

MENDOCINO

Local Agency Formation Commission

Ukiah Valley Conference Center | 200 South School Street | Ukiah, California 95482
Telephone: (707) 463-4470 | E-mail: eo@mendolaoco.org | Web: www.mendolaoco.org

COMMISSIONERS

Maureen Mulheren, Chair
County Member

Gerald Ward, Vice-Chair/Treasurer
Public Member

Gerardo Gonzalez
City Member

Katharine Cole
Special District Member

Candace Horsley
Special District Member

Glenn McGourty
County Member

Mari Rodin
City Member

Francois Christen, Alternate
Special District Member

Douglas Crane, Alternate
City Member

John Haschak, Alternate
County Member

Richard Weinkle, Alternate
Public Member

STAFF

Executive Officer
Uma Hinman

Clerk/Analyst
Larkyn Feiler

Counsel
Marsha Burch

REGULAR MEETINGS

First Monday of each month
at 9:00 AM in the
Mendocino County
Board of Supervisors
Chambers
501 Low Gap Road, Ukiah

A G E N D A

Regular Commission Meeting

Monday, November 6, 2023 at 9:00 am

Location

Mendocino County Board of Supervisors Chambers
501 Low Gap Road, Ukiah, California

Hybrid Meeting

The Mendocino LAFCo will conduct this meeting in a **hybrid** format to accommodate both in-person and remote (video or telephone) participation by the public and staff pursuant to GOV 54953. Unless approved under the provisions of AB 2449, Commissioners will attend in-person at the meeting location identified above. The **hybrid** meeting can be accessed by the public in person, or remotely as described in the Instructions for Remote Participation Option, below.

Instructions for Remote Participation Option

Join Meeting Live: Please click the following Zoom link below to join the meeting or utilize the telephone option for audio only.

1. Zoom meeting link: <https://mendocinocounty.zoom.us/j/81940487658>
2. Telephone option (audio only):
Dial: **(669) 900-9128** (*Please note that this is not a toll-free number*)
Meeting ID: **819 4048 7658**

Public Participation is encouraged and public comments are accepted:

1. Live: via the Zoom meeting link or telephone option above
2. Via Email: eo@mendolaoco.org by 8:30 a.m. the day of the meeting
3. Via Mail: Mendocino LAFCo, 200 S School Street, Ukiah, CA 95482

Meeting Participation

To provide comments, please use the raise hand function in Zoom.

- a) For those accessing from a computer, tablet, or smartphone, the raise hand function may be selected by clicking or tapping it from the reactions options. When joining the Zoom meeting, please enter your name so that you can be identified to speak.
- b) For those utilizing the telephone option (audio only), please use the raise hand feature by pressing ***9** on your keypad to raise your hand, and ***6** to unmute yourself. When it is your turn to speak, you will be called on by the last four digits of your phone number, if available, and asked to identify yourself for the record.

All comments received will be conveyed to the Commission for consideration during the meeting. All meetings are live-streamed, recorded and available through the link below.

Live web streaming and recordings of Regular Commission meetings are available via the [Mendocino County YouTube Channel](#). Links to recordings, approved minutes, and meeting documents are available on the [LAFCo website](#).

1. CALL TO ORDER and ROLL CALL

2. PUBLIC EXPRESSION

The Commission welcomes participation in the LAFCo meeting. Any person may address the Commission on any subject within the jurisdiction of LAFCo which is not on the agenda. There is a three-minute limit and no action will be taken at this meeting. See public participation information above.

3. OTHER BUSINESS

None

4. CONSENT CALENDAR

The following consent items are expected to be routine and non-controversial and will be acted on by the Commission in a single action without discussion, unless a request is made by a commissioner or a member of the public for discussion or separate action.

4a) September 11, 2023 Regular Meeting Summary

4b) September 2023 Claims & Financial Report

4c) October 2023 Claims & Financial Report

5. PUBLIC HEARING ITEMS

None

6. WORKSHOP ITEMS

None

7. MATTERS FOR DISCUSSION AND POSSIBLE ACTION

7a) Ukiah Valley Groundwater Sustainability Agency Fee Rate Study

The Commission will receive an informational presentation on behalf of the Ukiah Valley Groundwater Sustainability Agency regarding a rate and fee study being conducted to pay for activities of the Ukiah Valley Basin Groundwater Sustainability Agency.

7b) AB 399

The Commission will receive an informational report on AB 399 Water Ratepayers Provisions Act of 2023, which was signed into legislation by the Governor on October 13, 2023.

7c) AB 557

The Commission will receive an informational report on AB 557 amending GOV 54953 regarding open meeting law for local agencies, which was signed into legislation by the Governor on October 8, 2023.

