions and other existing laws.

**Notes:** This bill is nearly identical to AB 18 introduced by Assembly Member Knight in 2009. In addition to specifying the number of days a city council has to fill a vacancy, it clarifies the number of seats up for election at the first election following incorporation. CALAFCO supported AB 18. That bill was vetoed by the Governor because he felt current law was adequate on number of days to fill a vacancy. His veto was silent on number of seats at the first election. CALAFCO has proposed the seats up for election as an Assembly Omnibus Bill item. Should there be no objections from stakeholders, that item would be in the Omnibus and would be amended out of AB 1668.

**Position:** None at this time

**Priority:** 1

**SB 163**

**(Cox) Local government: reorganization.**

Status: 01/22/2010-Failed Deadline pursuant to Rule 61(b)(2). (Last location was 2 YEAR on 6/8/2009)

Current Location: 01/22/2010-S DEAD

2YR/Dead | 1st Desk | 1st Policy | 1st Fiscal | 1st Floor | 2nd Desk | 2nd Policy | 2nd Fiscal | 2nd Floor | Conf./Conc. | Enrolled | Vetoed | Chaptered

Existing law, for purposes of the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000, makes various legislative findings and declarations regarding the use of local government reorganization. This bill would make a technical, nonsubstantive change to that provision.

**Notes:** This bill is a placeholder for an unidentified change to Cortese-Knox-Hertzberg.

**Position:** Watch

**Priority:** 1

**SB 194**

**(Florez) Community Equity Investment Act of 2010.**

Last Amended: 01/07/2010

Status: 01/28/2010-In Assembly. Read first time. Held at Desk.

Current Location: 01/28/2010-A DESK

2YR/Dead | 1st Desk | 1st Policy | 1st Fiscal | 1st Floor | 2nd Desk | 2nd Policy | 2nd Fiscal | 2nd Floor | Conf./Conc. | Enrolled | Vetoed | Chaptered

Under the federal State Community Development Block Grant Program, funds are allocated to the state and administered by the Department of Housing and Community Development for projects and programs that meet the housing and economic development needs of persons and families of low or moderate income. This bill would enact the Community Equity Investment Act of 2010. The bill would make legislative findings and declarations relating to disadvantaged, unincorporated communities. The bill would specify how funds received pursuant to the federal State Community Development Block Grant Program are expended at the local government level.

**Attachments:**

CALAFCO Letter of Interest

**Notes:** This bill is intended to provide municipal services and infrastructure investment to disadvantaged unincorporated communities. Its intent, in part, is to address the role of regional agencies in addressing infrastructure deficits through changes to state agency funding programs with the intent to improve infrastructure in unincorporated communities. Language in this bill is tied to AB 853 which provides mechanisms for LAFCo to annex these communities to existing cities.

**Position:** Watch

**Priority:** 1

**SB 894** (Committee on Local Government) Local Government Omnibus Act of 2010.  
Status: 02/04/2010-To Com. on L. GOV.  
Current Location: 02/04/2010-S L. GOV.

2YR/Dead | 1st Desk | 1st Policy | 1st Fiscal | 1st Floor | 2nd Desk | 2nd Policy | 2nd Fiscal | 2nd Floor | Conf./Conc. | Enrolled | Vetoed | Chaptered

Existing law authorizes the use of mediation in any action brought in the superior court relating to the approval or denial by a public agency of any development project, any act or decision of a public agency made pursuant to the California Environmental Quality Act, the failure of a public agency to meet the time limits specified by the Permit Streamlining Act or the Subdivision Map Act, fees levied against development projects by school districts or for construction or reconstruction of school facilities, fees for development projects, the adequacy of a general plan or specific plan, the validity of any sphere of influence, urban service area, change of organization or reorganization, or any other decision made pursuant to the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000, the adoption or amendment of a redevelopment plan pursuant to the Community Redevelopment Law, the validity of any specified zoning decision, or the validity of any decision made pursuant by an Airport Land Use Commission, as specified. This bill would include a cross reference to this authorization in each of the affected provisions. This bill contains other related provisions and other existing laws.

**Notes:** This is the Senate Local Government Committee Omnibus Bill. AT this time it contains one minor item related to LAFCo: It cleans up language in various local government laws to clarify that judges can resolve land use and environmental lawsuits through mediation before it goes to trial.

**Position:** Support

**Priority:** 1

2

**AB 155** (Mendoza) Local government: bankruptcy proceedings.

Last Amended: 07/01/2009

Status: 07/08/2009-In committee: Set, first hearing. Testimony taken. Further hearing to be set.

Current Location: 07/08/2009-S L. GOV.

2YR/Dead | 1st Desk | 1st Policy | 1st Fiscal | 1st Floor | 2nd Desk | 2nd Policy | 2nd Fiscal | 2nd Floor | Conf./Conc. | Enrolled | Vetoed | Chaptered

Under existing law, any taxing agency or instrumentality of the state may file a petition and prosecute to completion bankruptcy proceedings permitted under the laws of the United States. This bill would provide that a local public entity may only file under federal bankruptcy law with the approval of the California Debt and Investment Advisory Commission, as specified.

**Position:** None at this time

**Priority:** 2

**AB 711** (Calderson, Charles) Local agency formation commissions: cost of incorporation commissions.

Last Amended: 08/25/2009

Status: 08/26/2009-Re-referred to Com. on APPR.

Current Location: 08/26/2009-S APPR.

2YR/Dead | 1st Desk | 1st Policy | 1st Fiscal | 1st Floor | 2nd Desk | 2nd Policy | 2nd Fiscal | 2nd Floor | Conf./Conc. | Enrolled | Vetoed | Chaptered

Existing law, the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000, authorizes a local agency formation commission to establish a schedule of fees and costs for proceedings taken pursuant to that act, including incorporation proceedings. The act authorizes the local agency formation commission to request a loan from the General Fund to cover the expenses of incorporation proceedings under specified circumstances. This bill would appropriate \$112,000 from the General Fund to the Controller for allocation to the Los Angeles County Local Agency Formation Commission for a loan to the East Los Angeles Residents Association, as specified. The bill would make findings and declarations regarding the need for a special statute. This bill contains other related provisions.

**Notes:** This would be the first time legislation has been introduced to provide funds for the State Controller to allocate to fund incorporation studies as provided in CKH. The legislation is specific that the process must be consistent with CKH law.

**Position:** Watch

**Priority:** 2

**SB 162** (Cox) Local government: fire suppression.

Status: 01/22/2010-Failed Deadline pursuant to Rule 61(b)(2). (Last location was 2 YEAR on 6/8/2009)

Current Location: 01/22/2010-S DEAD

2YR/Dead | 1st Desk | 1st Policy | 1st Fiscal | 1st Floor | 2nd Desk | 2nd Policy | 2nd Fiscal | 2nd Floor | Conf./Conc. | Enrolled | Vetoed | Chaptered

Existing law, for the purposes of assessments for fire suppression, defines fire suppression to mean firefighting and fire prevention, including, but not limited to, vegetation removal or management undertaken, in whole or in part, for the reduction of a fire hazard. This bill would make a technical, nonsubstantive change to this provision.

**Notes:** This is likely a placeholder for a more substantial change to fire agency law.

**Position:** Watch

**Priority:** 2

**SB 211** (Simitjan) Park district formation: County of Santa Cruz.

Last Amended: 09/04/2009

Status: 09/08/2009-Placed on inactive file on request of Assembly Member Torrico.

Current Location: 09/08/2009-A INACTIVE FILE

2YR/Dead | 1st Desk | 1st Policy | 1st Fiscal | 1st Floor | 2nd Desk | 2nd Policy | 2nd Fiscal | 2nd Floor | Conf./Conc. | Enrolled | Vetoed | Chaptered

Existing law generally authorizes the formation of a district by a petition requesting the creation and maintenance of a district, describing the exterior boundaries, signed by at least 5,000 electors residing within the territory proposed to be included in the district, and presented to the board of supervisors of the county containing the largest area within the proposed district. This bill, in addition, would authorize the formation of a district in the County of Santa Cruz, except as specified, if the exterior boundaries of the proposed district are coterminous with the exterior boundaries of the county and are initiated by a specified resolution of the county board of supervisors, after a hearing noticed in accordance with specified procedures, in lieu of the petition and related proceedings required under the above provisions. This bill contains other related provisions and other existing laws.

**Attachments:**

CALAFCO Letter of Opposition

**Notes:** Allows Santa Cruz Board of Supervisors to create a regional open space district outside of LAFCo process. Does not provide a funding source for the district, leaving it to a future vote of the residents.

**Position:** Oppose unless amended

**Priority:** 2

**SB 896**

**(Cox) Local government: organization.**

Status: 02/04/2010-To Com. on RLS.

Current Location: 02/04/2010-S RLS.

2YR/Dead | 1st Desk | 1st Policy | 1st Fiscal | 1st Floor | 2nd Desk | 2nd Policy | 2nd Fiscal | 2nd Floor | Conf./Conc. | Enrolled | Vetoed | Chaptered

Existing law, the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 defines various terms for purposes of the act, including, among others, "affected city." This bill would make a technical, nonsubstantive change to this definition.

**Notes:** This appears to be a placeholder bill.

**Position:** Watch

**Priority:** 2

3

**AB 300**

**(Caballero) Subdivisions: water supply.**

Last Amended: 06/30/2009

Status: 07/07/2009-In committee: Set, first hearing. Testimony taken. Further hearing to be set.

Current Location: 07/07/2009-S N.R. & W.

2YR/Dead | 1st Desk | 1st Policy | 1st Fiscal | 1st Floor | 2nd Desk | 2nd Policy | 2nd Fiscal | 2nd Floor | Conf./Conc. | Enrolled | Vetoed | Chaptered

The Subdivision Map Act prohibits approval of a tentative map, or a parcel map for which a tentative map was not required, or a development agreement for a subdivision of property of more than 500 dwelling units, except as specified, including the design of the subdivision or the type of improvement, unless the legislative body of a city or county or the designated advisory agency provides written verification from the applicable public water system that a sufficient water supply is available or, in addition, a specified finding is made by the local agency that sufficient water supplies are, or will be, available prior to completion of the project. This bill would require, until January 1, 2017, the public water system, or the local agency if there is no public water system, to review, verify for accuracy, and approve, as specified, the subdivider's water savings projections attributable to voluntary demand management measures, as defined. The public water system would be authorized to collect fees necessary to provide the additional analysis of the voluntary demand management measures. This bill would provide that a water supply assessment completed, as specified, satisfies the existing requirement of verifying sufficient water supply, unless the public water system receives specified new information. The public water system would be required to determine the projected water savings attributable to the voluntary demand management measures that will be incorporated into the subdivision. The projected water savings would be required to be calculated using specified data compiled or maintained by the public water system or the water savings projections adopted by the California Urban Water Conservation Council. If a project applicant proposes to use a new voluntary water demand management measure for which neither the California Urban Water Conservation Council nor the public water system has adopted an estimate or method to calculate the projected water savings of the proposed voluntary demand management measure, the projected water savings would be required to be made based on documented methodologies or calculations submitted in the record. Five years after the project has been fully developed, the public water system would be required to include within its next urban water management plan a report on the monitoring and compliance of voluntary water demand management measures and to determine, if practicable based on readily available information, whether they have resulted in the water savings necessary to achieve the agreed upon water demand offsets. The bill would also require the public water system to document the measured annual water use of the subdivision in comparison to the projected demand associated with the subdivision, and to calculate the water savings attributable to the voluntary mitigation measures financed by the Voluntary Water Demand Mitigation Fund for the subdivision. If the public water system bases its written verification of a sufficient water supply for the subdivision, in whole or in part, on the use of voluntary demand management measures within the subdivision, the written verification would be required to be conditioned on the maintenance and operation of the voluntary demand management measures, or measures that are at least as water efficient, as agreed to by the applicant and the public water system, and the recordation as a covenant running with the land for the lots within the

subdivision. The bill would provide that by acceptance of a deed to a lot, each purchaser would acknowledge the obligation to comply with the voluntary demand measures for the lot as described in the covenant. These covenants would be authorized to be enforced pursuant to the existing authority of a public water system. The bill would further require a builder, prior to the close of escrow, to give a purchaser information that would be required to be included in a maintenance manual that informs the purchaser of the existence of the home's unique water saving devices, including specified information. The bill would also encourage the public water system to commit to carrying out the water conservation measures funded by the Voluntary Water Demand Mitigation Fund within 24 months of the sale of the last unit of the proposed subdivision. The bill would require the public water system to choose water conservation measures that are the most cost-effective means to yield water savings. The bill would authorize expenditures from the fund to be made within the subdivision or elsewhere within the service area of the public water supplier, at its discretion. Not less than 40% of the proceeds from the voluntary water demand mitigation fund would be required to be directed to water conservation programs in any disadvantaged community, unless the public water system makes a specified finding. By adding to the duties of the public water system, this bill would impose a state-mandated local program. This bill contains other related provisions and other existing laws.

**Notes:** Requires the preparation of a water assessment report for projects which reduce water consumption, which requires consultation with affected agencies, including LAFCO.

**Position:** None at this time

**Priority:** 3

**SB 170**

**(Florez) Agricultural lands: cancellation of Williamson Act contracts.**

**Last Amended:** 04/13/2009

**Status:** 01/22/2010-Failed Deadline pursuant to Rule 61(b)(2). (Last location was 2 YEAR on 6/8/2009)

**Current Location:** 01/22/2010-S DEAD

2YR/Dead	1st Desk	1st Policy	1st Fiscal	1st Floor	2nd Desk	2nd Policy	2nd Fiscal	2nd Floor	Conf./Conc.	Enrolled	Vetoed	Chaptered
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Existing law authorizes a landowner to petition a county board or supervisors or a city council for cancellation of any Williamson Act contract for all or part of the subject land. The board or council is authorized to grant tentative approval for cancellation of a contract if it finds that cancellation is in the public interest. For these purposes, the board or council is required to find that other public concerns substantially outweigh the objectives of the Williamson Act and that either there is no proximate noncontracted land that is both available and suitable for the use to which it is proposed the contracted land be put, or that development of the contracted land would provide more contiguous patterns of urban development than development of proximate noncontracted land. This bill would establish a rebuttable presumption that where a federally recognized Indian tribe has petitioned for a contract cancellation that tribal cultural centers, infrastructure, and housing are alternative uses that are public concerns that substantially outweigh the objectives of the act and that for tribal cultural centers, infrastructure, and housing, land contiguous to existing tribal land would provide more contiguous patterns of urban development than development of proximate noncontracted land.

**Notes:** This bill would allow cancellation of Williamson contracts for land to be annexed to Tribal properties and used for tribal development.

**Position:** Watch

**Priority:** 3

Total rows: 14





**CALAFCO**  
**Legislative Committee Information**

**Minutes from the**  
**December 18, 2009 and January 29, 2010**  
**Legislative Committee Meeting**

**Attachment 2b**





California Association of Local Agency Formation Commission

## Legislative Committee Summary Minutes

**Date** 18 December 2009, 9:30 am to 1:55 pm

**Location** BB&K, Irvine

**Attendees** *Members:* Clark Alsop, Roger Anderson, Bob Braitman, Scott Browne\*, Bill Chiat (Chair), Carole Cooper\*, Paula de Sousa\*, Harry Ehrlich (Vice Chair), Carolyn Emery, Gay Jones\*, SR Jones\*, Kathy Rollings-McDonald, Allen Settle, Keene Simonds, George Spiliotis, Lou Ann Texeira, Chris Tooker\*, Susan Vicklund Wilson, Sandy Winger  
\*participated by phone

*Guests:* Commissioner Stephen Tomanelli (Riverside LAFCo)

**Recorder** Bill Chiat

1. **Agenda Review.** A quorum was determined to be present at 9:30.
2. **CALAFCO Legislative Policies.** The Committee reviewed the current Legislative Policies and Priorities, and prepared several recommendations for the Board:
  - a. Change "2009 Legislative Priorities" to "2010 Legislative Priorities"
  - b. Add "Preparation of Regional Transportation Plans" to item 5.1
  - c. Add "Annexation of Inhabited Territory" to 2010 Issues of Interest
  - d. Combine "Transportation" with "SB 375 Implementation" into a new "Regional Transportation Plan" Issues of Interest
  - e. Expand "Viability of Local Governments" to include the financial challenges facing local agencies and the fiscal obstacles of providing services to inhabited unincorporated territories mandated by state law for annexation

**MOTION:** Present recommended changes to Board for approval. (m/Anderson, s/Settle, unanimous)

3. **Assembly Omnibus Bill.**
  - a. Change reference in §57379 from 56727 to 56724
  - b. *Definitions in CKH.* Agreed to concept to add language in CKH which defines 'latent power' and 'divestiture of power' in a manner consistent with existing law. Harry Ehrlich will draft language.

**MOTION:** Approve items for consideration in Omnibus Bill. (m/Novelli, s/Winger, unanimous)

**NOTE:** Kathy Rollings-McDonald may have a commission policy on this issue to share for support of the proposal. Harry to check on policy information with Kathy.

4. **Senate Omnibus Bill.**
  - a. *Statute of Limitations for Challenges.* **MOTION:** Support concept with several clarifications to be added: 1) delete reference to section 1094.5; 2) identify the commission action which initiates the 60-days; 3) consider the implications on MSRs. Scott Browne will work with Michael Colantuono to prepare language for Omnibus Bill. (m/Braitman, s/Settle, unanimous)

- b. *Santa Ynez Water District*. Bob Braitman will prepare language for committee review on a more specific definition of 'improvement district' in §56041.
5. **Revenue and Tax Code Clean Up**. Committee agreed that changes to R&T99 are needed but are cautious about opening "Pandora's Box." In particular felt adding 30 days would be appropriate. Established a work group with Lou Ann Texeira (convener), Keene Simonds, Bob Braitman and Harry Ehrlich. Will report back at next meeting.
6. **LAFCo-Initiated Proposals Language**. Committee agreed to add a request in the Assembly Omnibus bill (Harry Ehrlich) to make the following change in §56375 (a)(2):
- (2) The commission may initiate proposals for any of the following:
- (A) The consolidation of a district, as defined in Section 56036.
  - (B) The dissolution of a district.
  - (C) A merger.
  - (D) The establishment of a subsidiary district.
  - (E) The formation of a new district or districts.
  - (F) The divestiture or activation of a power.
  - (GE) A reorganization that includes any of the changes specified in subparagraph (A), (B), (C), (D), (E), or (F).
7. **Service Extensions Outside Boundaries**. Committee considered proposed amendments to §56133 as proposed by Napa LAFCo. **MOTION**: Adopt proposed amendments with the addition of language that separates consistency with commission policies from threat to public health and safety. (m/Winger, s/Braitman, passed: 10 aye, 8 no)
- Keene Simonds will update proposal for presentation to the Board on 15 January 2010.
8. **Resolution of Application Conflicts with Principal Acts**. Tabled until next meeting.
9. **Council Election System After Incorporation**. **MOTION**: Seek previous AB 18 change to number of council members up for the first election in §57377 and §57379 in the Assembly Omnibus Bill (Harry Ehrlich). Seek separate legislation to modify §57116(b) to make the question of the council election system optional rather than required (Bill Chiat). (m/Wilson, s/Settle, unanimous)
10. **Revenue Categories**. **MOTION**: Approve the following recommended language change to §56381(b)(1)(c) and propose for the Assembly Omnibus bill (Harry Ehrlich).
- §56381(b)(1)(C): The independent special districts' share shall be apportioned in proportion to each district's total revenues as a percentage of the combined total district revenues within a county. Except as provided in subparagraph (D), an independent special district's total revenue shall be calculated for nonenterprise activities as total revenues for general purpose transactions less "Intergovernmental" revenue ~~category aid from other governmental agencies~~ and for enterprise activities as total operating and nonoperating revenues less "Intergovernmental" revenue ~~category other governmental agencies~~, as reported in the most recent edition of the "Special Districts Annual Report" published by the Controller, or by an alternative method approved by a majority of the agencies, representing a majority of their combined populations.
- (m/Ehrlich, s/Rollings-McDonald, unanimous)
11. **Special District Representation on LAFCo**. Tabled until next meeting.