7d) SB 938

The Commission will receive an informational report on SB 938 amending the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 to streamline LAFCo-initiated consolidations and protest proceedings, which was signed into legislation by the Governor on July 1, 2022.

8. INFORMATION AND REPORT ITEMS

The following informational items are reports on current LAFCo activities, communications, studies, legislation, and special projects. General direction to staff for future action may be provided by the Commission. No immediate action will be taken on any of the following items.

8a) Work Plan, Current and Future Proposals (Written)

8b) Correspondence (Copies provided upon request)

8c) CALAFCO Business and Legislative Report

8d) Executive Officer's Report (Verbal)

8e) Committee Reports (Executive Committee, Policies & Procedures) (Verbal)

8f) Commissioner Reports, Comments or Questions (Verbal)

ADJOURNMENT

The next Regular Commission Meeting is tentatively scheduled for Monday, **December 4, 2023** at 9:00 AM in the County Board of Supervisors Chambers at 501 Low Gap Road, Ukiah.

Notice: This agenda has been posted at least 72 hours prior to the meeting and in accordance with the Brown Act Guidelines and teleconferencing rules under AB 2449.

Participation on LAFCo Matters: All persons are invited to testify and submit written comments to the Commission on public hearing items. Any challenge to a LAFCo action in Court may be limited to issues raised at a public hearing or submitted as written comments prior to the close of the public hearing.

Americans with Disabilities Act (ADA) Compliance: Commission meetings are held via a hybrid model – the in-person option held in a wheelchair accessible facility and also by teleconference. Individuals requiring special accommodations to participate in this meeting are requested to contact the LAFCo office at (707) 463-4470 or by e-mail to eo@mendolafco.org. Notification 48 hours prior to the meeting will enable the Commission to make reasonable arrangements to ensure accessibility to this meeting. If attending by teleconference, if you are hearing impaired or otherwise would have difficulty participating, please contact the LAFCo office as soon as possible so that special arrangements can be made for participation, if reasonably feasible.

Fair Political Practice Commission (FPPC) Notice: State Law requires that a participant in LAFCo proceedings who has a financial interest in a Commission decision and who has made a campaign contribution to any Commissioner in the past year must disclose the contribution. If you are affected, please notify the Commission before the hearing.

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Agenda Item No. 4a

COMMISSIONERS

Maureen Mulheren, Chair
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REGULAR MEETINGS

First Monday of each month
at 9:00 AM in the
Mendocino County
Board of Supervisors
Chambers
501 Low Gap Road, Ukiah

DRAFT MINUTES

Mendocino Local Agency Formation Commission

Regular Meeting (Hybrid) of Monday, September 11, 2023

County Board of Supervisors Chambers 501 Low Gap Road, Ukiah, California

1. CALL TO ORDER and ROLL CALL (Video Time 4:30)

Chair Mulheren called the meeting to order at 9:01 a.m.

Regular Commissioners Present: Maureen Mulheren, Gerald Ward, Gerardo Gonzalez, Glenn McGourty, Mari Rodin (remotely), Candace Horsley, and Francois Christen (immediately seated)

Regular Commissioners Absent: Katharine Cole

Alternate Commissioners Present: Richard Weinkle and Douglas Crane

Alternate Commissioners Absent: John Haschak

Staff Present: Uma Hinman, Executive Officer; Larkyn Feiler, Clerk/Analyst; Marsha Burch, Legal Counsel

2. PUBLIC EXPRESSION (Video Time 5:55)

None

3. OTHER BUSINESS

None

4. CONSENT CALENDAR (Video Time 8: 47)

4a) August 7, 2023 Regular Meeting Summary

4b) August 2023 Claims & Financial Report

August 2023 Claims totaling:	\$ 26,288.07
Hinman & Associates Consulting	22,800.07
P. Scott Browne	900.00
Streamline	63.00
CALAFCO	1,950.00
Ukiah Valley Conference Center	575.00

Commissioner Ward inquired about a recent phone bill for \$199, which was not listed in the expenses. EO Hinman responded that the charge is accounted for under the Hinman & Associates invoice and covers the annual office phone bill, which is paid by corporate credit card and expensed.

Commissioner Ward also inquired about \$370 in overhead billed to process the applications associated with the City of Ukiah and Fort Bragg. EO Hinman described that all services are billed per the service fees that were adopted in 2022 and that the overhead portion will offset organizational expenses. In response Commissioner Ward requested that the difference in overhead be shown as income.

Commissioner Ward inquired if the Money Market account with WestAmerica Bank had better rates available for saving accounts. EO Hinman responded that the idea could be explored.

Commissioner Ward asked about the hours being billed by Marsha Burch for legal services and requested a detailed breakdown of hours. EO Hinman confirmed the request and noted that no bill had been received from Ms. Burch as of yet; the last bill for legal services was from Scott Browne.

Commissioner Ward inquired about the Commission’s decision to have hourly billing rather than a monthly average with the new legal services contract. EO Hinman responded that the comparison of charges and hours over the past two years appeared to average out and that ultimately the intent was for cost savings.

Commissioner Horsley asked for confirmation of whether legal services would be charged as a flat fee or hourly per month. EO Hinman confirmed that they would be charged hourly.

Motion: Approve the consent calendar.		
Motion Maker: Gonzalez	Motion Second: McGourty	Outcome: Passed unanimously
Roll Call Vote: Ayes: (7) Ward, Gonzalez, McGourty, Rodin, Horsley, Christen, Mulheren		

5. PUBLIC HEARING ITEMS

None

6. WORKSHOP ITEMS

None

7. MATTERS FOR DISCUSSION AND POSSIBLE ACTION

7a) City of Ukiah Annexation of City-Owned Properties A (LAFCo File No. A-2021-01a) and Finding of Exemption Pursuant to the California Environmental Quality Act (Video Time 14:54)

The Commission considered approval of the City of Ukiah Annexation of City-Owned Properties A, involving APNs: 156-240-02, 156-240-13, 003-330-68, 003-330-69, 003-330-70, 184-080-36, 184-080-37, 184-090-01, 184- 090-07, 184-100-04, 184-080-40, 184-100-05, 184-090-06, 184-150-01, 184-140-13.

EO Hinman noted that Craig Schlatter and Jesse Davis from the City of Ukiah were present at the meeting to answer questions related to the item.

Analyst Feiler provided a staff presentation on the item. (Video Time 16:05 - 25:22)

Commissioner Horsley asked the City staff about the electric services provided to the properties (PG&E); if there was any agricultural land within the City prior to the proposed annexation; for further clarification on Area 2 of the proposal and where that land came from previously; why the of Norgard Disadvantaged Unincorporated Community (DUC) needs to be further investigated; and if the school agencies would still be receiving property tax on the properties.

Analyst Feiler responded that she believed PG&E would still be serving the properties. The only agriculture land is in Area 4 and it was used for agriculture purposes prior to the proposed annexation. Analyst Feiler referred to City staff to clarify background information related to Area 2. She stated that the Norgard DUC needs to be further analyzed as part of state requirements. Lastly, Analyst Feiler explained that local schools are exempt from changes to property taxes in general, although City-owned property in City limits is exempt from all taxation.

Commissioner McGourty inquired about Area 4 and if it would be an island post annexation. Analyst Feiler responded that Area 4 and Area 5 are both adjacent to the City's wastewater treatment plant which are all considered noncontiguous areas under LAFCo law which allows for incorporated areas that are not connected to the City limits that are owned by the City and used for municipal purposes to exist.

Commissioner McGourty inquired about the conclusion made that suggests voting members of the DUC would not support annexation. Analyst Feiler responded that the conclusion is a broad generalization given that residential areas that are historically unincorporated prefer to remain unincorporated. Analyst Feiler further explained that this is why the DUC needs further analysis because no outreach has been conducted.

Commissioner McGourty inquired about the conclusion made that the Norgard/Airport South DUC would not benefit from annexation because of potential adverse economic impacts. Analyst Feiler responded that further analysis needs to be done related to the Norgard/Airport South DUC because only broad generalizations can be made for that particular area as part of the research for the annexation proposal.

Commissioner McGourty inquired about the road maintenance provided by the City and if it would affect the DUC area. Chair Mulheren responded that that type of inquiry would be better answered by City staff. Commissioner McGourty responded that as a District Supervisor adjacent to the DUC he believes urban uses should be contained within the City limits. Commissioner McGourty inquired about the City of Ukiah plans for Area 4.

Commissioner Ward noted that he would prefer to hear the City respond first before asking any questions.

Commissioner Gonzalez inquired about the timeline related to acquiring the DUC area. Chair Mulheren responded that the tax share agreement plays a role in this question which the City will hopefully address.

Jesse Davis, Chief Planning Manager for the City of Ukiah, noted that if the annexation is approved it will be the first annexation for the City since 1986.