**12. Special District Selection Committee.** MOTION: Adopt recommended changes to §56332 and propose for Assembly Omnibus bill (Harry Ehrlich).

56332. (a) The independent special district selection committee shall consist of the presiding officer of the legislative body of each independent special district. However, if the presiding officer of an independent special district is unable to attend a meeting of the independent special district selection committee, the legislative body of the district may appoint one of its members to attend the meeting of the selection committee in the presiding officer's place. Those districts shall include districts located wholly within the county and those containing territory within the county representing 50 percent or more of the assessed value of taxable property of the district, as shown on the last equalized county assessment roll. Each member of the committee shall be entitled to one vote for each independent special district of which he or she is the presiding officer. Members representing a majority of the eligible districts shall constitute a quorum.

(b) The executive officer or designee appointed by the Commission shall call and give written notice of all meetings of the members of the selection committee. A meeting shall be called and held under either of the following circumstances:

(1) Whenever a vacancy exists among the members or alternate members representing independent special districts upon the commission.

(2) Upon receipt of a written request by one or more members of the selection committee representing districts having 10 percent or more of the assessed value of taxable property within the county, as shown on the last equalized county assessment roll.

(c) (1) If the executive officer or designee appointed by the Commission determines that a meeting of the special district selection committee, for the purpose of selecting the special district representatives or for filling a vacancy, is not feasible, the executive officer or designee appointed by the Commission may conduct the business of the committee in writing, as provided in this subdivision. The executive officer or designee appointed by the Commission may call for nominations to be submitted in writing within 30 days. At the end of the nominating period, the executive officer or designee appointed by the Commission shall prepare and deliver, or send by certified mail, to each independent special district one ballot and voting instructions. If only one candidate is nominated for a vacant seat, that candidate shall be deemed selected, with no further proceedings.

(2) As an alternative to the delivery by certified mail, the executive officer or designee appointed by the Commission, with the prior concurrence of the district, may transmit the ballot and voting instructions by electronic mail, provided that the executive officer or designee appointed by the Commission shall retain written evidence of the receipt of that material.

(3) The ballot shall include the names of all nominees and the office for which each was nominated. The districts shall return the ballots to the executive officer or designee appointed by the Commission by the date specified in the voting instructions, which date shall be at least 30 days from the date on which the executive officer or designee appointed by the Commission mailed the ballots to the districts.

(4) If the executive officer or designee appointed by the Commission has transmitted the ballot and voting instructions by electronic mail, the districts may return the ballots to the executive officer or designee appointed by the Commission by electronic mail, provided that the executive officer or designee appointed by the Commission retains written evidence of the receipt of the ballot.

(5) Any ballot received by the executive officer or designee appointed by the Commission after the specified date is invalid. The executive officer or designee appointed by the Commission shall announce the results of the election within seven days of the specified date.

(m/Spiliotis, s/Wilson, passed: 11 aye, 2 no)

**13. Authority to Maintain Reserves.** The Committee elected to take no action on this proposal.

**14. Call for Election (AB 419).** Committee supports intent of bill. While there have been no cases that members were aware of where a Board refuses to call an election, the

question has been raised on occasion. Committee felt that the addition of "within 45 days" to §57000(f) would suffice rather than the additional language proposed by the Assembly Local Government Committee. **MOTION:** Support the legislation. (m/Winger, s/Settle, unanimous)

**15. Conversion of RIDs and MIDs.** **MOTION:** Support the expedited procedure for conversion of RIDs and MIDs, do not support a commission super majority to veto an objection from the affected RID or MID. Prefer a simple commission majority. (m/Braitman, s/Wilson, unanimous). Bill Chiat/Harry Ehrlich to discuss with CSAC, League and CSDA to see if any opposition issues.

**16. Multi-County Agency Spheres.** Several members indicated that this was still a relevant discussion. There remain concerns with some members regarding a principal LAFCo making sphere determinations in another county. Some members believe that the affected LAFCOs should make the decision, not the principal LAFCo. Some counsels do not agree with the recent court decision. The Committee will keep this on the agenda for future discussion.

**17. Committee Meeting Schedule**

The next Committee meetings are:

- ◆ Friday, 29 January 2010 – Sacramento
- ◆ Friday, 30 April 2010 – San Diego
- ◆ Friday, 11 June 2010 – Bay Area
- ◆ Friday, 23 July 2010 – Ontario\*

\*Tentative depending on need for legislation review and may be conducted by conference call.

At the conclusion of the meeting Kathy Rollings-McDonald resigned from the Committee as directed by her Commission. Sandy Winger announced that he and June Savala were also resigning from the Committee

The meeting was adjourned at 1:55 p.m.



California Association of Local Agency Formation Commission

# Legislative Committee Summary Minutes

**Date** 29 January 2010, 9:30 am to 2:00 pm

**Location** BB&K, Sacramento

**Attendees** *Members:* Clark Alsop, Roger Anderson\*, Scott Browne, Bill Chiat (Chair), Carole Cooper, Paula de Sousa, Harry Ehrlich (Vice Chair), SR Jones, Steve Lucas\*, Neelima Palacherla, Mona Palacios, Allen Settle\*, Keene Simonds, George Spiliotis\*, Lou Ann Texeira, Chris Tooker\*, Susan Vicklund Wilson\*

\*participated by phone

**Recorder** Bill Chiat

1. **Agenda Review.** A quorum was determined to be present at 9:40.
2. **Approve minutes.** Minutes changed to reflect Steve Lucas in attendance. MOTION: Approve minutes. (m/Anderson, s/Browne, unanimous)
3. **Assembly Omnibus Bill.**

The Committee took the following actions on the various items proposed for the Assembly Omnibus Bill. "No change" indicates that the action stands from the 18 December meeting.

- a. Correction of reference in GC §57379 – No change
- b. Definition of "Divestiture of Power." – No change
- c. Definition of Latent Power." Committee approved the following definition for consideration in the Omnibus:

"Latent power" means any particular function or class of service authorized by the principal act of a special district that the special district does not provide and has been not previously authorized to provide, as established by the commission, pursuant to subdivision (i) of Section 56425."

**MOTION:** Approve definition for consideration in Omnibus Bill. (m/Browne, s/Simonds, unanimous)

- d. Authority to Initiate Proceedings in GC §56375 (a)(2). Committee approved the adding the words "by resolution" only in the first sentence, and to **not** add "divestiture of power" as previously approved by the committee:

(2) The commission may initiate proposals **by resolution** for any of the following:

**MOTION:** Approve amendment for consideration in Omnibus Bill. (m/Ehrlich, s/Teixeira, unanimous)

- e. Council terms up for election – No change
- f. Change “category aid from other intergovernmental agencies” to “Intergovernmental” – No change
- g. Special District Designee. Committee suggested adding a subsection (f) to the section (§56332) clarifying that wherever it states “executive officer” that shall mean the “executive officer or designee.” That would avoid multiple changes throughout the section. Harry will propose language.
- h. Conduction of Elections as a Result of LAFCo Actions – No change
- i. Conflict with Principal Act. As a first step split §56100 into two separate sections to clarify these are two different provisions and for ease of reference.

**MOTION:** Add 56100 split to Omnibus Bill. (m/Browne, s/Alsop, unanimous)

**MOTION:** Approve items for consideration in Omnibus Bill. (m/Ehrlich, s/Teixeira, unanimous)

4. **Revenue and Tax Code Committee Report.** Lou Ann reported on meeting of subcommittee. Recognized that other stakeholders need to be involved for the needed broader improvements. Lou Ann will draft a letter from CALAFCO to the Senate Local Government Committee requesting their leadership in an update of R&T99. Committee considered the following short-term changes for the Senate Omnibus Bill:

- a. GC §56650 Commission proceedings for a change of organization or a reorganization may be initiated by petition or resolution of application in accordance with this chapter, including a resolution of application by the commission pursuant to Section 56375(a)(2).
- b. GC §56654(a) A proposal for a change of organization or a reorganization may be made by the adoption of resolution of application by the legislative body of an affected local agency and by the commission pursuant to Section 56375(a)(2).
- c. R&T §99(b)(4) Upon receipt of the estimates pursuant to paragraph (3), the local agencies shall commence negotiations to determine the amount of property tax revenues to be exchanged between local agencies. This negotiation period shall not exceed 60 days, unless a local agency transmits notice to the auditor and all involved local agencies to extend negotiations to 30 days.
- d. R&T §99(b)(6) Notwithstanding any other provision of the law ... within the 60-day negotiation period ...

**MOTION:** Approve items for consideration in Senate Omnibus Bill. (m/Ehrlich, s/Simonds, unanimous)

5. **Statute of Limitations for Challenges.** Michael and Scott amended their proposal as requested by the committee to make the proposal consistent with existing law and apply to all LAFCo actions LAFCo is authorized to take now as added in the future.

An action to determine the validity of any change of organization, or reorganization, completed pursuant to this division shall be brought pursuant to Chapter 9 (commencing with Section 860) of Title 10 of Part 2 of the Code of Civil Procedure. An action or proceeding to attack, review, set aside, void, or annul any other action of a local agency formation commission authorized by

this Division shall be brought pursuant to Code of Civil Procedure Sections 1085 within 60 days of the date of the final commission action, unless a different time limit is imposed by other law for that particular action.

**MOTION:** Support language for Senate Omnibus Bill and also request the repeal of Code of Civil Procedure §349½ as it is no longer applicable. (m/Alsop, s/SR Jones, unanimous)

6. **Santa Ynez Water District.** Tabled until next meeting.
7. **Resolution of Application Conflicts with Principal Acts.** Tabled until next meeting.
8. **Council Election System After Incorporation.** Bill reported that Assembly member Caballero chose not to author a bill to move the question of the council election system to an optional rather than required vote at incorporation. Committee determined that it was not a high priority and to table it until next year.
9. **Special District Representation on LAFCo.** Committee discussed two issues: can special districts chose to remove themselves from LAFCo; and 2) should special districts be required to be seated on all LAFCos (similar to cities and counties). Committee member had heard that Trinity County has requested an AG opinion on the former. Staff will research. Sense of the committee was that districts cannot vote themselves off of LAFCo.

Committee discussed universal special district seats on LAFCo. Staff will continue to have discussions with CSDA, ACWA, CASA. Committee suggested considering a progressive implementation over a period of time. **MOTION:** The Board consider authorizing universal special district seats as a policy priority at their February 2011 strategic workshop. (m/Browne, s/Tooker, unanimous)

10. **Validating Acts of 2010.** **MOTION:** Support SB 841, SB 842, and SB 843. (m/Ehrlich, s/Alsop, unanimous)
11. **AB 853 (Arambula).** Committee discussed proposals from the sponsors to try and respect the LAFCo annexation process, yet 'force' the city and county to produce a property tax exchange agreement and plan for services that LAFCo can approve. Questions were raised on how LAFCo could approve an annexation when the financing for infrastructure is not there; when the boundaries may need to be altered to be logical; when there may need to be a fee; and what type of CEQA document is required. Bill will relay the committee's issues to the sponsors (Rural Legal Assistance Foundation). The Committee made it clear that it was not taking any position on the bill – only offering technical and process suggestions – and would only consider a position once the language is published.

## 12. Committee Meeting Schedule

The next Committee meetings are:

- ◆ Friday, 30 April 2010 – San Diego
- ◆ Friday, 11 June 2010 – Bay Area
- ◆ Friday, 23 July 2010 – Ontario\*

\*Tentative depending on need for legislation review; may be conducted by conference call.

The meeting was adjourned at 2:00 p.m.

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**CALAFCO**  
**Legislative Committee Information**

**Tentative Legislative Calendar for  
State Assembly and Senate**

**Attachment 2c**



TENTATIVE LEGISLATIVE CALENDAR 2009-10  
2010 CALENDAR  
SECOND YEAR OF BIENNIUM

**CALIFORNIA STATE ASSEMBLY 2009-10 SESSION**

- Jan. 1 Statutes take effect (Art. IV, Sec. 8 ©).
- Jan. 4 Legislature reconvenes (J.R. 51(a)(4)).
- Jan. 10 Budget must be submitted by Governor (Art. IV, Sec. 12 (a)).
- Jan. 15 Last day for **policy committees** to hear and report bills introduced in 2009 for referral to **fiscal committees** (J.R. 61(b)(1)).
- Jan. 18 Martin Luther King, Jr. Day observed.
- Jan. 22 Last day for any committee to hear and report to the **Floor** bills introduced in their house in 2009 (J.R. 61(b)(2)). Last day to submit bill requests to the Office of Legislative Counsel.
- Jan. 31 Last day for each house to pass **bills** introduced in 2009 (J.R. 61(b)(3)) (Art. IV, Sec. 10(c)).
- Feb. 8 Lincoln's Birthday observed.
- Feb. 15 Washington's Birthday observed.
- Feb. 19 Last day for bill to be introduced (J.R. 61(b)(4), J.R. 54 (a)).
- Mar. 25 **Spring Recess** begins at the end of this day's session (J.R. 51(b)(1)).
- Mar. 29 Cesar Chavez Day observed.
- Apr. 5 Legislature reconvenes from **Spring Recess** (J.R. 51(b)(1)).
- Apr. 23 Last day for **policy committees** to hear and report to Assembly **fiscal bills** introduced in their house to **fiscal committees** (J.R. 61(b)(5)).
- May 7 Last day for **policy committees** to hear and report nonfiscal Assembly bills to the Assembly floor (J.R. 61(b)(6)).
- May 14 Last day for **policy committees** to meet prior to June 7 (J.R. 61(b)(7)).
- May 28 Last day for **fiscal committees** to hear and report Assembly bills to the Floor (J.R. 61 (b)(8)). Last day for **fiscal committees** to meet prior to June 7 (J.R. 61 (b)(9)).
- May 31 Memorial Day observed.
- June 1-4 **Floor session only**. No committee may meet for any purpose. (J.R. 61(b)(10); see also, J.R. 61(i)).
- June 4 Last day for Assembly to pass Assembly Bills (J.R. 61(b)(11)).
- June 7 Committee meetings may resume (J.R. 61(b)(12)).
- June 15 Budget Bill must be passed by **midnight** (Art. IV, Sec. 12(3)).
- June 24 Last day for a legislative measure to qualify for the Nov. 2 general Election ballot (Elec. Code Sec. 9040)
- July 2 Last day for policy committees to hear and report bills to the Floor (J.R. 61 (b)(13)). Summer Recess at the end of this day's session if Budget has been enacted (J.R. 51 (b)(2)).
- July 5 Independence Day observed.
- Aug. 2 Legislature reconvenes from Summer Recess (J.R. 51(b)(2)).
- Aug. 13 Last day for **fiscal committees** to meet and report to the Floor (J.R. 61(b)(14)).
- Aug. 16-31 **Floor session only**. No committees, other than conference committees and Rules Committee, may meet for any purpose (J.R. 61(b)(15)).
- Aug. 20 Last day to amend on the Floor (J.R. 61(b)(16)), (A.R. 69(c)).
- Aug. 31 Last day for any bill to be passed (Art. IV, Sec. 10 (c)). (J.R. 61(b)(17)). Final Recess begins at the end of this day's session (J.R. 51(b)(3)).
- Sept. 30 Last day for Governor to sign or veto bills passed by the Legislature on or before Sept. 1 and in the Governor's possession after Sept. 1 (Art. IV, Sec. 10(b)(2)).
- Nov. 2 General Election.
- Nov. 30 Adjournment sine die at midnight (Art. IV, Sec. 3(a)).
- Dec. 6 2011-12 Regular Session convenes for Organizational Session at 12 noon (Art. IV, Sec. 3(a)).

## TENTATIVE SENATE CALENDAR 2009–2010 REGULAR SESSION

### 2010

- Jan. 1 Statutes take effect (Art. IV, Sec. 8(c)).
- Jan. 4 Legislature reconvenes (J.R. 51(a)(4)).
- Jan. 10 Budget must be submitted by Governor (Art. IV, Sec. 12(a)).
- Jan. 15 Last day for policy committees to hear and report to Fiscal Committees fiscal bills introduced in their house in 2009 (J.R. 61(b)(1)).
- Jan. 18 Martin Luther King, Jr. Day
- Jan. 22 Last day for any committee to meet and report to the Floor bills introduced in their house in 2009 (J.R. 61(b)(2)). Last day to submit bill requests to the Office of Legislative Counsel.
- Jan. 31 Last day for each house to pass bills introduced in 2009 in their house (J.R. 61(b)(3)) and (Art. IV, Sec. 10 (c)).
- Feb. 15 President's Birthday
- Feb. 19 Last day for bills to be introduced (J.R. 61(b)(4) (J.R. 54(a)).
- Mar. 25 Spring Recess begins at end of this day's session (J.R. 51 (b)(1)).
- Mar. 29 Cesar Chavez Day
- Apr. 5 Legislature reconvenes from Spring Recess (J.R. 51(b)(1)).
- Apr. 23 Last day for policy Committees to hear and report to fiscal Committees Fiscal Bills introduced in their house (J.R. 61(b)(5)).
- May 7 Last day for policy committees to hear and report to the Floor non-fiscal bills introduced in their house (J.R. 61(b)(6)).
- May 14 Last day for policy committees to meet prior to June 7 (J.R. 61(b)(7)).
- May 28 Last day for fiscal Committees to hear and report to the Floor bills introduced in their house (J.R. 61 (b)(8)). Last day for fiscal committees to meet prior to June 7 (J.R. 61(b)(9)).
- May 31 Memorial Day
- June 1–4 **FLOOR SESSION ONLY.** No committee may meet for any purpose (J.R. 61(b)(10)).
- June 4 Last day for bills to be passed out of the house of origin (J.R. 61 (b)(11)).
- June 7 Committee meetings may resume (J.R. 61(b)(12)).
- June 15 Budget must be passed by midnight (Art. IV, Sec. 12 (3)).
- June 24 Last day for a legislative measure to qualify for the Nov. 2 general election ballot (Elec. Code Sec. 9040).
- July 2 Last day for policy committees to meet and report bills (J.R. 61(b)(13)). Summer Recess begins at the end of this day's session if Budget has been enacted (J.R. 51(b)(2)).
- July 5 Independence Day.
- Aug. 2 Legislature reconvenes from Summer Recess (J.R. 51 (b)(2)).
- Aug. 13 Last day for Fiscal Committees to meet and report bills to Floor (J.R. 61 (b)(14)).
- Aug. 16–31 **Floor Session only.** No committees, other than conference committees and Rules Committee, may meet for any purpose (J.R. 61 (b)(15)).
- Aug. 20 Last day to amend bills on the Floor (J.R. 61(b)(16)).
- Aug. 31 Last day for each house to pass bills (Art. IV, Sec. 10(c)), (J.R. 61 (b)(17)). Final Recess begins at end of this day's session (J.R. 51.(b)(3)).
- Sept. 30 Last day for Governor to sign or veto bills passed by the Legislature before Sept. 1 and in the Governor's possession on or after Sept. 1 (Art. IV, Sec. 10(b)(2)).
- Nov. 2 General Election.
- Nov. 30 Adjournment Sine Die at midnight (Art. IV, Sec. 3 (a)).
- Dec. 6 12M Convening of the 2011–2012 Regular Session (Art. IV, Sec. 3 (a)).