Mr. Davis first addressed the PG&E service inquiry and stated that not all the properties currently have service from PG&E but those that do would continue service post annexation and that there would be no changes in services provided. Mr. Davis then addressed the agricultural inquiry and stated that there are no agricultural exclusive lands within the City limits but there are certain uses that allow small scale ag uses. He detailed that the Agricultural Combining District allows the City to preserve the continued use of those ag uses; further Area 4 is served by treated wastewater which is a direct benefit to the property and supports the recycled water system. The intention is to land bank Area 4 so it can be maintained for ag uses and maintained as a buffer from incompatible uses. Mr. Davis explained that Area 2, which was acquired by the City in 2013, contains the headwaters to Gibson Creek. The area contains natural resource protection enhancement projects as implemented by the City and the City intends to use this area to further preserve it and ensure future development doesn't hinder the progress made on repairing it to protect water resources. Mr. Davis noted that it makes the most sense for the City to maintain the islands as no other agency has the means to annex this area.

Mr. Davis confirmed Commissioner Horsley's inquiry that the land includes the old hatchery.

Commissioner McGourty commented that maintaining groundwater management and watersheds is important and it is very forward thinking to recognize and maintain it.

Mr. Davis discussed the Norgard/Airport South DUC (which is not part of the current annexation proposal) and noted that DUCs are identified in a number of documents and that the Nordgard/Airport South DUC was previously identified as a DUC in the City's Housing Element, but its boundary stopped at Highway 101 because it was determined by census blocks. The City identified and mapped five DUCs within the Ukiah Valley that are intended for annexation. Mr. Davis noted that time is needed to best understand how services will be provided to these areas as funding sources need to be identified and there are pre-zoning considerations to be made. The Norgard/Airport South area was considered a DUC was because of previous zoning designations made to the area by Mendocino County; Mr. Davis detailed the area west of the highway was zoned for industrial uses despite there being no industrial uses present and the area east is

zoned for agricultural uses despite being used primarily for residential uses. Mr. Davis noted that if the Norgard area is considered for annexation in the future, great considerations would need to be made to update the zoning given its proximity to the airport. Mr. Davis noted the potential future maintenance and improvements of Norgard Lane. He also noted the federal grant opportunities available for connecting DUCs, and explained that the City will conduct a thorough analysis in order to best provide services to the DUC areas post-annexation.

Commissioner McGourty inquired about groundwater contamination under Norgard Lane. Mr. Davis responded that there are many issues associated with that area including flooding, stormwater management, as previously mentioned the erroneous zoning, noise from the airport, etc., all of which contribute to the area being a DUC. Mr. Davis explained that based on geographic reasoning (i.e., the location of the area), it makes sense for the City to prioritize annexing it in the future. Mr. Davis further explained that a tax share agreement with the County would need to be in place to fully consider the options.

Commissioner Ward inquired about the existing housing on Norgard Lane. Mr. Davis responded by confirming that there are existing residents who would be annexed into the City and their input and feedback are critical to best understand how to provide services to the area. Mr. Davis emphasized that approximately 50% of the residents in the DUC are primary residents, or owner-occupied, and thus their feedback is vital; outreach would need to be offered in multiple languages and ample time is necessary.

Commissioner Ward asked for clarification on the parcels owned by residents on Norgard Lane and if they were a part of the current proposal for annexation; Mr. Davis confirmed that they were not up for consideration with the current proposal because only City-owned parcels were proposed for annexation.

Commissioner Ward inquired about the pocket of land in the middle of Area 2 which would become an island. Mr. Davis responded that as part of the proposal the City was requesting that an exception be made to allow for the creation of an island. Mr. Davis went on to explain that the parcels making up the island are privately-owned and used for residential purposes, and given that the proposed annexation consists of solely City-owned properties, it did not make sense for the City to annex the residential area at this time. Mr. Davis confirmed that this type of boundary is legal and that if in the future those residents in the island want to apply for annexation that would be welcome as the land is located within the City's SOI.

Commissioner Ward asked if the owners of the privately-owned parcels in Area 2 have been contacted and Mr. Davis responded they had not.

Commissioner Ward asked if it was the City's intent to annex the island in the future. Mr. Davis responded that it is the City's intent but only if the private landowners are willing.

Commissioner Horsley commented that the City purchased the surrounding land from the island property owner.

Commissioner Ward asked for clarification on the school district receiving \$21,743 less in property taxes. Mr. Davis responded that when these City-owned parcels are incorporated, they will no longer be subject to any property taxes. Chair Mulheren confirmed that County/City-owned properties and school district-owned properties are not subject to property taxes. Commissioner Ward asked if the school district was aware of this. Chair Mulheren confirmed that because the Board of Supervisors had already approved the funds, the County had reached out to all jurisdictions that would be affected by the change.

Commissioner Ward asked for clarification on the 'zero-sum' tax implication. Mr. Davis responded that to facilitate any annexation within California a tax share agreement must be negotiated; however, because the properties in the proposal consisted only of government-owned land, the City and County worked together to create a 'zero-tax share agreement' recognizing that there would be no new revenues, and thus no new taxes to share. Mr. Davis expressed that the agreement was approved by the City of Ukiah City Council and the County Board of Supervisors.