### 2011

- Jan. 1 Statutes take effect (Art. IV, Sec. 8(c)).

**CALAFCO**  
**Legislative Committee Information**

**Language of CALAFCO sponsored**  
**Omnibus Bill**

**Attachment 2d**



## **Legislative Committee Meeting**

29 January 2010

### **Agenda Item 4a**

#### **ASSEMBLY OMNIBUS LEGISLATION PROPOSALS**

2010 Legislative Session

Updated January 19, 2010

##### **1. Correction of Reference in GC Section 57379**

The reference in GC Section 57379 to GC Section 56727 is in error (GC 56727 no longer exists) and is proposed to be changed to the appropriate Section 56724 relating to city council member elections.

##### **2. Definition of "Divestiture of Power" for GC Section 56010 et al**

In 2007 AB 2484 (sponsored by CALAFCO) added language to the Cortese-Knox-Hertzberg Act (CKH) that included the term "divestiture of power" (§56021(h)) as a change of organization. The term was taken from CSD law GC 61000, however it is not defined in CKH. It is proposed that a definition be added to CKH to clearly delineate the meaning of the term:

"Divestiture of power" means the termination of the provision of a service or facilities by an agency subject to the review of a local agency formation commission.

##### **3. Definition of "Latent Power" for GC Section 56010 et al**

The term "latent power" is not defined in CKH, although it is in the CSD law (§61002 (h)). It is proposed that a definition be added to CKH to clearly delineate the meaning of the term:

"Latent power" means any service or facility authorized by the local agency formation commission, pursuant to subdivision (i) of Section 56425, that the affected agency service area has not been previously authorized to provide.

##### **4. Authority to Initiate Proceedings by Proposal for GC 56375 (a)(2)**

Section 56375 (a)(2) lists six types of proposals that a commission may initiate. Based upon changes to the Act in 2008 that provide for divestiture of powers, it is recommended that an additional type be specified:

GC 56375 (a):

(2) The commission may initiate proposals by resolution for any of the following:

- (A) The consolidation of a district, as defined in Section 56036.
- (B) The dissolution of a district.
- (C) A merger.
- (D) The establishment of a subsidiary district.
- (E) The formation of a new district or districts.
- ~~(F) The divestiture or activation of a power.~~
- ~~(G)~~ (F) A reorganization that includes any of the changes specified in subparagraph (A), (B), (C), (D), (E), or (F).

## 5. Council Election Terms After Incorporation – GC 57377 & 57379

Sections 57377 & 57379 provide for timing and number of city council positions to be subject for reelection after an incorporation election of city council members. The issue of number of positions up for election was brought to attention by two new cities in Riverside County and proposed legislation was amended in AB 18 (Knight) to reverse the number for each succeeding election that was vetoed for different reasons in 2009. It is recommended that the change be included in the Assembly Omnibus Bill in 2010 as follows:

*Section 57377 of the Government Code is amended to read:*

57377. Officers, except members of the city council, shall hold Office until the first succeeding general municipal election held in the city and until their successors are elected and qualified. Of the five elected members of the city council, the ~~three~~ two receiving the lowest number of votes shall hold office until the first succeeding general municipal election held in the city and until their successors are elected and qualified, and the ~~two~~ three receiving the highest number of votes shall hold office until the second succeeding general municipal election held in the city and until their successors are elected and qualified. If two or more members of the city council are elected by the same number of votes, the terms of each shall be determined by lot. The members of the city council elected to succeed the members elected at the incorporation election shall hold office for four years from the Tuesday succeeding their election, and until their successors are elected and qualified.

*Section 57379 of the Government Code is amended to read:*

57379. If the first general municipal election following an incorporation election will occur less than one year after the effective date of incorporation, or occurred on or after November 1, 1987, and less than one year after the incorporation election, of the five elected members of the city council, the ~~three~~ two receiving the lowest number of votes shall hold office until the second general municipal election following the incorporation election and until their successors are elected and qualified and the ~~two~~ three receiving the highest number of votes shall hold office until the third general municipal election following the incorporation election and until their successors are elected and qualified. The first general municipal election

following the incorporation election shall not be held unless either a proposition is to be voted upon or offices other than city council member offices are to be filled. In the event that, pursuant to Section 56727, the first election for city council members was held after the election on the incorporation proposal, the term "incorporation election" in this section means the first election for city council members.

**6. Revision of Revenue Category Classification Wording in Revenue Calculation for LAFCO Cost Allocation in GC 56381 (b)(1)(c)**

GC Section 56381(b)(1)(c) details the methodology of determining the share of LAFCo costs to independent special districts when a LAFCo has special district representation on their commission. The auditor/Controller of the county uses the information from the most recent available State Controllers Report to make this calculation. One of the adjustments to Fiscal numbers in the calculation is a credit currently described as "category aid from other governmental agencies", a category term used in the Controllers report for many years. It has been determined that the State Controller's office undertook the development of a new reporting system in 2000 to the report that changed the description of this category and did not correlate the description with language in the C-K-H Act section. Communication with the State Controller's Office has confirmed this information (see attached email information). It is proposed to change the category wording as follows and that this will not make any change impact upon the method of calculation:

§56381(b)(1)(C): The independent special districts' share shall be apportioned in proportion to each district's total revenues as a percentage of the combined total district revenues within a county. Except as provided in subparagraph (D), an independent special district's total revenue shall be calculated for nonenterprise activities as total revenues for general purpose transactions less "Intergovernmental" revenue ~~category aid from other governmental agencies~~ and for enterprise activities as total operating and nonoperating revenues less "Intergovernmental" revenue ~~category other governmental agencies~~, as reported in the most recent edition of the "Special Districts Annual Report" published by the Controller, or by an alternative method approved by a majority of the agencies, representing a majority of their combined populations.

**7. Special District Selection Committee Election Process in GC 56332**

The Cortese-Knox-Hertzberg Act contains provisions for appointing the County, City, Special District and Public Members of LAFCo as briefly summarized as follows:

The County Board of Supervisors appoints the County members. The Clerk of the Board of Supervisors assists with this process.

The city selection committee, composed of the mayor of each city in the County (Gov. Code §50270) appoints the City members. The clerk of the county acts as permanent secretary and recording officer of the city selection committee (Gov. Code §50276).

The independent special district selection committee, composed of the presiding officer or designated alternate member of the legislative body, appoints the Special District members. The LAFCo Executive Officer (EO) is designated to act as secretary and recording officer of the special district selection committee.

The Commission itself appoints the Public Members. The LAFCo Executive Officer and LAFCo Clerk assist with this selection process.

The intent of the proposed legislative change is to amend Government Code Section 56332 relating to the EO's role in the special district selection process, to provide an option which is consistent with the County and City member selection processes. This option would allow either the LAFCo EO or Clerk of the County (or other designated committee secretary) to coordinate and record the selection of the special district members. The proposed language provides flexibility for those LAFCOs that wish to retain the current arrangement of the LAFCo EO coordinating this selection process, OR allowing the Clerk of the County OR some other designated committee secretary to coordinate the selection process. It is proposed that:

56332. (a) The independent special district selection committee shall consist of the presiding officer of the legislative body of each independent special district. However, if the presiding officer of an independent special district is unable to attend a meeting of the independent special district selection committee, the legislative body of the district may appoint one of its members to attend the meeting of the selection committee in the presiding officer's place. Those districts shall include districts located wholly within the county and those containing territory within the county representing 50 percent or more of the assessed value of taxable property of the district, as shown on the last equalized county assessment roll. Each member of the committee shall be entitled to one vote for each independent special district of which he or she is the presiding officer. Members representing a majority of the eligible districts shall constitute a quorum.

(b) The executive officer or designee appointed by the Commission shall call and give written notice of all meetings of the members of the selection committee. A meeting shall be called and held under either of the following circumstances:

(1) Whenever a vacancy exists among the members or alternate members representing independent special districts upon the commission.

(2) Upon receipt of a written request by one or more members of the selection committee representing districts having 10 percent or more of the assessed value of taxable property within the county, as shown on the last equalized county assessment roll.

(c) (1) If the executive officer or designee appointed by the Commission determines that a meeting of the special district selection committee, for the purpose of selecting the special district representatives or for filling a vacancy, is not feasible, the executive officer or designee appointed by the Commission may conduct the business of the committee in writing, as provided in this subdivision. The executive officer or designee appointed by the Commission may call for nominations to be submitted in writing within 30 days. At the end of the nominating period, the executive officer or designee appointed by the Commission shall prepare and deliver, or send by certified mail, to each independent special district one ballot and voting instructions. If only one candidate is nominated for a vacant seat, that candidate shall be deemed selected, with no further proceedings.

(2) As an alternative to the delivery \*\*\* by certified mail, the executive officer or designee appointed by the Commission, with the prior concurrence of the district, may transmit the ballot and voting instructions by electronic mail, provided that the executive officer or designee appointed by the Commission shall retain written evidence of the receipt of that material.

(3) The ballot shall include the names of all nominees and the office for which each was nominated. The districts shall return the ballots to the executive officer or designee appointed by the Commission by the date specified in the voting instructions, which date shall be at least 30 days from the date on which the executive officer or designee appointed by the Commission mailed the ballots to the districts.

(4) If the executive officer or designee appointed by the Commission has transmitted the ballot and voting instructions by electronic mail, the districts may return the ballots to the executive officer or designee appointed by the Commission by electronic mail, provided that the executive officer or designee appointed by the Commission retains written evidence of the receipt of the ballot.

(5) Any ballot received by the executive officer or designee appointed by the Commission after the specified date is invalid. The executive officer or designee appointed by the Commission shall announce the results of the election within seven days of the specified date.

(d) The selection committee shall appoint two regular members and one alternate member to the commission. The members so appointed shall be elected or appointed special district officers residing within the county but shall not be members of the legislative body of a city or county. If one of the regular district members is absent from a commission meeting or disqualifies himself or herself from participating in a meeting, the alternate district member may serve and vote in place of the regular district member for that meeting. The representation by a

regular district member who is a special district officer shall not disqualify, or be cause for disqualification of, the member from acting on a proposal affecting the special district. The special district selection committee may, at the time it appoints a member or alternate, provide that the member or alternate is disqualified from voting on proposals affecting the district of which the member is a representative.

(e) If the office of a regular district member becomes vacant, the alternate member may serve and vote in place of the former regular district member until the appointment and qualification of a regular district member to fill the vacancy.  
**(Amended by Stats. 2008, Ch. 68.)**

## **8. Conduction of Elections as a Result of LAFCo Action in GC Sections 57075.5(b), 57127, and 57129**

Several separate sections in CKH require the commission to call an election when in fact the actual process is for the commission to notify the affected county or city to direct the elections official to conduct the election (§57000(d) and (e)). These three proposed changes bring consistency to that process:

57075.5(b) - "...and request the city to call a special election...".

57127 - "If the ~~commission~~ board of supervisors calls any special election within all or any part of any district, any references in the principal act to the board of directors of the district and to the clerk or secretary of the district shall be deemed to mean the commission board of supervisors and the ~~executive officer~~ elections official, respectively."

57129 - "...conducting any special election called by the ~~commission~~ board of supervisors or city council pursuant to this division..."

If adopted as proposed, the final wording for these code sections would be:

**57075.5.** Notwithstanding Section **57075**, if territory proposed to be annexed to a city with more than 100,000 residents is inhabited and is located in a county with a population of over 4,000,000, the commission, not more than 30 days after conclusion of the hearing, shall make a finding regarding the value of written protests filed and not withdrawn and shall take one of the following actions:

(a) Terminate proceedings if written protests have been filed and not withdrawn by 50 percent or more of the registered voters within the affected territory.

(b) Order the territory annexed subject to the confirmation by the voters on the question, and request the city to call a special election and submit to the voters residing within the affected territory the question of whether it shall be annexed to the city, if written protests have been filed and not withdrawn by either 15 percent or more of the registered voters within the territory, or 15 percent or more of the

number of owners of land who also own not less than 15 percent of the total assessed value of land within the territory.

57127. If the ~~commission~~ board of supervisors calls any special election within all or any part of any district, any references in the principal act to the board of directors of the district and to the clerk or secretary of the district shall be deemed to mean the ~~commission~~ board of supervisors and the ~~executive officer~~ elections official, respectively.

57129. Where any records of a city or a district are required for the purpose of calling, holding, or conducting any special election called by the ~~commission~~ board of supervisors or city council pursuant to this division, those records or certified copies of those records shall be delivered, upon request, to the elections official by the city or district officer having custody of the records or copies and shall be returned to that officer immediately after the canvass of the election returns. All other election records, documents, instruments, and election supplies, including, but not limited to, rosters, ballots, and tally sheets, shall be retained or disposed of by the elections official in the manner provided by law.



**CALAFCO**  
**Assembly Omnibus Legislation Proposals**  
**2010 Legislative Session**  
**Updated January 26, 2010**  
**Prepared by Harry Ehrlich and Paula de Sousa**

**2. Definition of “Divestiture of Power” for GC Section 56010 et al**

In 2007 AB 2484 (sponsored by CALAFCO) added language to the Cortese-Knox-Hertzberg Act (CKH) that included the term “divestiture of power” (§56021(h)) as a change of organization. The term was taken from CSD law GC 61000, however it is not defined in CKH. It is proposed that a definition be added to CKH to clearly delineate the meaning of the term:

“Divestiture of power” means the termination of the power and authority to provide particular functions or classes of services within all or part of the jurisdictional boundaries of a special district.

**[Note:**

1. I deleted the reference of review of LAFCO to make this definition consistent with the definitions of other actions taken by LAFCO, such as annexations, detachments, etc.

2. I modified the above so that it tracked the language in Section 56824.10 et seq. which sets out the requirements for LAFCO’s approval of a new or different service, or the divestiture of the authority to provide the new or different service. Also, I want to point out that the terminology set out in the original proposed definition, did not even track with the language used in the CSD Law provision governing “divestiture.” That Section 61107, uses the following phraseology: “divest itself of a power that is authorized pursuant to this chapter. . .” Nowhere in Section 61107 is there a discussion of provision of “facilities.” Also, I cross checked 56430 [msr] and 56434 [service to previously unserved territory], to check to see if different phraseology was used.

3. Last, I used the term special district to track the language used in 56824.10 et seq.]

**3. Definition of “Latent Power” for GC Section 56010 et al**

The term "latent power" is not defined in CKH, although it is in the CSD law (§61002 (h)). It is proposed that a definition be added to CKH to clearly delineate the meaning of the term:

"Latent power" means any particular function or class of service authorized by the principal act of a special district that the special district has not been previously authorized to provide, as established by the commission, pursuant to subdivision (i) of Section 56425.

[Note:

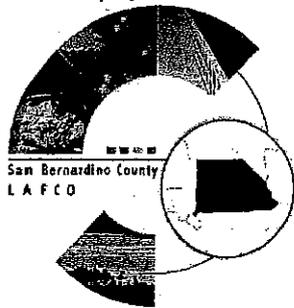
1. I revised to make the terminology consistent with the terminology of the definition of "divestiture" above, and the terminology used in both Sections 56425 and 56825.10 et seq. I know that the word "facilities" is used in the definition of "latent powers" in the CSD Law, but I just don't think it fits in CKH.

2. I revised to make clear that the function or class of service must be authorized by the principal act of a district. This is the very point, it is a power that is authorized by the district's principal act (let's say sewer powers by a municipal water district) which it is not currently providing as established by LAFCO. For those such powers "latent powers" LAFCO must grant approval prior to the special district can exercise the power.]

**Assembly Bill 853 Arambula -  
Letter of Concern by  
San Bernardino LAFCO and  
Current Bill Language**

**Attachment 3**





# 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](mailto:lafco@lafco.sbcounty.gov) • [www.sbclafco.org](http://www.sbclafco.org)

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

June 12, 2009

## COMMISSIONERS

PAUL BIANE  
Board of Supervisors

KIMBERLY COX  
Special District

JAMES V. CURATALO  
Special District

LARRY McCALLON  
City Member

BRAD MITZELFELT, Vice Chair  
Board of Supervisors

MARK NUAIMI, Chair  
City Member

RICHARD P. PEARSON  
Public Member

## ALTERNATES

JIM BAGLEY  
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

ANNA M. RAEF  
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 Concern

Dear Assembly Member Arambula:

The Local Agency Formation Commission (LAFCO) for San Bernardino County wishes to express its appreciation for your efforts to address service issues related to urbanized communities along the fringe of city boundaries. However, the Commission has some key concerns with the legislation as currently drafted as discussed at its May 20 meeting. These concerns are summarized as:

- It requires a LAFCO to approve the annexation unless it "finds" (not determines) based on a preponderance of evidence that the 'change of reorganization' will not result in a net benefit to the public health of the communities. It specifically excludes financial impact as a consideration. LAFCO should be allowed to exercise its full discretion in considering an annexation.
- The bill requires the city to amend its general plan after LAFCO approval, rather than the current requirements of pre-zoning prior to LAFCO consideration of an application.
- If a city and county cannot reach agreement on a property tax exchange, the bill lifts the language from the incorporation revenue neutrality sections. It essentially says that if the city and county cannot reach agreement, LAFCO will impose an agreement. This could be a costly experience for LAFCOs. It creates the potential for LAFCO to absorb significant costs of litigation that may result from a LAFCO-imposed revenue neutrality agreement.

JUNE 12, 2009

- o The legislation is silent about the effect upon special districts. It is unclear what happens to districts that may be currently providing services that would be provided in the future by the city. Because LAFCO can only deny this for public health reasons related solely to the affected territory, there is no opportunity for LAFCO to adjust the annexation under these provisions if the city does not have the capacity to provide water, sewer or any other municipal service. In addition there is no opportunity to address the special districts' ability to provide services to their remaining territory that was not detached in the annexation.
- o The legislation refers to GC §57080(a) with the intent that the annexation would occur without protest. Therefore this bill essentially forces the annexation of inhabited territory based solely on a petition of 25% of the registered voters. The legislation, as presently written, eliminates the opportunity for a majority of the residents of the area to be engaged in the decision.