Commissioner Ward asked if the annexation would reduce the City's tax liability; Mr. Davis confirmed that it would reduce the City's tax burden by approximately \$62,966, as projected in 2021.

Commissioner Ward asked if the County would ultimately be affected by the reduction in taxes; Mr. Davis confirmed yes. Chair Mulheren commented that approximately 10 agencies would be subject to a reduction in property tax revenue because of the annexation. Mr. Davis reiterated that, with respect to the proposed annexation, careful consideration was taken to only include City-owned properties so as not to significantly affect the taxes of private lands, and that one of the priorities of the City is to achieve jurisdictional authority of the areas for streamlined processes in the future (i.e., applying for grants).

Commissioner Gonzalez inquired about the timeline related to acquiring the DUC area that is not part of the current proposal. Mr. Davis responded that while not currently under pre-application, upon completion of a master tax share agreement, the area would ideally be considered within the next five years.

Commissioner Ward asked who owned the land in Area 4 being used for vineyards, which has lease income; Mr. Davis responded that the City has owned the property since 2007, is leased to a vineyard management company, and was originally purchased for land banking purposes.

Commissioner Ward asked LAFCo staff how much the application for the annexation cost. EO Hinman responded that the City had deposited \$7,500 for the application. Commissioner Ward asked who paid for the mapping; EO Hinman responded that the City of Ukiah paid for and provided the mapping.

EO Hinman mentioned that in regard to the Norgard DUC annexation; a correction memo was provided the previous week clarifying the timing of the annexation of those properties and is part of the revised resolution of application.

Commissioner Rodin commented that she appreciated the work that went into the application and believes it will pave the way for future applications.

No public comments were provided on the item.

Motion: (1) Find the City of Ukiah Annexation of City-owned Properties A is exempt from the California Environmental Quality Act (CEQA) under the Class 20 Exemption pursuant to Title 14 of the California Code of Regulations (14 CCR) § 15320, and approve the Notice of Exemption for filing; and (2) Adopt LAFCo Resolution 2023- 24-01, conditionally approving the City of Ukiah Annexation of City-owned Properties A (File No. A-2021-01a) for APNs: 156-240-02, 156-240-13, 003-330-68, 003-330-69, 003-330-70, 184-080-36, 184-080-37, 184-090-01, 184- 090-07, 184-100-04, 184-080-40, 184-100-05, 184-090-06, 184-150-01, 184-140-13.		
Motion Maker: Rodin	Motion Second: Gonzalez	Outcome: Passed unanimously
Roll Call Vote: Ayes: (7) Rodin, Gonzalez, McGourty, Ward, Horsley, Christen, Mulheren		

7b) City of Ukiah Annexation of City-Owned Properties B (LAFCo File No. A-2021-01b) and Finding of Exemption Pursuant to the California Environmental Quality Act (Video Time 1:01:45)

The Commission considered approval of the City of Ukiah Annexation of City-Owned Properties B, involving APN 178-130-01.

Analyst Feiler provided a staff presentation on the item. (Video Time 1:02:20 - 1:05:07)

Chair Mulheren clarified that the tax implications of the proposal had been considered, which was also confirmed by Analyst Feiler.

Commissioner McGourty asked how the project can be exempt from CEQA if it includes the landfill that is currently being closed. Analyst Feiler responded that the landfill has already been closed so from a CEQA perspective there are no proposed changes in the use of the site as it relates to the annexation.

Chair Mulheren asked for the City of Ukiah staff to give an update on the closure of the landfill. Mr. Davis stated that there are no proposed changes to the maintenance and monitoring of the landfill, only a change to the jurisdictional

authority is proposed. Commissioner McGourty asked if the area included the Ukiah Gun Club; Mr. Davis responded that it does not include the gun club or the adjacent property to the south.

Commissioner McGourty asked if it was typical for cities to have islands of incorporated lands. Analyst Feiler responded that there is a provision in LAFCo law that allows for this, and the Cities of Ukiah, Fort Bragg, and Willits have all utilized the provision. Analyst Feiler further clarified the provision is intended for city-owned properties used for municipal purposes. Mr. Davis then commented that the City views the areas as serving a public benefit.

Commissioner Ward inquired about the monitoring of the landfill and what could potentially happen in 10 years if there is no CEQA analysis now. Mr. Davis responded that the City is still responsible for the property as the property owner.

Legal Counsel Marsh Burch commented about the inquiries related to the landfill and CEQA, and clarified that the project (annexation) is proposing a jurisdictional authority change, and the decision related to the proposal will not have an environmental impact. Commissioner Gonzalez commented that the City wanting jurisdictional authority to help improve the grant application process is a good idea.

Commissioner Christen asked if conditionally approving the project meant that there are more steps in the process. Analyst Feiler explained that the conditions associated with the approval defined the scope and boundaries of the annexation proposal; there are no other conditions that would need to be satisfied.

No public comments were provided on the item.

Motion: (1) Find the City of Ukiah Annexation of City-owned Properties B is exempt from the California Environmental Quality Act (CEQA) under the Class 20 Exemption pursuant to Title 14 of the California Code of Regulations (14 CCR) § 15320, and approve the Notice of Exemption for filing; and (2) Adopt LAFCo Resolution 2023-24-02, conditionally approving the City of Ukiah Annexation of City-owned Properties B (File No. A-2021-01b) for APN 178-130-01.		
Motion Maker: McGourty	Motion Second: Gonzalez	Outcome: Passed unanimously
Roll Call Vote: Ayes: (7) McGourty, Gonzalez, Horsley, Rodin, Ward, Christen, Mulheren		

The Commission took a 10-minute recess (Video Time 1:15:58).

7c) Annual Work Plan Implementation and Schedule (Video Time 1:24:30)

EO Hinman provided a brief summary of the work plan, describing the schedule for annual MSR/SOI updates, which are intended to occur every 5 years and are focused on municipal services (water, sewer, fire and police).

EO Hinman explained that between 2012 and 2016, the first round of studies for the water and wastewater districts were conducted that produced abbreviated reports. Given drought conditions and other factors, a more robust approach to the reports is more appropriate for this round. There are 7 special districts that will be analyzed and 10 mutual water companies that will be included. EO Hinman presented the approach to implementation of the work plan. Public workshops and hearings are expected to begin in the beginning of the next calendar year.

Commissioner Ward inquired about the work plan contingencies and if there was a specific dollar amount in the budget. EO Hinman responded that the contingency is currently approximately \$30,000, which rolled over from last year and is intended to cover any changes to the work plan scope. Commissioner Ward asked if EO Hinman expected that the contingency would need to be used for this work plan; EO Hinman responded that she did not think so, and explained that the only foreseeable reason to use it would be related to necessary CEQA analyses. EO Hinman confirmed that the contingency amount rolls over into the next fiscal year if not used. Commissioner Ward asked when the last MSR reports were completed, and specifically Irish Beach which had issues. EO Hinman responded that the last round was in 2014-2016 and MSR determinations are revisited for each report as needed.

Commissioner Rodin inquired about how the process for retrieving information from the districts is going. EO Hinman explained that the RFIs are still being developed, but outreach has begun to two of the districts who have not been responsive to date. Depending on the responsiveness of the districts, this can cause significant delays in the overall process.

Commissioner Horsley inquired about how staff manages the workflow. EO Hinman responded that applications take precedence because they have regulatory timelines attached to them, which has caused delays in the past to the work plan. EO Hinman further described that more staff has been brought on to focus specifically on the work plan.

Commissioner Gonzalez asked about the requirement to analyze mutual water companies, which are not under the jurisdiction of LAFCo, and if there is any sort of state funding to cover the work related to them. EO Hinman responded that there is no funding mechanism to cover this work. EO Hinman noted that this message could be delivered to the CALAFCO legislative committee.

Commissioner Ward inquired about the applications that have been in process for the last three years and how they are being prioritized. EO Hinman responded that the applications have been deemed incomplete due to outstanding information needs and tax share agreements.

7d) Commissioner Terms, Recruitments and Elections (Video Time 1:39:20)

EO Hinman provided an informational update regarding the terms and recruitment of the alternate public member for 2024-27. EO Hinman stated that the alternate County term is up at the end of the year and will be appointed by the County Board of Supervisors in January. The current alternate public member is Commissioner Weinkle and his term is up at the end of 2023. The vacancy will be announced in September and applications will be taken through October. The Commission may hold interviews during the regular November meeting with appointment made in December.

7e) CALAFCO Business and Selection of Voting Delegates (Video Time 1:40:30)

EO Hinman reminded the Commission that the CALAFCO Annual Conference will be held in Monterey October 18-20; Commissioners Cole, Gonzalez and Weinkle are currently registered to attend, but Commissioner Weinkle can no longer attend, so there is an extra registration available. EO Hinman mentioned that the nomination period is still open for the Board of Directors for CALAFCO until September 18; the Northern Region is accepting nominations for both a county and a special district member. EO Hinman informed the Commission that Bill Connolly from Butte County LAFCo is the incumbent and has been nominated for the county position; Nevada LAFCo announced they will be nominating Commissioner Rikkie Heck who is a special district member from Nevada Irrigation District.