Thank you for your consideration of our concerns related to the long-term ramifications of your bill. 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 further discuss the Commission's position on this issue.

Sincerely,



Mark Nuaimi  
Chairman

cc: 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

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THE HONORABLE PAUL COOK  
34932 YUCAIPA BLVD  
YUCAIPA, CA 92399



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**

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**Introduced by Assembly Member Arambula**

February 26, 2009

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An act to add Sections 56375.6 and 56375.7 to the Government Code, relating to local government.

LEGISLATIVE COUNSEL'S DIGEST

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

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, including provisions for a revenue neutrality agreement between the affected local government entities.

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

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

- 1 SECTION 1. Section 56375.6 is added to the Government  
2 Code, to read:  
3 56375.6. (a) As used in this section, *the following terms have*  
4 *the following meanings:* "unincorporated

1 (1) "Unincorporated fringe community" means any inhabited;  
2 unincorporated-area territory that is within 1.5 miles of a city or  
3 within or adjacent to a city's sphere of influence.

4 (2) "Unincorporated island community" means any inhabited  
5 unincorporated territory that is surrounded or substantially  
6 surrounded by one or more cities or by one or more cities and a  
7 county boundary or the Pacific Ocean.

8 (b) The board of supervisors shall petition the commission in  
9 the board's county to approve the annexation to a city of any island  
10 or fringe community after notice and hearing if all of the following  
11 conditions exist:

12 (1) Twenty-five percent of the registered voters or landowners  
13 in the unincorporated territory *fringe community or unincorporated*  
14 *island community* file a petition with the board to initiate an  
15 annexation of that community to a municipality.

16 (2) The territory contained in the annexation petition constitutes  
17 an island or constitutes an unincorporated fringe community that  
18 lacks wastewater, drinking water services, storm drainage, paved  
19 streets, sidewalks, or streetlights, or there exists a serious  
20 infrastructure-related health hazard.

21 (3) The territory that is the subject of the annexation petition  
22 constitutes a disadvantaged community, as defined by Section  
23 79505.5 of the Water Code. Income evidence may be provided by  
24 a community household survey.

25 (c) Notwithstanding any other provision of law, within 180 days  
26 of a petition being mailed pursuant to subdivision (b), a separate  
27 property tax transfer agreement shall be agreed to between the  
28 annexing city and the county pursuant to Section 99 of the Revenue  
29 and Taxation Code. If an agreement is not made within 180 days,  
30 a property tax transfer agreement shall be determined pursuant to  
31 Section ~~36375.7~~ 56375.7. That agreement shall not affect any  
32 existing master tax sharing agreement between the city and county.

33 (d) The commission shall approve, after notice and hearing, the  
34 annexation, and as needed, the change of organization or  
35 reorganization of a city, subject to subdivision (a) of Section 57080,  
36 unless the commission finds, based on the preponderance of  
37 evidence, that the change in reorganization will not result in a net  
38 benefit to the public health of the affected communities. The  
39 financial impact of the annexation shall not be a factor in this  
40 determination.

1 (e) Subject to the commission's approval of an annexation under  
2 this subdivision, no affected special district shall have the authority  
3 to terminate the annexation.

4 (f) Subject to the commission's approval of an annexation under  
5 this subdivision, the city shall amend its general plan to ensure ~~the~~  
6 that the annexation conforms with the municipality's general plan.

7 SEC. 2. Section 56375.7 is added to the Government Code, to  
8 read:

9 56375.7. (a) The commission shall determine a revenue  
10 neutrality agreement, including the amount of property tax revenue  
11 to be exchanged by the affected local agency pursuant to this  
12 section. The commission shall notify the county auditor of the  
13 proposal and the services that the annexing city will assume within  
14 the territory to be annexed and identify for the auditor the existing  
15 service providers within the area subject to the proposal.

16 (b) If the proposal would not transfer all of an affected agency's  
17 service responsibilities to the proposed city, the commission and  
18 the county auditor shall do all of the following:

19 (1) The county auditor shall determine the proportion that the  
20 amount of property tax revenue derived by each affected local  
21 agency pursuant to subdivision (b) of Section 93 of the Revenue  
22 and Taxation Code bears to the total amount of revenue from all  
23 sources, available for general purposes, received by each affected  
24 local agency in the prior fiscal year. For purposes of making this  
25 determination and the determination required by paragraph (3),  
26 "total amount of revenue from all sources available for general  
27 purposes" means the total amount of revenue which an affected  
28 local agency may use on a discretionary basis for any purpose and  
29 does not include any of the following:

30 (A) Revenue which, by statute, is required to be used for a  
31 specific purpose.

32 (B) Revenue from fees, charges, or assessments which are levied  
33 to specifically offset the cost of particular services and do not  
34 exceed the cost reasonably borne in providing these services.

35 (C) Revenue received from the federal government which is  
36 required to be used for a specific purpose.

37 (2) The commission shall determine, based on information  
38 submitted by each affected local agency, an amount equal to the  
39 total net cost to each affected local agency during the prior fiscal  
40 year of providing those services that the annexing city will assume

1 within the area subject to the proposal, including the cost of  
2 connecting residents to wastewater or drinking water services.

3 For purposes of this paragraph, "total net cost" means the total  
4 direct and indirect costs that were funded by general purpose  
5 revenues of the affected local agency and excludes any portion of  
6 the total cost that was funded by any revenues of that agency that  
7 are specified in subparagraphs (A), (B), and (C) of paragraph (1).

8 (3) The commission shall multiply the amount determined  
9 pursuant to paragraph (2) for each affected local agency by the  
10 corresponding proportion determined pursuant to paragraph (1) to  
11 derive the amount of property tax revenue used to provide services  
12 by each affected local agency during the prior fiscal year within  
13 the area subject to the proposal. The county auditor shall adjust  
14 the amount described in the previous sentence by the annual tax  
15 increment according to the procedures set forth in Chapter 6  
16 (commencing with Section 95) of Part 0.5 of Division 1 of the  
17 Revenue and Taxation Code, to the fiscal year in which the new  
18 city or district receives its initial allocation of property taxes.

19 (4) For purposes of this subdivision, in any county in which,  
20 prior to the adoption of Article XIII A of the California  
21 Constitution, and continuing thereafter, a separate fund or funds  
22 were established consisting of revenues derived from the  
23 unincorporated area of the county and from which fund or funds  
24 services rendered in the unincorporated area have been paid, the  
25 amount of property tax revenues derived pursuant to paragraph  
26 (3), may, at the discretion of the commission, be transferred to the  
27 annexing city over a period not to exceed 12 fiscal years following  
28 the annexation. In determining whether the transfer of the amount  
29 of property tax revenues determined pursuant to paragraph (3)  
30 shall occur entirely within the fiscal year immediately following  
31 the annexation or shall be phased in over a period not to exceed  
32 12 full fiscal years following the annexation, the commission shall  
33 consider each of the following:

34 (A) The total amount of revenue from all sources available to  
35 the annexing city.

36 (B) The fiscal impact of the proposed transfer on the transferring  
37 agency.

38 (C) Any other relevant facts which interested parties to the  
39 exchange may present to the commission in written form.

1 The decision of the commission shall be supported by written  
2 findings setting forth the basis for its decision.

3 (c) If the proposal would transfer all of an affected agency's  
4 service responsibilities to the annexing city, the commission shall  
5 request the auditor to determine the property tax revenue generated  
6 for the affected service providers by tax rate area, or portion  
7 thereof, and transmit that information to the commission.

8 (d) The executive officer shall notify the auditor of the amount  
9 determined pursuant to paragraph (3) of subdivision (b) or  
10 subdivision (c), as the case may be, and, where applicable, the  
11 period of time within which and the procedure by which the  
12 transfer of property tax revenues will be effected pursuant to  
13 paragraph (4) of subdivision (b), at the time the executive officer  
14 records a certificate of completion pursuant to Section 57203 for  
15 any proposal described in subdivision (a), and the auditor shall  
16 transfer that amount to the new jurisdiction.

17 (e) An action brought by a city or district to contest any  
18 determinations of the county auditor or the commission with regard  
19 to the amount of property tax revenue to be exchanged by the  
20 affected local agency pursuant to this section shall be commenced  
21 within three years of the effective date of the annexation.

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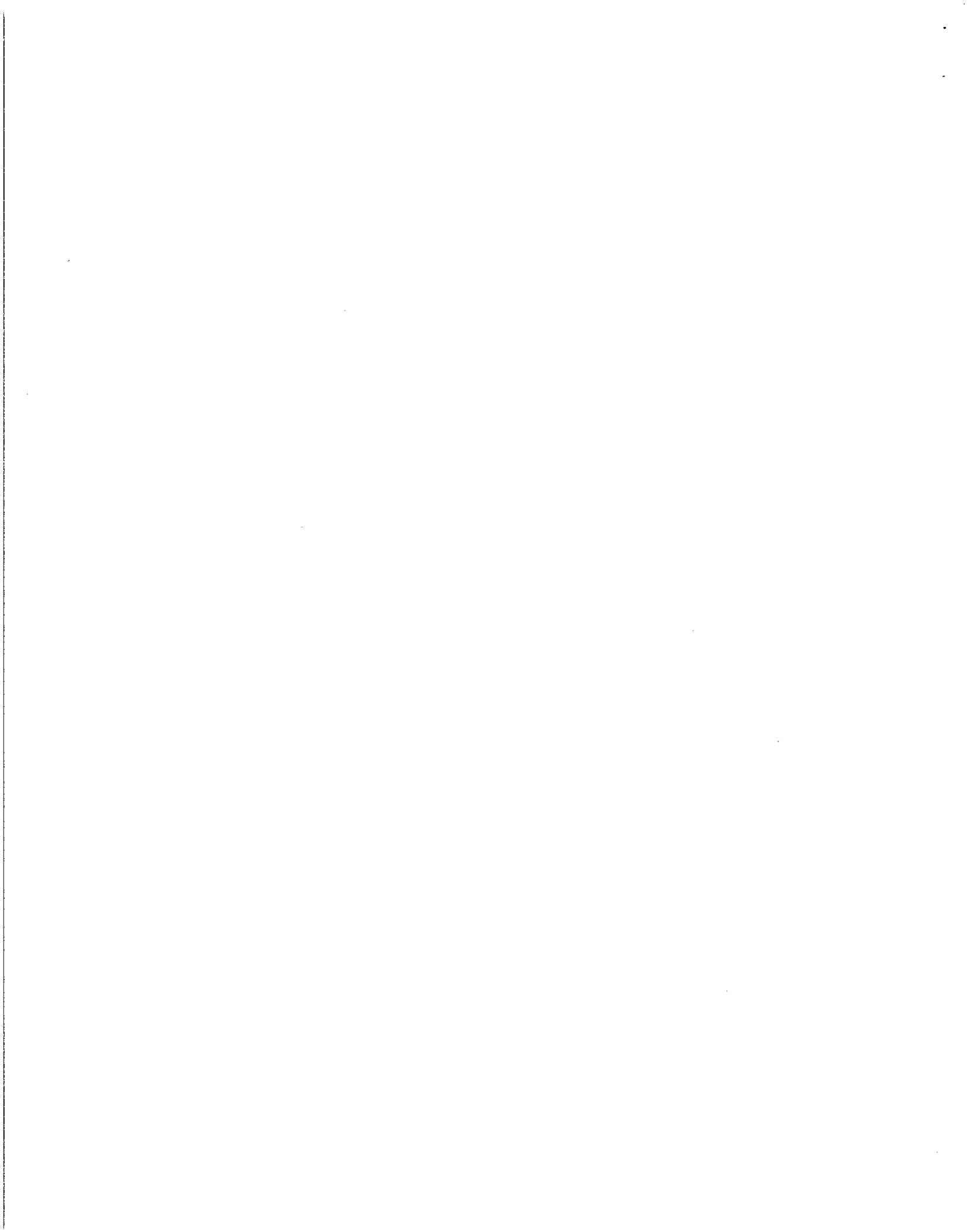
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**Assembly Bill 300 (Caballero) -  
Senate Committee on Natural Resources  
and Water Bill Analysis dated July 6, 2009  
and Current Bill Language**

**Attachment 4**





□

reduce the subdivision's water demand below the applicable statutory, regulatory, and local ordinance requirements for water conservation.

3. Allow voluntary mitigation measures to include water conservation offsets that minimize a percentage of a project's impact on the public water system, as determined by the applicant and agreed upon by the public water system. The applicant would be allowed to enter into a mutual agreement with the public water system to mitigate water demand associated with a proposed subdivision by depositing funds into a Voluntary Water Demand Mitigation Fund.
4. Require that the water savings projection attributable to voluntary demand management measures be contained in the written verification and be verified for accuracy by the public water system, or, if there is no public water system, the local agency.
5. Require the projected water savings to be calculated using either water efficiency program data compiled or maintained by the public water system or water savings projections adopted by the California Urban Water Conservation Council (CUWCC). If a project applicant proposes to use a new voluntary water demand management measure for which neither the CUWCC nor the public water system has adopted an estimate or method to calculate the projected water savings of the proposed voluntary water demand management measure, the projected water savings would be made based on documented methodologies or calculations submitted in the record.
6. Require, if the written verification of a sufficient water supply relies on the use of voluntary demand management measures:

The written verification to be conditioned on the maintenance and operation of the voluntary demand management measures, or measures that are at least as water efficient, as agreed to by the applicant and the public water system, and the recordation as a covenant running with the land.

The recorded covenant to include a notice of the existence of the maintenance manual and the obligation of the purchaser to obtain the maintenance manual from the seller.

Each purchaser, by acceptance of a deed to a lot, acknowledge the obligation to comply with the voluntary demand management measures for the lot as described in the

covenant.

The covenant and its obligations to be in effect for the time period used by the public water system for determining the water savings attributable to the demand management measures but not exceeding 20 years.

The requirements under these provisions to be included with the original sales documentation and shall be acknowledged by the purchaser. The seller shall instruct the original purchaser to provide the maintenance manual to any subsequent purchaser.

A builder, prior to the close of escrow, to give to a purchaser information that shall be included in a maintenance manual that informs the purchaser of the existence of the home's unique water saving devices, including information regarding their benefits, maintenance requirements, and proper use.

The public water system would be allowed to enforce the covenant pursuant to its existing authority.

1. Deem that a water supply assessment, completed pursuant to the requirements of SB 610, satisfies the requirement for a water supply assessment under SB 221 unless the public water system receives significant new information that becomes available and that was not known and could not be known at the time when the assessment was prepared.
2. Require the public water system, five years after the project has been fully developed, to include in its next urban water management plan a report on the monitoring and compliance of voluntary water demand management measures and determine whether they have resulted in the water savings necessary to achieve the agreed upon water demand offsets.
3. Sunset these provisions in 2017.
4. Make numerous findings and declarations regarding the importance of encouraging permanent water conservation practices beyond those required under current law.

#### ARGUMENTS IN SUPPORT

According to a coalition of building and business interests, "For years, homebuilders have employed systems and technologies to reduce water demand in new homes, including installation of ultra-low flow toilets and showerheads, weather-based landscape irrigation controllers, drought tolerant plants, recycled water systems, rainwater capture and reuse systems along with low

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impact development strategies and other sustainable features. However, local agencies do not always take into consideration the existence and use of voluntary water savings devices. Instead, current water demand projections may rely on out-dated consumption models that do not reflect actual water use in proposed subdivisions".

"AB 300 ensures that homebuilders and commercial developers who employ voluntary water demand measures, receive reasonable credit for their savings in connection with water-demand assessments and verifications done during the entitlement process. The public water agency would maintain control of the water assessment and would simply be required to consider an applicant's use of voluntary conservation measures in a new housing or mixed use development. AB 300 requires the voluntary water demand measures employed by the builder to be permanently affixed to the property."

#### ARGUMENTS IN OPPOSITION

Opponents support the intent of AB 300 to encourage water efficient development by allowing water-savings resulting from "voluntary" water conservation measures to be credited in a water supply assessment and water supply verification for that development. However, they have serious concerns about specific aspects of the bill.

A coalition of environmental organizations is concerned that, "In its current version, AB 300 would thwart the effective enforcement of these promised extraordinary water savings. Relying on a deed restriction that only requires the homeowner to read a maintenance manual about in-home conservation measures and the homeowner's knowledge of this deed restriction is not an effective tool for achieving compliance with these promises. Relying on the water utility to police neighborhoods, looking for landscaping on individual homes that may exceed the allotted water demand is not at all realistic, results in government intrusion into the home, and is extremely expensive to the utility. This approach would also adversely impact all the other ratepayers who would share in paying for the additional enforcement staff required to police the new subdivisions."

East Bay Municipal Utility District (EBMUD) asserts, "The most effective compliance strategy for ensuring that promised water savings will be maintained over the course of changes in property ownership is through the Covenants, Conditions, and Restrictions (CC&Rs). CC&Rs establish the "rules of conduct" in the development, and enforcement of the CC&Rs by the [Homeowner

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Association (HOA)] is established practice. Since most new 500-unit residential subdivisions include an HOA, the use of CC&Rs provides a reliable and efficient means for enforcement. HOAs are locally managed by the homeowners within the new subdivision. They are located in the neighborhood, closest to the properties, and are in the best position to verify that homeowners are abiding by their promises concerning property landscaping and water usage. Homeowners within a common interest development already understand their obligation to conform to the CC&Rs, and have a reasonable expectation that the HOA will enforce the rules for the collective benefit of the subdivision."

#### COMMENTS

Designing for Conservation. Many water conservation technologies are relatively inexpensive to install when a structure is being constructed, but are expensive to install as a retrofit. If builders get credit for voluntarily installing water conservation devices, they're more likely to design their projects to include them.

Ensuring Permanent is Permanent. All parties agree that it is critical that the voluntary water demand measures employed by the builder be permanent. The key issue in dispute is what is the best way to ensure that actually occurs? The author and sponsors assert the best method is to record a covenant that runs with the title that would prevent any future owner from removing or disabling the water conservation features. The opponents counter that the best way is to incorporate the restrictions in the CC&Rs and to use HOAs as the first line of enforcement.

HOAs. Homeowner Associations have their fans and their critics. Fans note that HOAs provide people with shared neighborhood values an opportunity to enforce regulations to achieve a community reflecting those values. While an HOA inherently restricts the rights that would otherwise exist for its members based on city and county statutes, those very restrictions are often the reason people decide to move into such neighborhoods.

Critics counter that many HOAs have excessively restrictive rules and regulations on how homeowners are allowed to conduct themselves and use their property. Due to their nature as a

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non-governmental entity, HOA boards of directors are not bound by constitutional restrictions on governments, meetings are not open to the general public, etc, even though in many cases they are a de-facto level of government.

Commitment In Local Government Committee. This bill was heard in the Senate Local Government Committee on 6/17/09. At that hearing, the author presented a number of author's amendments. The author also stated that while she agreed in concept to amending the bill to include "CC&R/Enforcement" language, final details were still being negotiated. Upon questioning by members of the Committee, the author clarified that she was not taking any CC&R enforcement language in our Committee, but was committing to do so in the next policy committee.