EO Hinman initiated the selection of a commissioner or staff member attending the conference to act as a voting delegate and an alternate; the deadline to submit the names of the delegates is September 18. Staff recommended the Chair invite motions for the voting and alternate delegates.

Motion: Nominate Commissioner Gonzalez as the voting delegate.		
Motion Maker: Ward	Motion Second: Horsley	Outcome: Passed unanimously
Roll Call Vote: Ayes: (7) Ward, Horsley, McGourty, Rodin, Gonzalez, Christen, Mulheren		

EO Hinman advised that an alternate be nominated as well to ensure voting coverage. Commissioner Gonzalez recommended EO Hinman as the alternate delate given that Commissioner Cole was absent.

Motion: Nominate EO Hinman as the alternate voting delegate.		
Motion Maker: Gonzalez	Motion Second: Ward	Outcome: Passed unanimously
Roll Call Vote: Ayes: (7) McGourty, Rodin, Ward, Gonzalez, Horsley, Christen, Mulheren		

8. INFORMATION AND REPORT ITEMS

8a) Work Plan, Current and Future Proposals (Video Time 1:45:05)

EO Hinman provided an update, noting that all applications on file are pending the completion of tax share agreements; tax share negotiations occur between the County Assessor, Auditor, the County Executive Officer, and Board of Supervisors. For the Anderson Valley CSD application to annex their SOI, a tax rate analysis has been provided to LAFCo and staff is working with County staff and the application to better understand the analysis and next steps.

Commissioner Ward asked if the City of Fort Bragg application was for annexation of the property located off Highway 20; EO Hinman confirmed that it was and that is it a pre-application request at this time for what will be another City-owned property annexation.

8b) Correspondence (Video Time 1:46:50)

None

8c) CALAFCO Business and Legislation Report (Video Time 1:46:55)

EO Hinman stated that AB 399, which staff will be sending a letter of opposition to, was passed by the Senate late last week and has moved to the Assembly Local Government Committee for a committee hearing. EO Hinman noted that the urgency clause had been dropped from the bill but that it still proposes to override a portion of the CKH process as it relates to water agencies and voting rights. Commissioner Rodin then suggested that per an email she sent to EO Hinman, she recommends the Commission add an informational agenda item related to the case in San Diego that led to the legislation.

8d) Executive Officer's Report (Video Time 1:48:55)

EO Hinman informed the Commission that per the last MUNIS report there were three agencies that had not paid their apportionments for fiscal year 2022-23; staff worked with the Auditors office to contact the delinquent agencies and confirms that all have now been paid. EO Hinman reported that staff has received recent public inquiring about receiving services from the City of Fort Bragg, which they are working through with City staff. Additionally, staff researched a request from the Palo Verde Fire Company (a volunteer fire department located in southeastern Humboldt County) related to receiving recognition similar to Whale Gulch Fire Company, which is a bi-County response agency; EO Hinman referred them to the Fire Chief's Association for further input in the process. In response to Commissioner Ward's inquiry EO Hinman explained they are interested in finding formal recognition that will allow them to seek additional funding to support their services. Chair Mulheren then commented that Senator McGuire received funding for fire trucks for smaller fire districts. EO Hinman confirmed that the process to determine eligibility for Prop 172 funding is determined by the Fire Chief's Association and the County.

8e) Committee Reports (Executive Committee, Policies & Procedures) (Video Time 1:51:25)

None

8f) Commissioners Reports, Comments or Questions (Video Time 1:51:30)

Commissioner Ward inquired about planning a future Policy and Procedures Committee meeting. EO Hinman suggested that a meeting be scheduled for October. Commissioner Horsley commented that she recently read the Policies and Procedures Manual and found a couple items that appear to need updating, she will direct those items to EO Hinman for review.

ADJOURNMENT (Video Time 1:52:30)

There being no further business, the meeting adjourned at 10:00 a.m.

The next regular meeting of the Commission is scheduled on Monday, **October 2, 2023** at 9:00 a.m. The meeting will be conducted in a hybrid format to accommodate both in-person and remote participation. The in-person meeting will be held in the County Board of Supervisors Chambers at 501 Low Gap Road, Ukiah.

Live web streaming and recordings of Commission meetings are available via the County of Mendocino's YouTube Channel [September 11, 2023 YouTube meeting recording](#). Links to recordings and approved minutes are also available on the [LAFCo website](#).

MENDOCINO Local Agency Formation Commission Staff Report

DATE: November 6, 2023
 TO: Mendocino Local Agency Formation Commission
 FROM: Uma Hinman, Executive Officer
 SUBJECT: **Claims and Financial Report for September 2023**

RECOMMENDED ACTION

Approve the September 2023 claims and financial report.