The expectation of the Chair of the Local Government Committee is that the author would amend the bill in the Senate Natural Resources to enforce compliance with AB 300 through CC&Rs. According to the Chair, the only possible exception to taking amendments that include the use of enforceable CC&Rs would be if all of the parties involved in negotiating the language agree to some other enforcement provisions to amend into the bill.

While the author has amended the bill after the bill left the Local Government Committee, the amendments do not enforce compliance with the provisions of the bill through CC&Rs. Moreover, many of the parties involved in negotiating the language disagree with the enforcement provisions amended into the bill.

SUGGESTED AMENDMENT: Direct staff, in collaboration with staff of the Local Government Committee, to draft and process amendments to delete recent amendments that required the maintenance and operation of the voluntary demand management measures as a covenant running with the land and replace with language to enforce compliance with AB 300 through CC&Rs.

#### SUPPORT

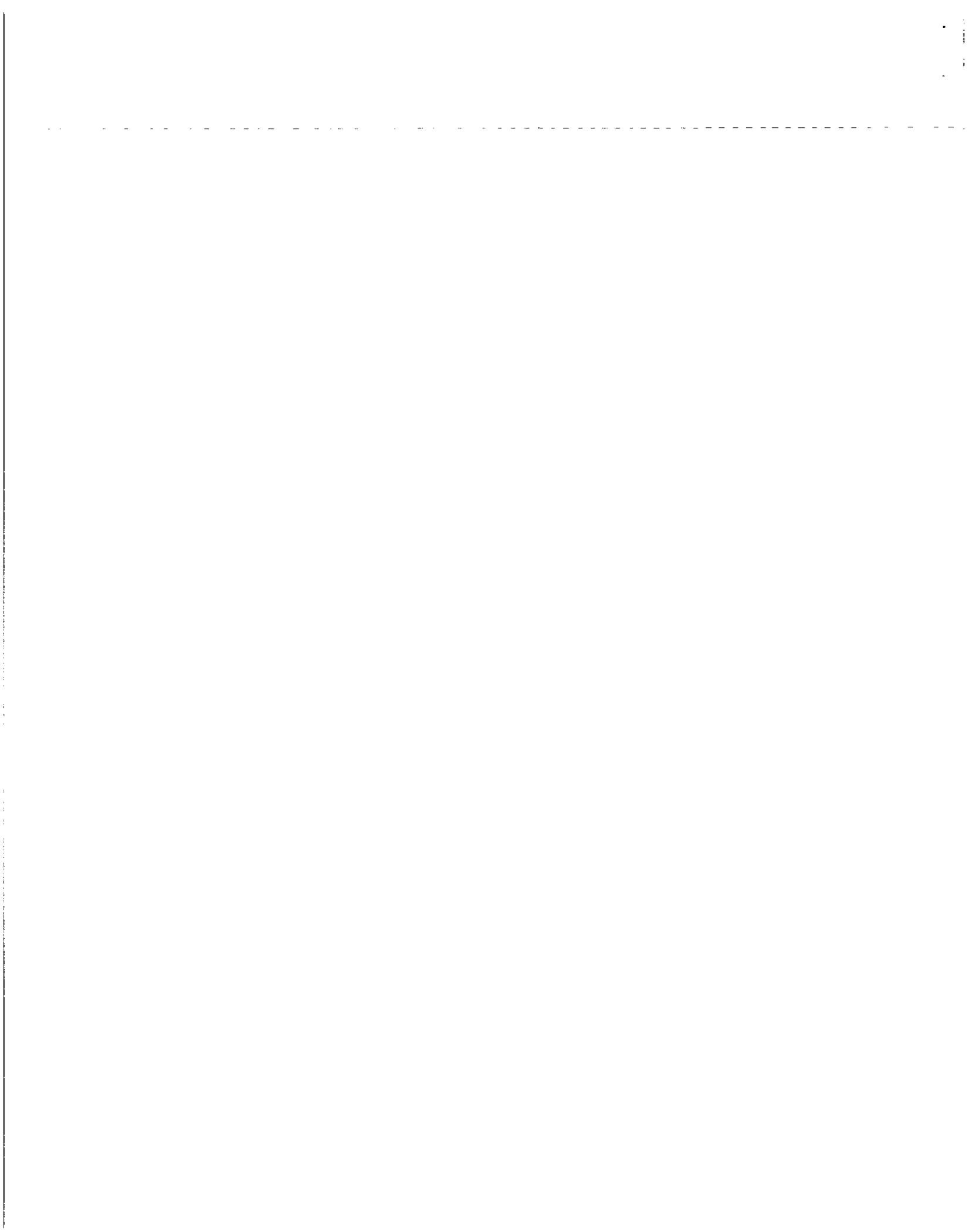
California Building Industry Association  
California Chamber of Commerce  
California Business Properties Association  
California Alliance for Jobs  
California Apartment Association  
California Association of Realtors  
California Manufacturing and Technology Association  
American Council of Engineering Companies California

Associated General Contractors  
Western Electrical Contractors Association, Inc.

OPPOSITION

Clean Water Action  
Defenders of Wildlife  
East Bay Municipal Utility District  
Environment California  
Executive Council of Homeowners  
Food and Water Watch  
Heal the Bay  
Planning and Conservation League  
Sierra Club  
Urban Semillas

California Association of Realtors (if amended to include HOA  
enforcement provisions)  
Executive Council of Homeowners (if amended to include HOA  
enforcement provisions)



AMENDED IN SENATE JUNE 30, 2009  
AMENDED IN SENATE JUNE 23, 2009  
AMENDED IN SENATE JUNE 10, 2009  
AMENDED IN ASSEMBLY APRIL 20, 2009  
AMENDED IN ASSEMBLY APRIL 2, 2009

CALIFORNIA LEGISLATURE—2009–10 REGULAR SESSION

**ASSEMBLY BILL**

**No. 300**

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**Introduced by Assembly Member Caballero**

February 17, 2009

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An act to amend, repeal, and add Section 66473.7 of the Government Code, and to amend, repeal, and add Section 10910 of the Water Code, relating to subdivision map approvals.

LEGISLATIVE COUNSEL'S DIGEST

AB 300, as amended, Caballero. Subdivisions: water supply.

(1) The Subdivision Map Act prohibits approval of a tentative map, or a parcel map for which a tentative map was not required, or a development agreement for a subdivision of property of more than 500 dwelling units, except as specified, including the design of the subdivision or the type of improvement, unless the legislative body of a city or county or the designated advisory agency provides written verification from the applicable public water system that a sufficient water supply is available or, in addition, a specified finding is made by the local agency that sufficient water supplies are, or will be, available prior to completion of the project.

This bill would require, until January 1, 2017, the public water system, or the local agency if there is no public water system, to review, verify for accuracy, and approve, as specified, the subdivider's water savings projections attributable to voluntary demand management measures, as defined. The public water ~~agency~~ *system* would be authorized to collect fees necessary to provide the additional analysis of the voluntary demand management measures. This bill would provide that a water supply assessment completed, as specified, satisfies the existing requirement of verifying sufficient water supply, ~~except as specified with regard to new information or water savings projections unless the public water system receives specified new information.~~ The public water system would be required to determine the projected water savings ~~for attributable to~~ the voluntary demand management measures that will be incorporated into the subdivision. The projected water savings would be ~~authorized~~ *required* to be calculated using specified data compiled or maintained by the public water system or the water savings projections adopted by the California Urban Water Conservation Council. If a project applicant proposes to use a new voluntary water reduction demand management measure ~~that is not based on water savings projections adopted by~~ *for which neither* the California Urban Water Conservation Council ~~or nor~~ the public water system, ~~the public water system's determination of~~ *has adopted an estimate or method to calculate the projected water savings of the proposed voluntary demand management measure*, the projected water savings would be required to be made based on documented methodologies or calculations submitted in the record. ~~The~~ *Five years after the project has been fully developed, the* public water system would be required to *include within its next urban water management plan a report on the monitoring and compliance of voluntary water demand management measures and to determine, if practicable based on readily available information, whether they have resulted in the water savings necessary to achieve the agreed upon water demand offsets.* ~~The bill would require copies of the first report prepared 5 years after the project has been fully developed to be provided to the project applicant, the city or county that approved the subdivision map, the California Urban Water Conservation Council, and the Department of Water Resources.~~ The bill would also require the public water system to document the measured annual water use of the subdivision in comparison to the projected demand associated with the subdivision, and to calculate the water savings attributable to the ~~demand management~~ *voluntary*

*mitigation* measures financed by the Voluntary Water Demand Mitigation Fund for the subdivision. *If the public water system bases its written verification of a sufficient water supply for the subdivision, in whole or in part, on the use of voluntary demand management measures within the subdivision, the written verification would be required to be conditioned on the maintenance and operation of the voluntary demand management measures, or measures that are at least as water efficient, as agreed to by the applicant and the public water system, and the recordation as a covenant running with the land for the lots within the subdivision. The bill would provide that by acceptance of a deed to a lot, each purchaser would acknowledge the obligation to comply with the voluntary demand measures for the lot as described in the covenant. These covenants would be authorized to be enforced pursuant to the existing authority of a public water system.* The bill would further require a builder, prior to the close of escrow, to give a purchaser ~~a manual of documents~~ *information* that would be required to be included in a maintenance manual that informs the purchaser of the existence of the home's unique water saving devices, including specified information. The bill would also encourage the public water system to commit to carrying out the water conservation measures funded by the Voluntary Water Demand Mitigation Fund within 24 months of the sale of the last unit of the proposed subdivision. ~~The bill would provide that the sole remedy for the failure of a public water system to implement the water conservation measures would be for an interested party to seek a writ of mandamus to compel the public water system to comply.~~ The bill would require the public water system to choose water conservation measures that are the ~~least expensive and most cost-effective~~ means to yield water *savings*. The bill would authorize expenditures from the fund to be made within the subdivision or elsewhere within the service area of the public water supplier, at its discretion. *Not less than 40% of the proceeds from the voluntary water demand mitigation fund would be required to be directed to water conservation programs in any disadvantaged community, unless the public water system makes a specified finding.* By adding to the duties of the public water system, this bill would impose a state-mandated local program.

(2) Existing law requires a city or county that determines a project, as defined, is subject to the California Environmental Quality Act to identify any public water system that may supply water for the project and to request those public water systems to prepare a specified water

supply assessment. If no public water system is identified, the city or county is required to prepare the water supply assessment.

This bill would require, until January 1, 2017, if the project applicant elects to include voluntary demand management measures, any city, county, or public water system preparing a water supply assessment to reduce the projected water demand for the project to an amount below *planned water demand reduction actions contained in an adopted urban water management plan* and the current statutory, regulatory, and local ordinance requirements, based on the project applicant's voluntary water demand management measures, as defined. The bill would authorize the applicant to enter into a mutual agreement with the public water system to mitigate water demand associated with a proposed subdivision by depositing funds in a Voluntary Water Demand Mitigation Fund, as defined. The fees paid into the Voluntary Water Demand Mitigation Fund would be prohibited from exceeding the amount necessary to offset the actual or percentage of actual water demand impacts agreed upon in the agreement between the applicant and the public water system. The bill would authorize, at the discretion of the public water system, the amount required for the Voluntary Water Demand Mitigation Fund to be reduced by a portion of the normally required system capacity charges that finance future water supplies. The bill would also authorize any reduction in the capacity charge to be calculated using the amount of water projected to be conserved using the Voluntary Water Demand Mitigation Fund at the cost determined by the public water system for developing new water supplies ~~through or for~~ water conservation. The bill would not require the total reduction in system capacity charges to be equal to the amount paid into the Voluntary Water Demand Mitigation Fund. ~~The bill would prohibit a project from being disapproved due to the applicant's refusal to use voluntary mitigation measures.~~ The bill would require the public water system to determine the projected water savings ~~for~~ *attributable to* the voluntary demand management measures that will be incorporated into the ~~subdivision~~ *project*. The public water system would be required to expend all funds from the Voluntary Water Demand Mitigation Fund on water conservation measures that will reduce the projected demand associated with the subdivision. The public water system would be prohibited from using any funds from the Voluntary Water Conservation Mitigation Fund to supplant funding for water conservation programs required by *planned water reduction actions contained in an adopted urban water management plan*, existing law, or paid for by existing

customers through water rates and surcharges. By adding to the duties of the public water system, this bill would impose a state-mandated local program.

(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. The Legislature finds and declares:  
2 (a) Current law requires an assessment of how new land use  
3 proposals will affect water supply without recognizing the potential  
4 benefits of evolving voluntary water conservation measures.  
5 (b) Water conservation measures beyond those already required  
6 by state law should be encouraged by accounting for their use  
7 when quantifying project water demand.  
8 (c) The amount of ~~water demand reductions~~ *voluntary demand*  
9 *management measures* should be confirmed by the water agencies  
10 responsible for providing water service to new development in a  
11 cooperative approach with project proponents and local  
12 governments ~~that ensures in order to ensure that~~ projected water  
13 savings are achieved.  
14 (d) Water agencies and local government should provide  
15 flexibility and encourage the development and implementation of  
16 innovative new water conservation technology, water use  
17 efficiency, and water management techniques to meet customer  
18 needs throughout the differing hydrologic regions of the state.  
19 (e) Encouraging widespread use of voluntary water conservation  
20 measures will assist water agencies and the state in documenting  
21 the potential water savings from new water use efficiency projects  
22 and programs in a manner that will promote successful water  
23 conservation strategies and discourage ineffective ones.  
24 (f) There have been numerous water use efficiency technological  
25 and management developments related to landscape irrigation in  
26 recent years, and this act will promote the adoption of approaches

1 that ~~go beyond~~ *exceed those required by* the state's Model  
2 Landscape Ordinance.

3 (g) More efficient use of water statewide also will reduce the  
4 energy necessary to pump, transport, and treat water with  
5 potentially significant corresponding reductions in greenhouse gas  
6 emissions.

7 SEC. 2. Section 66473.7 of the Government Code is amended  
8 to read:

9 66473.7. (a) For the purposes of this section, the following  
10 definitions apply:

11 (1) "Subdivision" means a proposed residential development  
12 of more than 500 dwelling units, except that for a public water  
13 system that has fewer than 5,000 service connections, "subdivision"  
14 means any proposed residential development that would account  
15 for an increase of 10 percent or more in the number of the public  
16 water system's existing service connections.

17 (2) "Sufficient water supply" means the total water supplies  
18 available during normal, single dry, and multiple dry years within  
19 a 20-year projection that will meet the projected demand associated  
20 with the proposed subdivision, in addition to existing and planned  
21 future uses, including, but not limited to, agricultural and industrial  
22 uses. In determining "sufficient water supply," all of the following  
23 factors shall be considered:

24 (A) The availability of water supplies over a historical record  
25 of at least 20 years.

26 (B) The applicability of an urban water shortage contingency  
27 analysis prepared pursuant to Section 10632 of the Water Code  
28 that includes actions to be undertaken by the public water system  
29 in response to water supply shortages.

30 (C) The reduction in water supply allocated to a specific water  
31 use sector pursuant to a resolution or ordinance adopted, or a  
32 contract entered into, by the public water system, as long as that  
33 resolution, ordinance, or contract does not conflict with Section  
34 354 of the Water Code.

35 (D) The amount of water that the water supplier can reasonably  
36 rely on receiving from other water supply projects, such as  
37 conjunctive use, reclaimed water, water conservation, and water  
38 transfer, including programs identified under federal, state, and  
39 local water initiatives such as CALFED and Colorado River

1 tentative agreements, to the extent that these water supplies meet  
2 the criteria of subdivision (d).

3 (3) "Public water system" means the water supplier that is, or  
4 may become as a result of servicing the subdivision included in a  
5 tentative map pursuant to subdivision (b), a public water system,  
6 as defined in Section 10912 of the Water Code, that may supply  
7 water for a subdivision.

8 (4) "Projected demand associated with the proposed subdivision"  
9 means the anticipated water demand for the project, given *planned*  
10 *water demand reduction actions contained in an adopted urban*  
11 *water management plan* and current statutory, regulatory, and  
12 local ordinance requirements, reduced by the amount of voluntary  
13 demand management measures.

14 (5) "Voluntary demand management measures" means water  
15 use efficiency measures *voluntarily chosen by the applicant* that  
16 are permanently fixed to residential, commercial, industrial, or  
17 other real property that will reduce the subdivision's water demand  
18 below the applicable statutory, regulatory, and local ordinance  
19 requirements for water conservation, and may include, but are not  
20 limited to, all of the following:

21 (A) Smart irrigation controllers.

22 (B) Waterless urinals.

23 (C) Ultralow flow and dual flow toilets.

24 (D) Recycled water facilities.

25 (E) Rainwater capture and reuse facilities.

26 (F) Any other measure that will prevent the waste of water or  
27 promote the reasonable and efficient use and reuse of available  
28 water supplies by the subdivision or the public. For the purposes  
29 of this chapter, water recycling shall be eligible as a water  
30 conservation measure.

31 (G) Voluntary mitigation measures may include, at the  
32 applicant's sole discretion, water conservation offsets which  
33 minimize a percentage of a project's impact on the public water  
34 system, as determined by the applicant and agreed upon by the  
35 public water system. The applicant may enter into a mutual  
36 agreement with the public water system to mitigate water demand  
37 associated with a proposed subdivision by depositing funds into  
38 a Voluntary Water Demand Mitigation Fund. The fees paid into  
39 the Voluntary Water Demand Mitigation Fund shall not exceed  
40 an amount necessary to offset the actual or percentage of actual

1 water demand impacts agreed upon in the agreement between the  
2 applicant and the public water system. The fees may not exceed  
3 the amount of all capacity charges and other water service fees  
4 applicable to the subdivision. At the discretion of the public water  
5 system, the amount required for the Voluntary Water Demand  
6 Mitigation Fund may be reduced by a portion of the normally  
7 required system capacity charges that finance future water supplies.  
8 Any reduction in the capacity charge may be calculated using the  
9 amount of water projected to be conserved using the Voluntary  
10 Water Demand Mitigation Fund at the cost determined by the  
11 public water system for developing new water supplies ~~through~~  
12 *or for* water conservation. Because the cost varies for developing  
13 different sources of future water supplies, including through water  
14 conservation, the total reduction in system capacity charges may  
15 or may not be equal to the amount paid into the Voluntary Water  
16 Demand Mitigation Fund. ~~A tentative map that includes a~~  
17 ~~subdivision may not be disapproved due to the applicant's refusal~~  
18 ~~to use voluntary mitigation measures. An applicant's refusal to~~  
19 ~~use voluntary demand management measures shall not result in~~  
20 ~~any of the consequences set forth in paragraph (3) of subdivision~~  
21 ~~(p).~~

22 (6) "Voluntary Water Demand Mitigation Fund" means the fund  
23 used to finance verifiable and quantifiable water conservation or  
24 water supply augmentation measures by the public water system  
25 that mitigate or offset an agreed upon percentage of the projected  
26 water demand impacts from the subdivision.

27 (b) (1) The legislative body of a city or county or the advisory  
28 agency, to the extent that it is authorized by local ordinance to  
29 approve, conditionally approve, or disapprove the tentative map,  
30 shall include as a condition in any tentative map that includes a  
31 subdivision a requirement that a sufficient water supply shall be  
32 available. Proof of the availability of a sufficient water supply  
33 shall be requested by the subdivision applicant or local agency, at  
34 the discretion of the local agency, and shall be based on written  
35 verification from the applicable public water system within 90  
36 days of a request. The water savings projection attributable to  
37 voluntary demand management measures shall be contained in the  
38 written verification and shall be verified for accuracy and approved  
39 by the public water system, or, if there is no public water system,  
40 the local agency. The public water ~~agency system~~ may collect fees

1 necessary to provide additional analysis of voluntary demand  
2 management measures ~~required by this section, pursuant, if~~  
3 ~~required by this section pursuant~~ to Section 66014. A water supply  
4 assessment that is completed pursuant to Part 2.10 (commencing  
5 with Section 10910) of Division 6 of the Water Code satisfies the  
6 requirements of this section, unless the public water agency  
7 ~~receives new information or otherwise alters its water savings~~  
8 ~~projections after the assessment is completed.~~ *system receives*  
9 *significant new information that becomes available and that was*  
10 *not known and could not be known at the time when the assessment*  
11 *was prepared.*

12 (2) If the public water system fails to deliver the written  
13 verification as required by this section, the local agency or any  
14 other interested party may seek a writ of mandamus to compel the  
15 public water system to comply.

16 (3) If the written verification provided by the applicable public  
17 water system indicates that the public water system is unable to  
18 provide a sufficient water supply that will meet the projected  
19 demand associated with the proposed subdivision, then the local  
20 agency may make a finding, after consideration of the written  
21 verification by the applicable public water system, that additional  
22 water supplies not accounted for by the public water system are,  
23 or will be, available prior to completion of the subdivision that  
24 will satisfy the requirements of this section. This finding shall be  
25 made on the record and supported by substantial evidence.

26 (4) If the written verification is not provided by the public water  
27 system, notwithstanding the local agency or other interested party  
28 securing a writ of mandamus to compel compliance with this  
29 section, then the local agency may make a finding that sufficient  
30 water supplies are, or will be, available prior to completion of the  
31 subdivision that will satisfy the requirements of this section. This  
32 finding shall be made on the record and supported by substantial  
33 evidence.

34 (5) The public water system shall make the determination of  
35 the projected water savings ~~for the attributable to the voluntary~~  
36 ~~demand management~~ measures that will be incorporated into the  
37 subdivision. ~~The~~

38 (A) ~~The projected water savings may be calculated using water~~  
39 *shall be calculated using either of the following:*

1 ~~(i) Water efficiency program data compiled or maintained by~~  
2 ~~the public water system or the water~~

3 ~~(ii) Water savings projections adopted by the California Urban~~  
4 ~~Water Conservation Council, including estimates of normal~~  
5 ~~performance decline of specific water demand management~~  
6 ~~measures. If Council.~~

7 ~~(B) Notwithstanding subparagraph (A), if a project applicant~~  
8 ~~proposes to use a new voluntary water reduction demand~~  
9 ~~management measure that is not based on water savings projections~~  
10 ~~adopted by demand management measure for which neither the~~  
11 ~~California Urban Water Conservation Council or the public water~~  
12 ~~system, the public water system's determination of the projected~~  
13 ~~water Council nor the public water system has adopted an estimate~~  
14 ~~or method to calculate the projected water savings of the proposed~~  
15 ~~voluntary water demand management measure, the projected water~~  
16 ~~savings shall be made based on documented methodologies or~~  
17 ~~calculations submitted in the record. These methodologies record.~~

18 ~~(i) These methodologies or calculations may include, but are~~  
19 ~~not limited to, water efficiency program implementation data and~~  
20 ~~projections calculated by the public water system or system, the~~  
21 ~~local agency, the applicant, or by the California Water~~  
22 ~~Conservation Council, or data that demonstrates that water~~  
23 ~~efficiencies are quantifiable and verifiable when the determination~~  
24 ~~is made. Pursuant to Council.~~

25 ~~(ii) These methodologies or calculations shall demonstrate that~~  
26 ~~the proposed voluntary water demand management measures result~~  
27 ~~in projected water savings that are quantifiable and verifiable.~~

28 ~~(C) The projected water savings may also include all of the~~  
29 ~~following:~~

30 ~~(i) Estimates of normal performance decline of specific water~~  
31 ~~demand management measures.~~

32 ~~(ii) Adjustment factors or other estimates to reflect the uncertain~~  
33 ~~performance of new and emerging technologies.~~

34 ~~(6) Five years after the project has been fully developed, the~~  
35 ~~public water system shall include, in its next urban water~~  
36 ~~management plan required by Part 2.6 (commencing with Section~~  
37 ~~10610) of Division 6 of the Water Code, the public water system~~  
38 ~~shall a report on the monitoring and compliance of voluntary water~~  
39 ~~demand management measures and determine, if practicable based~~  
40 ~~on readily available information, whether they have resulted in~~

1 the water savings necessary to achieve the agreed upon water  
2 demand offsets. The

3 *(7) If practicable based on readily available information, the*  
4 *public water system shall do both of the following:*

5 *(A) Document the measured annual water use of the subdivision*  
6 *in comparison to the projected demand associated with the*  
7 *subdivision.*

8 *(B) Calculate the water savings attributable to the demand*  
9 *management voluntary mitigation measures financed by the*  
10 *Voluntary Water Demand Mitigation Fund for the subdivision.*

11 ~~*(6) Copies of the first report, prepared five years after the project*~~  
12 ~~*has been fully developed, shall be provided to the project applicant,*~~  
13 ~~*the city or county that approved the subdivision map, the California*~~  
14 ~~*Urban Water Conservation Council, and the Department of Water*~~  
15 ~~*Resources.*~~

16 *(8) (A) If the public water system bases its written verification*  
17 *of a sufficient water supply for the subdivision, in whole or in part,*  
18 *on the use of voluntary demand management measures within the*  
19 *subdivision, the written verification shall be conditioned on the*  
20 *maintenance and operation of the voluntary demand management*  
21 *measures, or measures that are at least as water efficient, as*  
22 *agreed to by the applicant and the public water system, and the*  
23 *recordation as a covenant running with the land, pursuant to*  
24 *Section 1468 of the Civil Code, for the lots within the subdivision.*  
25 *The maintenance and operation obligations shall be contained in*  
26 *the maintenance manual referred to in paragraph (9). The recorded*  
27 *covenant shall include a notice of the existence of the maintenance*  
28 *manual and the obligation of the purchaser to obtain the*  
29 *maintenance manual from the seller. By acceptance of a deed to*  
30 *a lot, each purchaser acknowledges the obligation to comply with*  
31 *the voluntary demand management measures for the lot as*  
32 *described in the covenant. The covenant and its obligations shall*  
33 *be in effect for the time period used by the public water system for*  
34 *determining the water savings attributable to the demand*  
35 *management measures but not exceeding the period described in*  
36 *paragraph (2) of subdivision (a).*

37 *(B) The requirements of subparagraph (A) shall be included*  
38 *with the original sales documentation and shall be acknowledged*  
39 *by the purchaser. The seller shall instruct the original purchaser*

1 to provide the maintenance manual to any subsequent purchaser,  
2 pursuant to subdivision (h) of Section 912 of the Civil Code.

3 (C) The covenant referred to in subparagraph (A) may be  
4 enforced pursuant to the existing authority of a public water  
5 system.

6 (7)

7 (9) Prior to the close of escrow, a builder shall give to a  
8 purchaser a manual of documents information that shall be included  
9 in a maintenance manual, as described in subdivision (c) of Section  
10 945.5 of the Civil Code, that informs the purchaser of the existence  
11 of the home's unique water saving devices, including information  
12 regarding their benefits, maintenance requirements, and proper  
13 use.

14 (c) The applicable public water system's written verification of  
15 its ability or inability to provide a sufficient water supply that will  
16 meet the projected demand associated with the proposed  
17 subdivision as required by subdivision (b) shall be supported by  
18 substantial evidence. The substantial evidence may include, but is  
19 not limited to, any of the following:

20 (1) The public water system's most recently adopted urban water  
21 management plan adopted pursuant to Part 2.6 (commencing with  
22 Section 10610) of Division 6 of the Water Code.

23 (2) A water supply assessment that was completed pursuant to  
24 Part 2.10 (commencing with Section 10910) of Division 6 of the  
25 Water Code.

26 (3) Other information relating to the sufficiency of the water  
27 supply that contains analytical information that is substantially  
28 similar to the assessment required by Section 10635 of the Water  
29 Code.

30 (d) When the written verification pursuant to subdivision (b)  
31 relies on projected water supplies that are not currently available  
32 to the public water system, to provide a sufficient water supply to  
33 the subdivision, the written verification as to those projected water  
34 supplies shall be based on all of the following elements, to the  
35 extent each is applicable:

36 (1) Written contracts or other proof of valid rights to the  
37 identified water supply that identify the terms and conditions under  
38 which the water will be available to serve the proposed subdivision.

1 (2) Copies of a capital outlay program for financing the delivery  
2 of a sufficient water supply that has been adopted by the applicable  
3 governing body.

4 (3) Securing of applicable federal, state, and local permits for  
5 construction of necessary infrastructure associated with supplying  
6 a sufficient water supply.

7 (4) Any necessary regulatory approvals that are required in order  
8 to be able to convey or deliver a sufficient water supply to the  
9 subdivision.

10 (e) If there is no public water system, the local agency shall  
11 make a written finding of sufficient water supply based on the  
12 evidentiary requirements of subdivisions (b), (c), and (d) and  
13 identify the mechanism for providing water to the subdivision.

14 (f) In making any findings or determinations under this section,  
15 a local agency, or designated advisory agency, may work in  
16 conjunction with the project applicant and the public water system  
17 to secure water supplies sufficient to satisfy the demands of the  
18 proposed subdivision. If the local agency secures water supplies  
19 pursuant to this subdivision, which supplies are acceptable to and  
20 approved by the governing body of the public water system as  
21 suitable for delivery to customers, it shall work in conjunction  
22 with the public water system to implement a plan to deliver that  
23 water supply to satisfy the long-term demands of the proposed  
24 subdivision.

25 (g) The written verification prepared under this section also  
26 shall include a description, to the extent that data is reasonably  
27 available based on published records maintained by federal and  
28 state agencies, and public records of local agencies, of the  
29 reasonably foreseeable impacts of the proposed subdivision on the  
30 availability of water resources for agricultural and industrial uses  
31 within the public water system's service area that are not currently  
32 receiving water from the public water system but are utilizing the  
33 same sources of water. To the extent that those reasonably  
34 foreseeable impacts have previously been evaluated in a document  
35 prepared pursuant to the California Environmental Quality Act  
36 (Division 13 (commencing with Section 21000) of the Public  
37 Resources Code) or the National Environmental Policy Act (P.L.  
38 91-190) for the proposed subdivision, the public water system may  
39 utilize that information in preparing the written verification.

1 (h) Where a water supply for a proposed subdivision includes  
2 groundwater, the public water system serving the proposed  
3 subdivision shall evaluate, based on substantial evidence, the extent  
4 to which it or the landowner has the right to extract the additional  
5 groundwater needed to supply the proposed subdivision. Nothing  
6 in this subdivision is intended to modify state law with regard to  
7 groundwater rights.

8 (i) This section shall not apply to any residential project  
9 proposed for a site that is within an urbanized area and has been  
10 previously developed for urban uses, or where the immediate  
11 contiguous properties surrounding the residential project site are,  
12 or previously have been, developed for urban uses, or housing  
13 projects that are exclusively for very low and low-income  
14 households.

15 (j) The determinations made pursuant to this section shall be  
16 consistent with the obligation of a public water system to grant a  
17 priority for the provision of available and future water resources  
18 or services to proposed housing developments that help meet the  
19 city's or county's share of the regional housing needs for lower  
20 income households, pursuant to Section 65589.7.

21 (k) The County of San Diego shall be deemed to comply with  
22 this section if the Office of Planning and Research determines that  
23 all of the following conditions have been met:

24 (1) A regional growth management strategy that provides for a  
25 comprehensive regional strategy and a coordinated economic  
26 development and growth management program has been developed  
27 pursuant to Proposition C as approved by the voters of the County  
28 of San Diego in November 1988, which required the development  
29 of a regional growth management plan and directed the  
30 establishment of a regional planning and growth management  
31 review board.

32 (2) Each public water system, as defined in Section 10912 of  
33 the Water Code, within the County of San Diego has adopted an  
34 urban water management plan pursuant to Part 2.6 (commencing  
35 with Section 10610) of the Water Code.

36 (3) The approval or conditional approval of tentative maps for  
37 subdivisions, as defined in this section, by the County of San Diego  
38 and the cities within the county requires written communications  
39 to be made by the public water system to the city or county, in a  
40 format and with content that is substantially similar to the

1 requirements contained in this section, with regard to the  
2 availability of a sufficient water supply, or the reliance on projected  
3 water supplies to provide a sufficient water supply, for a proposed  
4 subdivision.

5 (l) Nothing in this section shall preclude the legislative body of  
6 a city or county, or the designated advisory agency, at the request  
7 of the applicant, from making the determinations required in this  
8 section earlier than required pursuant to subdivision (b).

9 (m) Nothing in this section shall be construed to create a right  
10 or entitlement to water service or any specific level of water  
11 service.

12 (n) Nothing in this section is intended to change existing law  
13 concerning a public water system's obligation to provide water  
14 service to its existing customers or to any potential future  
15 customers.

16 (o) Any action challenging the sufficiency of the public water  
17 system's written verification of a sufficient water supply shall be  
18 governed by Section 66499.37.

19 (p) (1) For purposes of a Voluntary Water Demand Mitigation  
20 Fund held by a public water system, the public water system shall  
21 be required to expend all funds from the Voluntary Water Demand  
22 Mitigation Fund on water conservation measures that will reduce  
23 the projected demand associated with the subdivision. Water  
24 conservation measures shall be chosen that are the ~~least expensive~~,  
25 most cost-effective means to yield water *savings*. The expenditure  
26 may be made within the subdivision or elsewhere within the service  
27 area of the public water supplier, at its discretion. *Funds deposited*  
28 *into the voluntary water demand mitigation fund shall be accounted*  
29 *for in the same manner as fees imposed for water connections or*  
30 *sewer connections pursuant to Section 66013.*

31 (2) The public water system shall be prohibited from using funds  
32 from the Voluntary Water Conservation Mitigation Fund to  
33 supplant funding for water conservation programs required by  
34 ~~existing law~~ *planned water demand reduction actions contained*  
35 *in an adopted urban water management plan, existing law*, or paid  
36 for by existing customers through water rates and surcharges.

37 (3) The public water system should commit to carrying out the  
38 water conservation measures funded by the Voluntary Water  
39 Demand Mitigation Fund within 24 months of the sale of the last  
40 unit of the proposed subdivision. However, the public water

1 system's failure to implement the water conservation measures  
2 shall not result in the revocation, denial, or delay of any legislative,  
3 adjudicatory, ministerial, or discretionary act, permit, or approval  
4 necessary for the planning, use, development, construction,  
5 occupancy, or operation of the proposed subdivision or any  
6 improvement thereon. ~~The sole remedy for the failure of a public~~  
7 ~~water system to implement the water conservation measures shall~~  
8 ~~be for an interested party to seek a writ of mandamus to compel~~  
9 ~~the public water system to comply.~~

10 (q) (1) Not less than 40 percent of the proceeds from the  
11 Voluntary Water Demand Mitigation Fund shall be directed to  
12 water conservation programs in any disadvantaged community,  
13 as defined in Section 75005 of the Public Resources Code, within  
14 the service area of the public water system.

15 (2) The governing body of the public water system may make  
16 a finding based on substantial evidence that no disadvantaged  
17 community exists within the service area or that the capacity for  
18 water conservation within all disadvantaged communities within  
19 the service area has been exhausted. Substantial evidence  
20 demonstrating that no disadvantaged community exists within the  
21 service area shall include federal census data. When the public  
22 water system makes this finding, the use of the water demand  
23 mitigation funds shall be exempt from the requirements of  
24 paragraph (1).

25 (r) Notwithstanding subdivision (q), the amount of water savings  
26 attributable to the payment of fees into the Voluntary Water  
27 Demand Mitigation Fund shall be based upon the ~~least expensive,~~  
28 most cost-effective means to yield water savings.

29 (s) *Wherever "public water system" is used in paragraphs (5)*  
30 *and (6) of subdivision (a), paragraphs (1), (5), (6), (7), and (8) of*  
31 *subdivision (b), and subdivision (p), a local agency shall be*  
32 *substituted if there is no public water system that supplies water*  
33 *for the subdivision.*

34 ~~(s)~~  
35 (t) This section shall remain in effect only until January 1, 2017,  
36 and as of that date is repealed, unless a later enacted statute, that  
37 is enacted before January 1, 2017, deletes or extends that date.

38 SEC. 3. Section 66473.7 is added to the Government Code, to  
39 read:

1 66473.7. (a) For the purposes of this section, the following  
2 definitions apply:

3 (1) "Subdivision" means a proposed residential development  
4 of more than 500 dwelling units, except that for a public water  
5 system that has fewer than 5,000 service connections, "subdivision"  
6 means any proposed residential development that would account  
7 for an increase of 10 percent or more in the number of the public  
8 water system's existing service connections.

9 (2) "Sufficient water supply" means the total water supplies  
10 available during normal, single dry, and multiple dry years within  
11 a 20-year projection that will meet the projected demand associated  
12 with the proposed subdivision, in addition to existing and planned  
13 future uses, including, but not limited to, agricultural and industrial  
14 uses. In determining "sufficient water supply," all of the following  
15 factors shall be considered:

16 (A) The availability of water supplies over a historical record  
17 of at least 20 years.

18 (B) The applicability of an urban water shortage contingency  
19 analysis prepared pursuant to Section 10632 of the Water Code  
20 that includes actions to be undertaken by the public water system  
21 in response to water supply shortages.

22 (C) The reduction in water supply allocated to a specific water  
23 use sector pursuant to a resolution or ordinance adopted, or a  
24 contract entered into, by the public water system, as long as that  
25 resolution, ordinance, or contract does not conflict with Section  
26 354 of the Water Code.

27 (D) The amount of water that the water supplier can reasonably  
28 rely on receiving from other water supply projects, such as  
29 conjunctive use, reclaimed water, water conservation, and water  
30 transfer, including programs identified under federal, state, and  
31 local water initiatives such as CALFED and Colorado River  
32 tentative agreements, to the extent that these water supplies meet  
33 the criteria of subdivision (d).

34 (3) "Public water system" means the water supplier that is, or  
35 may become as a result of servicing the subdivision included in a  
36 tentative map pursuant to subdivision (b), a public water system,  
37 as defined in Section 10912 of the Water Code, that may supply  
38 water for a subdivision.

39 (b) (1) The legislative body of a city or county or the advisory  
40 agency, to the extent that it is authorized by local ordinance to

1 approve, conditionally approve, or disapprove the tentative map,  
2 shall include as a condition in any tentative map that includes a  
3 subdivision a requirement that a sufficient water supply shall be  
4 available. Proof of the availability of a sufficient water supply  
5 shall be requested by the subdivision applicant or local agency, at  
6 the discretion of the local agency, and shall be based on written  
7 verification from the applicable public water system within 90  
8 days of a request.

9 (2) If the public water system fails to deliver the written  
10 verification as required by this section, the local agency or any  
11 other interested party may seek a writ of mandamus to compel the  
12 public water system to comply.

13 (3) If the written verification provided by the applicable public  
14 water system indicates that the public water system is unable to  
15 provide a sufficient water supply that will meet the projected  
16 demand associated with the proposed subdivision, then the local  
17 agency may make a finding, after consideration of the written  
18 verification by the applicable public water system, that additional  
19 water supplies not accounted for by the public water system are,  
20 or will be, available prior to completion of the subdivision that  
21 will satisfy the requirements of this section. This finding shall be  
22 made on the record and supported by substantial evidence.

23 (4) If the written verification is not provided by the public water  
24 system, notwithstanding the local agency or other interested party  
25 securing a writ of mandamus to compel compliance with this  
26 section, then the local agency may make a finding that sufficient  
27 water supplies are, or will be, available prior to completion of the  
28 subdivision that will satisfy the requirements of this section. This  
29 finding shall be made on the record and supported by substantial  
30 evidence.

31 (c) The applicable public water system's written verification of  
32 its ability or inability to provide a sufficient water supply that will  
33 meet the projected demand associated with the proposed  
34 subdivision as required by subdivision (b) shall be supported by  
35 substantial evidence. The substantial evidence may include, but is  
36 not limited to, any of the following:

37 (1) The public water system's most recently adopted urban water  
38 management plan adopted pursuant to Part 2.6 (commencing with  
39 Section 10610) of Division 6 of the Water Code.

1 (2) A water supply assessment that was completed pursuant to  
2 Part 2.10 (commencing with Section 10910) of Division 6 of the  
3 Water Code.

4 (3) Other information relating to the sufficiency of the water  
5 supply that contains analytical information that is substantially  
6 similar to the assessment required by Section 10635 of the Water  
7 Code.

8 (d) When the written verification pursuant to subdivision (b)  
9 relies on projected water supplies that are not currently available  
10 to the public water system, to provide a sufficient water supply to  
11 the subdivision, the written verification as to those projected water  
12 supplies shall be based on all of the following elements, to the  
13 extent each is applicable:

14 (1) Written contracts or other proof of valid rights to the  
15 identified water supply that identify the terms and conditions under  
16 which the water will be available to serve the proposed subdivision.

17 (2) Copies of a capital outlay program for financing the delivery  
18 of a sufficient water supply that has been adopted by the applicable  
19 governing body.

20 (3) Securing of applicable federal, state, and local permits for  
21 construction of necessary infrastructure associated with supplying  
22 a sufficient water supply.

23 (4) Any necessary regulatory approvals that are required in order  
24 to be able to convey or deliver a sufficient water supply to the  
25 subdivision.

26 (e) If there is no public water system, the local agency shall  
27 make a written finding of sufficient water supply based on the  
28 evidentiary requirements of subdivisions (c) and (d) and identify  
29 the mechanism for providing water to the subdivision.

30 (f) In making any findings or determinations under this section,  
31 a local agency, or designated advisory agency, may work in  
32 conjunction with the project applicant and the public water system  
33 to secure water supplies sufficient to satisfy the demands of the  
34 proposed subdivision. If the local agency secures water supplies  
35 pursuant to this subdivision, which supplies are acceptable to and  
36 approved by the governing body of the public water system as  
37 suitable for delivery to customers, it shall work in conjunction  
38 with the public water system to implement a plan to deliver that  
39 water supply to satisfy the long-term demands of the proposed  
40 subdivision.

1 (g) The written verification prepared under this section also  
2 shall include a description, to the extent that data is reasonably  
3 available based on published records maintained by federal and  
4 state agencies, and public records of local agencies, of the  
5 reasonably foreseeable impacts of the proposed subdivision on the  
6 availability of water resources for agricultural and industrial uses  
7 within the public water system's service area that are not currently  
8 receiving water from the public water system but are utilizing the  
9 same sources of water. To the extent that those reasonably  
10 foreseeable impacts have previously been evaluated in a document  
11 prepared pursuant to the California Environmental Quality Act  
12 (Division 13 (commencing with Section 21000) of the Public  
13 Resources Code) or the National Environmental Policy Act (P.L.  
14 91-190) for the proposed subdivision, the public water system may  
15 utilize that information in preparing the written verification.

16 (h) Where a water supply for a proposed subdivision includes  
17 groundwater, the public water system serving the proposed  
18 subdivision shall evaluate, based on substantial evidence, the extent  
19 to which it or the landowner has the right to extract the additional  
20 groundwater needed to supply the proposed subdivision. Nothing  
21 in this subdivision is intended to modify state law with regard to  
22 groundwater rights.

23 (i) This section shall not apply to any residential project  
24 proposed for a site that is within an urbanized area and has been  
25 previously developed for urban uses, or where the immediate  
26 contiguous properties surrounding the residential project site are,  
27 or previously have been, developed for urban uses, or housing  
28 projects that are exclusively for very low and low-income  
29 households.

30 (j) The determinations made pursuant to this section shall be  
31 consistent with the obligation of a public water system to grant a  
32 priority for the provision of available and future water resources  
33 or services to proposed housing developments that help meet the  
34 city's or county's share of the regional housing needs for lower  
35 income households, pursuant to Section 65589.7.

36 (k) The County of San Diego shall be deemed to comply with  
37 this section if the Office of Planning and Research determines that  
38 all of the following conditions have been met:

39 (1) A regional growth management strategy that provides for a  
40 comprehensive regional strategy and a coordinated economic

1 development and growth management program has been developed  
2 pursuant to Proposition C as approved by the voters of the County  
3 of San Diego in November 1988, which required the development  
4 of a regional growth management plan and directed the  
5 establishment of a regional planning and growth management  
6 review board.

7 (2) Each public water system, as defined in Section 10912 of  
8 the Water Code, within the County of San Diego has adopted an  
9 urban water management plan pursuant to Part 2.6 (commencing  
10 with Section 10610) of the Water Code.

11 (3) The approval or conditional approval of tentative maps for  
12 subdivisions, as defined in this section, by the County of San Diego  
13 and the cities within the county requires written communications  
14 to be made by the public water system to the city or county, in a  
15 format and with content that is substantially similar to the  
16 requirements contained in this section, with regard to the  
17 availability of a sufficient water supply, or the reliance on projected  
18 water supplies to provide a sufficient water supply, for a proposed  
19 subdivision.

20 (l) Nothing in this section shall preclude the legislative body of  
21 a city or county, or the designated advisory agency, at the request  
22 of the applicant, from making the determinations required in this  
23 section earlier than required pursuant to subdivision (b).

24 (m) Nothing in this section shall be construed to create a right  
25 or entitlement to water service or any specific level of water  
26 service.

27 (n) Nothing in this section is intended to change existing law  
28 concerning a public water system's obligation to provide water  
29 service to its existing customers or to any potential future  
30 customers.

31 (o) Any action challenging the sufficiency of the public water  
32 system's written verification of a sufficient water supply shall be  
33 governed by Section 66499.37.

34 (p) This section shall become operative on January 1, 2017.

35 SEC. 4. Section 10910 of the Water Code is amended to read:

36 10910. (a) Any city or county that determines that a project,  
37 as defined in Section 10912, is subject to the California  
38 Environmental Quality Act (Division 13 (commencing with Section  
39 21000) of the Public Resources Code) under Section 21080 of the  
40 Public Resources Code shall comply with this part.

1 (b) The city or county, at the time that it determines whether an  
2 environmental impact report, a negative declaration, or a mitigated  
3 negative declaration is required for any project subject to the  
4 California Environmental Quality Act pursuant to Section 21080.1  
5 of the Public Resources Code, shall identify any water system that  
6 is, or may become as a result of supplying water to the project  
7 identified pursuant to this subdivision, a public water system, as  
8 defined in Section 10912, that may supply water for the project.  
9 If the city or county is not able to identify any public water system  
10 that may supply water for the project, the city or county shall  
11 prepare the water assessment required by this part after consulting  
12 with any entity serving domestic water supplies whose service  
13 area includes the project site, the local agency formation  
14 commission, and any public water system adjacent to the project  
15 site.

16 (c) (1) The city or county, at the time it makes the determination  
17 required under Section 21080.1 of the Public Resources Code,  
18 shall request each public water system identified pursuant to  
19 subdivision (b) to determine whether the projected water demand  
20 associated with a proposed project was included as part of the most  
21 recently adopted urban water management plan adopted pursuant  
22 to Part 2.6 (commencing with Section 10610).

23 (2) If the projected water demand associated with the proposed  
24 project was accounted for in the most recently adopted urban water  
25 management plan, the public water system may incorporate the  
26 requested information from the urban water management plan in  
27 preparing the elements of the assessment required to comply with  
28 subdivisions (d), (e), (f), and (g).

29 (3) If the projected water demand associated with the proposed  
30 project was not accounted for in the most recently adopted urban  
31 water management plan, or the public water system has no urban  
32 water management plan, the water supply assessment for the project  
33 shall include a discussion with regard to whether the public water  
34 system's total projected water supplies available during normal,  
35 single dry, and multiple dry water years during a 20-year projection  
36 will meet the projected water demand associated with the proposed  
37 project, in addition to the public water system's existing and  
38 planned future uses, including agricultural and manufacturing uses.

39 (4) If the city or county is required to comply with this part  
40 pursuant to subdivision (b), the water supply assessment for the

1 project shall include a discussion with regard to whether the total  
2 projected water supplies, determined to be available by the city or  
3 county for the project during normal, single dry, and multiple dry  
4 water years during a 20-year projection, will meet the projected  
5 water demand associated with the proposed project, in addition to  
6 existing and planned future uses, including agricultural and  
7 manufacturing uses *after taking into consideration voluntary water*  
8 *demand management measures proposed to be incorporated into*  
9 *the project or within the water provider's service area.*

10 (5) If an applicant elects to include voluntary demand  
11 management measures, the projected water demand shall be  
12 reduced for the project to an amount below *planned water demand*  
13 *reduction actions contained in an adopted urban water*  
14 *management plan and the current statutory, regulatory, and local*  
15 *ordinance requirements, based on the project applicant's voluntary*  
16 *water demand management measures. The public water system,*  
17 *or, if there is no public water system, the local agency, shall*  
18 *quantify the reduction of anticipated water demand attributable to*  
19 *the voluntary demand management measures. For purposes of this*  
20 *section, "voluntary water demand management measures*  
21 *voluntarily chosen by the applicant" means water use efficiency*  
22 *measures that exceed current statutory, regulatory, and local*  
23 *ordinance requirements, and that are permanently fixed to*  
24 *residential, commercial, industrial, or other real property that will*  
25 *reduce projected water demand, and may include, but are not*  
26 *limited to, all of the following:*

27 (A) Smart irrigation controllers.

28 (B) Waterless urinals.

29 (C) Ultralow flow and dual flow toilets.

30 (D) Recycled water facilities.

31 (E) Rainwater capture and reuse facilities.

32 (F) Any other measure that will prevent the waste of water or  
33 promote the reasonable and efficient use and reuse of available  
34 water supplies by the subdivision or the public. For the purposes  
35 of this chapter, water recycling shall be eligible as a water  
36 conservation measure.

37 (G) Voluntary mitigation measures may include, at the  
38 applicant's sole discretion conservation offsets that reduce a  
39 project's impact to the public water system, as determined by the  
40 applicant and agreed upon by the public water system. The

1 applicant may enter into a mutual agreement with the public water  
2 system to mitigate water demand associated with a proposed  
3 subdivision by depositing funds into a Voluntary Water Demand  
4 Mitigation Fund. The fees paid into the Voluntary Water Demand  
5 Mitigation Fund shall not exceed an amount necessary to offset  
6 the actual or percentage of actual water demand impacts agreed  
7 upon in the agreement between the applicant and the public water  
8 system. At the discretion of the public water system, the amount  
9 required for the Voluntary Water Demand Mitigation Fund may  
10 be reduced by a portion of the normally required system capacity  
11 charges that finance future water supplies. Any reduction in the  
12 capacity charge may be calculated using the amount of water  
13 projected to be conserved using the Voluntary Water Demand  
14 Mitigation Fund at the cost determined by the public water system  
15 for developing new water supplies—~~through~~ *or for* water  
16 conservation. Because the cost varies for developing different  
17 sources of future water supplies, including through water  
18 conservation, the total reduction in system capacity charges may  
19 or may not be equal to the amount paid into the Voluntary Water  
20 Demand Mitigation Fund. ~~A project may not be disapproved due~~  
21 ~~to the applicant's refusal to use voluntary mitigation measures. An~~  
22 ~~applicant's refusal to use voluntary demand management measures~~  
23 ~~shall not result in any of the consequences set forth in paragraph~~  
24 ~~(3) of subdivision (i).~~

25 (6) "Voluntary Water Demand Mitigation Fund" means the fund  
26 used to finance verifiable and quantifiable water conservation or  
27 water supply augmentation measures by the public water system  
28 that mitigate or offset a percentage of the projected water demand  
29 impacts from the subdivision.

30 ~~(7) The public water system shall make the determination of~~  
31 ~~the projected water savings for the measures that will be~~  
32 ~~incorporated into the subdivision. The projected water savings~~  
33 ~~may be calculated using water efficiency program data compiled~~  
34 ~~or maintained by the public water system or the water savings~~  
35 ~~projections adopted by the California Urban Water Conservation~~  
36 ~~Council, including estimates of normal performance decline of~~  
37 ~~specific water demand management measures. If a project applicant~~  
38 ~~proposes to use a new voluntary water reduction demand~~  
39 ~~management measure that is not based on water savings projections~~  
40 ~~adopted by the California Urban Water Conservation Council or~~

1 the public water system, the public water system's determination  
2 of the projected water savings shall be made based on documented  
3 methodologies or calculations submitted in the record. These  
4 methodologies may include, but are not limited to, water efficiency  
5 program implementation data and projections calculated by the  
6 public water system or the applicant, or by the California Water  
7 Conservation Council, or data that demonstrates that water  
8 efficiencies are quantifiable and verifiable when the determination  
9 is made. Pursuant to Part 2.6 (commencing with Section 10610)  
10 of Division 6 of the Water Code, the public water system shall  
11 report on the monitoring and compliance of voluntary demand  
12 management measures and determine whether they have resulted  
13 in the water savings necessary to achieve the agreed-upon water  
14 demand offsets. The public water system shall do both of the  
15 following:

16 (A) Document the measured annual water use of the subdivision  
17 in comparison to the projected demand associated with the  
18 subdivision.

19 (B) Calculate the water savings attributable to the demand  
20 management measures financed by the Voluntary Water Demand  
21 Mitigation Fund for the subdivision.

22 (8) Copies of the first report, prepared five years after the project  
23 has been fully developed, shall be provided to the project applicant,  
24 the city or county that approved the subdivision map, the California  
25 Urban Water Conservation Council, and the Department of Water  
26 Resources.

27 (9) Prior to the close of escrow, a builder shall give to a  
28 purchaser a manual of documents that shall be included in a  
29 maintenance manual that informs the purchaser of the existence  
30 of the home's unique water saving devices, including information  
31 regarding their benefits, maintenance requirements, and proper  
32 use: project.

33 (7) *The public water system shall make the determination of the  
34 projected water savings attributable to the voluntary demand  
35 management measures that will be incorporated into the project.*

36 (A) *The projected water savings shall be calculated using either  
37 of the following:*

38 (i) *Water efficiency program data compiled or maintained by  
39 the public water system.*

- 1 (ii) *Water savings projections adopted by the California Urban*  
2 *Water Conservation Council.*
- 3 (B) *Notwithstanding subparagraph (A), if a project applicant*  
4 *proposes to use a new voluntary water demand management*  
5 *measure for which neither the California Urban Water*  
6 *Conservation Council nor the public water system has adopted an*  
7 *estimate or method to calculate the projected water savings of the*  
8 *proposed voluntary water demand management measure, the*  
9 *projected water savings shall be made based on documented*  
10 *methodologies or calculations submitted in the record.*
- 11 (i) *These methodologies or calculations may include, but are*  
12 *not limited to, water efficiency program implementation data and*  
13 *projections calculated by the public water system, the local agency,*  
14 *the applicant, or the California Water Conservation Council.*
- 15 (ii) *These methodologies or calculations shall demonstrate that*  
16 *the proposed voluntary water demand management measures result*  
17 *in projected water savings that are quantifiable and verifiable.*
- 18 (C) *The projected water savings may also include all of the*  
19 *following:*
- 20 (i) *Estimates of normal performance decline of specific water*  
21 *demand management measures.*
- 22 (ii) *Adjustment factors or other estimates to reflect the uncertain*  
23 *performance of new and emerging technologies.*
- 24 (8) *Five years after the project has been fully developed, the*  
25 *public water system shall include in its next urban water*  
26 *management plan, required by Part 2.6 (commencing with Section*  
27 *10610) of Division 6 of the Water Code, a report on the monitoring*  
28 *and compliance of voluntary water demand management measures*  
29 *and determine, if practicable based upon readily available*  
30 *information, whether they have resulted in the water savings*  
31 *necessary to achieve the agreed upon water demand offsets.*
- 32 (9) *If practicable based upon readily available information, the*  
33 *public water system shall do both of the following:*
- 34 (A) *Document the measured annual water use of the project in*  
35 *comparison to the projected demand associated with the project.*
- 36 (B) *Calculate the water savings attributable to the voluntary*  
37 *mitigation measures financed by the Voluntary Water Demand*  
38 *Mitigation Fund for the project.*
- 39 (10) (A) *If the public water system bases its water supply*  
40 *assessment for the project, in whole or in part, on the use of*

1 *voluntary demand management measures within the project, the*  
2 *assessment shall be conditioned on the maintenance and operation*  
3 *of the voluntary demand management measures, or measures that*  
4 *are at least as water efficient, as agreed to by the applicant and*  
5 *the public water system, and the recordation as a covenant running*  
6 *with the land, pursuant to Section 1468 of the Civil Code, for the*  
7 *lots within the project. The maintenance and operation obligations*  
8 *shall be contained in the maintenance manual referred to in*  
9 *paragraph (11). The recorded covenant shall include a notice of*  
10 *the existence of the maintenance manual and the obligation for a*  
11 *purchaser to obtain it from the seller. By acceptance of a deed to*  
12 *a lot, each purchaser acknowledges the obligation to comply with*  
13 *the voluntary demand management measures for the lot as*  
14 *described in the covenant. The covenant and its obligations shall*  
15 *be in effect for the time period used by the public water system for*  
16 *determining the water savings attributable to the demand*  
17 *management measures but that time period shall not exceed the*  
18 *period described in subdivision (a) of Section 10631.*

19 *(B) The requirements of paragraph (A) shall be included with*  
20 *the original sales documentation and shall be acknowledged by*  
21 *the purchaser. The seller shall instruct the original purchaser to*  
22 *provide the maintenance manual to any subsequent purchaser,*  
23 *pursuant to subdivision (h) of Section 912 of the Civil Code.*

24 *(C) The covenant referred to in paragraph (A) may be enforced*  
25 *pursuant to the existing authority of a public water system.*

26 *(11) Prior to the close of escrow, a builder shall give to a*  
27 *purchaser information that shall be included in a maintenance*  
28 *manual as described in subdivision (c) of Section 945.5 of the Civil*  
29 *Code, that informs the purchaser of the existence of the home's*  
30 *unique water saving devices, including information regarding their*  
31 *benefits, maintenance requirements, and proper use.*

32 *(d) (1) The assessment required by this section shall include*  
33 *an identification of any existing water supply entitlements, water*  
34 *rights, or water service contracts relevant to the identified water*  
35 *supply for the proposed project, and a description of the quantities*  
36 *of water received in prior years by the public water system, or the*  
37 *city or county if either is required to comply with this part pursuant*  
38 *to subdivision (b), under the existing water supply entitlements,*  
39 *water rights, or water service contracts.*

1 (2) An identification of existing water supply entitlements, water  
2 rights, or water service contracts held by the public water system,  
3 or the city or county if either is required to comply with this part  
4 pursuant to subdivision (b), shall be demonstrated by providing  
5 information related to all of the following:

6 (A) Written contracts or other proof of entitlement to an  
7 identified water supply.

8 (B) Copies of a capital outlay program for financing the delivery  
9 of a water supply that has been adopted by the public water system.

10 (C) Federal, state, and local permits for construction of necessary  
11 infrastructure associated with delivering the water supply.

12 (D) Any necessary regulatory approvals that are required in  
13 order to be able to convey or deliver the water supply.

14 (e) If no water has been received in prior years by the public  
15 water system, or the city or county if either is required to comply  
16 with this part pursuant to subdivision (b), under the existing water  
17 supply entitlements, water rights, or water service contracts, the  
18 public water system, or the city or county if either is required to  
19 comply with this part pursuant to subdivision (b), shall also include  
20 in its water supply assessment pursuant to subdivision (c), an  
21 identification of the other public water systems or water service  
22 contractholders that receive a water supply or have existing water  
23 supply entitlements, water rights, or water service contracts, to the  
24 same source of water as the public water system, or the city or  
25 county if either is required to comply with this part pursuant to  
26 subdivision (b), has identified as a source of water supply within  
27 its water supply assessments.

28 (f) If a water supply for a proposed project includes  
29 groundwater, the following additional information shall be included  
30 in the water supply assessment:

31 (1) A review of any information contained in the urban water  
32 management plan relevant to the identified water supply for the  
33 proposed project.

34 (2) A description of any groundwater basin or basins from which  
35 the proposed project will be supplied. For those basins for which  
36 a court or the board has adjudicated the rights to pump  
37 groundwater, a copy of the order or decree adopted by the court  
38 or the board and a description of the amount of groundwater the  
39 public water system, or the city or county if either is required to  
40 comply with this part pursuant to subdivision (b), has the legal

1 right to pump under the order or decree. For basins that have not  
2 been adjudicated, information as to whether the department has  
3 identified the basin or basins as overdrafted or has projected that  
4 the basin will become overdrafted if present management  
5 conditions continue, in the most current bulletin of the department  
6 that characterizes the condition of the groundwater basin, and a  
7 detailed description by the public water system, or the city or  
8 county if either is required to comply with this part pursuant to  
9 subdivision (b), of the efforts being undertaken in the basin or  
10 basins to eliminate the long-term overdraft condition.

11 (3) A detailed description and analysis of the amount and  
12 location of groundwater pumped by the public water system, or  
13 the city or county if either is required to comply with this part  
14 pursuant to subdivision (b), for the past five years from any  
15 groundwater basin from which the proposed project will be  
16 supplied. The description and analysis shall be based on  
17 information that is reasonably available, including, but not limited  
18 to, historic use records.

19 (4) A detailed description and analysis of the amount and  
20 location of groundwater that is projected to be pumped by the  
21 public water system, or the city or county if either is required to  
22 comply with this part pursuant to subdivision (b), from any basin  
23 from which the proposed project will be supplied. The description  
24 and analysis shall be based on information that is reasonably  
25 available, including, but not limited to, historic use records.

26 (5) An analysis of the sufficiency of the groundwater from the  
27 basin or basins from which the proposed project will be supplied  
28 to meet the projected water demand associated with the proposed  
29 project. A water supply assessment shall not be required to include  
30 the information required by this paragraph if the public water  
31 system determines, as part of the review required by paragraph  
32 (1), that the sufficiency of groundwater necessary to meet the initial  
33 and projected water demand associated with the project was  
34 addressed in the description and analysis required by paragraph  
35 (4) of subdivision (b) of Section 10631.

36 (g) (1) Subject to paragraph (2), the governing body of each  
37 public water system shall submit the assessment to the city or  
38 county not later than 90 days from the date on which the request  
39 was received. The governing body of each public water system,  
40 or the city or county if either is required to comply with this act

1 pursuant to subdivision (b), shall approve the assessment prepared  
2 pursuant to this section at a regular or special meeting.

3 (2) Prior to the expiration of the 90-day period, if the public  
4 water system intends to request an extension of time to prepare  
5 and adopt the assessment, the public water system shall meet with  
6 the city or county to request an extension of time, which shall not  
7 exceed 30 days, to prepare and adopt the assessment.

8 (3) If the public water system fails to request an extension of  
9 time, or fails to submit the assessment notwithstanding the  
10 extension of time granted pursuant to paragraph (2), the city or  
11 county may seek a writ of mandamus to compel the governing  
12 body of the public water system to comply with the requirements  
13 of this part relating to the submission of the water supply  
14 assessment.

15 (h) Notwithstanding any other provision of this part, if a project  
16 has been the subject of a water supply assessment that complies  
17 with the requirements of this part, no additional water supply  
18 assessment shall be required for subsequent projects that were part  
19 of a larger project for which a water supply assessment was  
20 completed and that has complied with the requirements of this part  
21 and for which the public water system, or the city or county if  
22 either is required to comply with this part pursuant to subdivision  
23 (b), has concluded that its water supplies are sufficient to meet the  
24 projected water demand associated with the proposed project, in  
25 addition to the existing and planned future uses, including, but not  
26 limited to, agricultural and industrial uses, unless one or more of  
27 the following changes occurs:

28 (1) Changes in the project that result in a substantial increase  
29 in water demand for the project.

30 (2) Changes in the circumstances or conditions substantially  
31 affecting the ability of the public water system, or the city or county  
32 if either is required to comply with this part pursuant to subdivision  
33 (b), to provide a sufficient supply of water for the project.

34 (3) Significant new information becomes available which was  
35 not known and could not have been known at the time when the  
36 assessment was prepared.

37 (i) (1) For purposes of a Voluntary Water Demand Mitigation  
38 Fund held by a public water system, the public water system shall  
39 be required to expend all funds from the Voluntary Water Demand  
40 Mitigation Fund on water conservation measures that will reduce

1 the projected demand associated with the ~~subdivision~~ *project*.  
2 Water conservation measures shall be chosen that are the least  
3 ~~expensive~~; most cost-effective means to yield water *savings*. The  
4 expenditures may be made within the subdivision or elsewhere  
5 within the service area of the public water supplier at its discretion.  
6 *Funds deposited into the voluntary water demand mitigation fund*  
7 *shall be accounted for in the same manner as fees imposed for*  
8 *water connections or sewer connections pursuant to Section 66013.*

9 (2) The public water system shall be prohibited from using funds  
10 from the Voluntary Water Conservation Mitigation Fund to  
11 supplant funding for water conservation programs required by  
12 ~~existing law~~ *planned water reduction actions contained in an*  
13 *adopted urban water management plan, existing law*, or paid for  
14 by existing customers through water rates and surcharges.

15 (3) The public water system should commit to carrying out the  
16 water conservation measures funded by the Voluntary Water  
17 Demand Mitigation Fund within 24 months of the sale of the last  
18 unit of the proposed subdivision. However, the public water  
19 system's failure to implement the water conservation measures  
20 shall not result in the revocation, denial, or delay of any legislative,  
21 adjudicatory, ministerial, or discretionary act, permit, or approval  
22 necessary for the planning, use, development, construction,  
23 occupancy, or operation of the proposed ~~subdivision~~ *project* or  
24 any improvement thereon. ~~The sole remedy for the failure of a~~  
25 ~~public water system to implement the water conservation measures~~  
26 ~~shall be for an interested party to seek a writ of mandamus to~~  
27 ~~compel the public water system to comply.~~

28 (j) (1) Not less than 40 percent of the proceeds from the  
29 Voluntary Water Demand Mitigation Fund shall be directed to  
30 water conservation programs in any disadvantaged community,  
31 as defined in Section 75005 of the Public Resources Code, within  
32 the service area of the public water system.

33 (2) The governing body of the public water system may make  
34 a finding based on substantial evidence that no disadvantaged  
35 community exists within the service area or that the capacity for  
36 water conservation within all disadvantaged communities within  
37 the service area has been exhausted. Substantial evidence  
38 demonstrating that no disadvantaged community exists within the  
39 service area shall include federal census data. When the public  
40 water system makes this finding, the use of the water demand

1 mitigation funds shall be exempt from the requirements in  
2 paragraph (1).

3 (k) Notwithstanding subdivision (j), the amount of water savings  
4 attributable to the payment of fees into the Voluntary Water  
5 Demand Mitigation Fund shall be based upon the ~~least expensive,~~  
6 most cost-effective means to yield water savings.

7 (l) *Wherever "public water system" is used in paragraphs (5),*  
8 *(6), (7), (8), (9), and (10) of subdivision (c), and subdivision (p),*  
9 *a local agency shall be substituted if there is no public water system*  
10 *that supplies water for the subdivision.*

11 (m)  
12 (m) This section shall remain in effect only until January 1,  
13 2017, and as of that date is repealed, unless a later enacted statute,  
14 that is enacted before January 1, 2017, deletes or extends that date.

15 SEC. 5. Section 10910 is added to the Water Code, to read:

16 10910. (a) Any city or county that determines that a project,  
17 as defined in Section 10912, is subject to the California  
18 Environmental Quality Act (Division 13 (commencing with Section  
19 21000) of the Public Resources Code) under Section 21080 of the  
20 Public Resources Code shall comply with this part.

21 (b) The city or county, at the time that it determines whether an  
22 environmental impact report, a negative declaration, or a mitigated  
23 negative declaration is required for any project subject to the  
24 California Environmental Quality Act pursuant to Section 21080.1  
25 of the Public Resources Code, shall identify any water system that  
26 is, or may become as a result of supplying water to the project  
27 identified pursuant to this subdivision, a public water system, as  
28 defined in Section 10912, that may supply water for the project.  
29 If the city or county is not able to identify any public water system  
30 that may supply water for the project, the city or county shall  
31 prepare the water assessment required by this part after consulting  
32 with any entity serving domestic water supplies whose service  
33 area includes the project site, the local agency formation  
34 commission, and any public water system adjacent to the project  
35 site.

36 (c) (1) The city or county, at the time it makes the determination  
37 required under Section 21080.1 of the Public Resources Code,  
38 shall request each public water system identified pursuant to  
39 subdivision (b) to determine whether the projected water demand  
40 associated with a proposed project was included as part of the most

1 recently adopted urban water management plan adopted pursuant  
2 to Part 2.6 (commencing with Section 10610).

3 (2) If the projected water demand associated with the proposed  
4 project was accounted for in the most recently adopted urban water  
5 management plan, the public water system may incorporate the  
6 requested information from the urban water management plan in  
7 preparing the elements of the assessment required to comply with  
8 subdivisions (d), (e), (f), and (g).

9 (3) If the projected water demand associated with the proposed  
10 project was not accounted for in the most recently adopted urban  
11 water management plan, or the public water system has no urban  
12 water management plan, the water supply assessment for the project  
13 shall include a discussion with regard to whether the public water  
14 system's total projected water supplies available during normal,  
15 single dry, and multiple dry water years during a 20-year projection  
16 will meet the projected water demand associated with the proposed  
17 project, in addition to the public water system's existing and  
18 planned future uses, including agricultural and manufacturing uses.

19 (4) If the city or county is required to comply with this part  
20 pursuant to subdivision (b), the water supply assessment for the  
21 project shall include a discussion with regard to whether the total  
22 projected water supplies, determined to be available by the city or  
23 county for the project during normal, single dry, and multiple dry  
24 water years during a 20-year projection, will meet the projected  
25 water demand associated with the proposed project, in addition to  
26 existing and planned future uses, including agricultural and  
27 manufacturing uses.

28 (d) (1) The assessment required by this section shall include  
29 an identification of any existing water supply entitlements, water  
30 rights, or water service contracts relevant to the identified water  
31 supply for the proposed project, and a description of the quantities  
32 of water received in prior years by the public water system, or the  
33 city or county if either is required to comply with this part pursuant  
34 to subdivision (b), under the existing water supply entitlements,  
35 water rights, or water service contracts.

36 (2) An identification of existing water supply entitlements, water  
37 rights, or water service contracts held by the public water system,  
38 or the city or county if either is required to comply with this part  
39 pursuant to subdivision (b), shall be demonstrated by providing  
40 information related to all of the following:

1 (A) Written contracts or other proof of entitlement to an  
2 identified water supply.

3 (B) Copies of a capital outlay program for financing the delivery  
4 of a water supply that has been adopted by the public water system.

5 (C) Federal, state, and local permits for construction of necessary  
6 infrastructure associated with delivering the water supply.

7 (D) Any necessary regulatory approvals that are required in  
8 order to be able to convey or deliver the water supply.

9 (e) If no water has been received in prior years by the public  
10 water system, or the city or county if either is required to comply  
11 with this part pursuant to subdivision (b), under the existing water  
12 supply entitlements, water rights, or water service contracts, the  
13 public water system, or the city or county, if either is required to  
14 comply with this part pursuant to subdivision (b), shall also include  
15 in its water supply assessment pursuant to subdivision (c), an  
16 identification of the other public water systems or water service  
17 contractholders that receive a water supply or have existing water  
18 supply entitlements, water rights, or water service contracts, to the  
19 same source of water as the public water system, or the city or  
20 county if either is required to comply with this part pursuant to  
21 subdivision (b), has identified as a source of water supply within  
22 its water supply assessments.

23 (f) If a water supply for a proposed project includes  
24 groundwater, the following additional information shall be included  
25 in the water supply assessment:

26 (1) A review of any information contained in the urban water  
27 management plan relevant to the identified water supply for the  
28 proposed project.

29 (2) A description of any groundwater basin or basins from which  
30 the proposed project will be supplied. For those basins for which  
31 a court or the board has adjudicated the rights to pump  
32 groundwater, a copy of the order or decree adopted by the court  
33 or the board and a description of the amount of groundwater the  
34 public water system, or the city or county if either is required to  
35 comply with this part pursuant to subdivision (b), has the legal  
36 right to pump under the order or decree. For basins that have not  
37 been adjudicated, information as to whether the department has  
38 identified the basin or basins as overdrafted or has projected that  
39 the basin will become overdrafted if present management  
40 conditions continue, in the most current bulletin of the department

1 that characterizes the condition of the groundwater basin, and a  
2 detailed description by the public water system, or the city or  
3 county if either is required to comply with this part pursuant to  
4 subdivision (b), of the efforts being undertaken in the basin or  
5 basins to eliminate the long-term overdraft condition.

6 (3) A detailed description and analysis of the amount and  
7 location of groundwater pumped by the public water system, or  
8 the city or county if either is required to comply with this part  
9 pursuant to subdivision (b), for the past five years from any  
10 groundwater basin from which the proposed project will be  
11 supplied. The description and analysis shall be based on  
12 information that is reasonably available, including, but not limited  
13 to, historic use records.

14 (4) A detailed description and analysis of the amount and  
15 location of groundwater that is projected to be pumped by the  
16 public water system, or the city or county if either is required to  
17 comply with this part pursuant to subdivision (b), from any basin  
18 from which the proposed project will be supplied. The description  
19 and analysis shall be based on information that is reasonably  
20 available, including, but not limited to, historic use records.

21 (5) An analysis of the sufficiency of the groundwater from the  
22 basin or basins from which the proposed project will be supplied  
23 to meet the projected water demand associated with the proposed  
24 project. A water supply assessment shall not be required to include  
25 the information required by this paragraph if the public water  
26 system determines, as part of the review required by paragraph  
27 (1), that the sufficiency of groundwater necessary to meet the initial  
28 and projected water demand associated with the project was  
29 addressed in the description and analysis required by paragraph  
30 (4) of subdivision (b) of Section 10631.

31 (g) (1) Subject to paragraph (2), the governing body of each  
32 public water system shall submit the assessment to the city or  
33 county not later than 90 days from the date on which the request  
34 was received. The governing body of each public water system,  
35 or the city or county if either is required to comply with this act  
36 pursuant to subdivision (b), shall approve the assessment prepared  
37 pursuant to this section at a regular or special meeting.

38 (2) Prior to the expiration of the 90-day period, if the public  
39 water system intends to request an extension of time to prepare  
40 and adopt the assessment, the public water system shall meet with

1 the city or county to request an extension of time, which shall not  
2 exceed 30 days, to prepare and adopt the assessment.

3 (3) If the public water system fails to request an extension of  
4 time, or fails to submit the assessment notwithstanding the  
5 extension of time granted pursuant to paragraph (2), the city or  
6 county may seek a writ of mandamus to compel the governing  
7 body of the public water system to comply with the requirements  
8 of this part relating to the submission of the water supply  
9 assessment.

10 (h) Notwithstanding any other provision of this part, if a project  
11 has been the subject of a water supply assessment that complies  
12 with the requirements of this part, no additional water supply  
13 assessment shall be required for subsequent projects that were part  
14 of a larger project for which a water supply assessment was  
15 completed and that has complied with the requirements of this part  
16 and for which the public water system, or the city or county if  
17 either is required to comply with this part pursuant to subdivision  
18 (b), has concluded that its water supplies are sufficient to meet the  
19 projected water demand associated with the proposed project, in  
20 addition to the existing and planned future uses, including, but not  
21 limited to, agricultural and industrial uses, unless one or more of  
22 the following changes occurs:

23 (1) Changes in the project that result in a substantial increase  
24 in water demand for the project.

25 (2) Changes in the circumstances or conditions substantially  
26 affecting the ability of the public water system, or the city or county  
27 if either is required to comply with this part pursuant to subdivision  
28 (b), to provide a sufficient supply of water for the project.

29 (3) Significant new information becomes available which was  
30 not known and could not have been known at the time when the  
31 assessment was prepared.

32 (i) This section shall become operative on January 1, 2017.

33 SEC. 6. No reimbursement is required by this act pursuant to  
34 Section 6 of Article XIII B of the California Constitution because  
35 a local agency or school district has the authority to levy service  
36 charges, fees, or assessments sufficient to pay for the program or  
37 level of service mandated by this act, within the meaning of Section  
38 17556 of the Government Code.

O