Name	Account Description	Amount	Total
Hinman & Associates Consulting, Inc.	5300 Basics Services	\$ 12,192.61	\$ 20,816.78
	5601 Office Supplies (QB)	\$ 90.00	
	5700 Internet (Comcast)	\$ 93.67	
	6200 Bookkeeping	\$ 440.00	
	7001 Work Plan (Coastal W/WW Districts)	\$ 5,544.50	
	8031 AVCS D Annexation of SOI	\$ 454.00	
	8025 City of Ukiah Annexation City Props	\$ 2,002.00	
Marsha Burch	6300 Legal Counsel	\$ 1,867.50	\$ 1,912.50
	8025 City of Ukiah Annexation City Props	\$ 45.00	
Streamline	5700 Website Hosting	\$ 63.00	\$ 63.00
Mendocino County	5600 Office Expenses (BOS Chambers)	\$ 375.00	\$ 375.00
Ukiah Valley Conf. Center	5500 Office Space	\$ 555.00	\$ 1,095.69
	5600 Postage and copies	\$ 540.69	
Total Claims			\$ 24,262.97

Deposits: \$2,500 (City of Ukiah)

Transfers: None

Attachments:

- Budget Tracking Spreadsheet
- Work Plan Tracking
- Invoices: Hinman & Associates Consulting, Marsha Burch

Please note that copies of all invoices, bank statements, reconciliation reports, and petty cash register were forwarded to the Treasurer.

MENDOCINO LAFCO FY 2023-24 BUDGET TRACKING

BUDGET SUMMARY		2023-24 Budget	July	August	September	Totals To Date	% Expended
Total Revenue		\$ 285,000.00	\$ 1,583.15	\$ 101,198.42	\$ 3,626.51	\$ 106,408.08	
Total Expenses							
Operations		\$ 320,000.00	\$ 21,176.15	\$ 25,480.07	\$ 21,770.97	\$ 68,427.19	21%
Applications		\$ 30,000.00	\$ 1,082.50	\$ 817.00	\$ 2,501.00	\$ 4,400.50	
		Balance Beginning of Year				Balance	
Treasury (apportionments held in Treasury until moved to Checking for claims)		\$ 52,598.14					
Checking Account (Bank Statement)		\$ 49,459.33	\$ 44,814.99	\$ 110,712.10	\$ 84,402.21		
Reserves (Bank Statement)		\$ 116,027.49	\$ 116,033.25	\$ 130,009.41	\$ 130,012.74		

Account #	REVENUE					
4000	LAFCo Apportionments Fees (held in Treasury until moved to Checking for claims)	\$ 275,000.00		\$ 100,000.00		\$ 100,000.00
4100	Fees and Reimbursements					\$ -
4800	Miscellaneous					\$ -
4910	Interest	\$ 500.00	\$ 9.40	\$ 10.92	\$ 11.51	\$ 31.83
8000	Applications					
4150	Service Fees	\$ 9,500.00	\$ 491.25	\$ 370.50	\$ 1,114.00	\$ 1,975.75
80XX	Applications Less Service Fees		\$ 1,082.50	\$ 817.00	\$ 2,501.00	\$ 4,400.50
	TOTAL	\$ 285,000.00	\$ 1,583.15	\$ 101,198.42	\$ 3,626.51	\$ 106,408.08

Account #	EXPENSES					
	OPERATIONS					
5300	Basic Services	\$ 133,000.00	\$ 7,427.59	\$ 12,817.55	\$ 12,192.61	\$ 32,437.75 24%
5500	Rent	\$ 7,000.00	\$ 555.00	\$ 555.00	\$ 555.00	\$ 1,665.00 24%
5600	Office Expenses	\$ 4,500.00	\$ 249.22	\$ 309.85	\$ 1,005.69	\$ 1,564.76 35%
5700	Internet & Website	\$ 3,000.00	\$ 172.84	\$ 156.67	\$ 156.67	\$ 486.18 16%
5900	Publication and Legal Notices	\$ 3,000.00				\$ - 0%
6000	Televising Meetings	\$ 2,400.00				\$ - 0%
6100	Audit Services	\$ 4,000.00	\$ 2,000.00			\$ 2,000.00 50%
6200	Bookkeeping	\$ 5,500.00	\$ 440.00	\$ 440.00	\$ 440.00	\$ 1,320.00 24%
6300	Legal Counsel	\$ 30,000.00	\$ 900.00	\$ 900.00	\$ 1,867.50	\$ 3,667.50 12%
6400	A-87 Costs County Services	\$ 2,500.00				\$ - 0%
6500	Insurance - General Liability	\$ 3,000.00				\$ - 0%
6600	Memberships (CALAFCO/CSDA)	\$ 4,000.00	\$ 2,521.00			\$ 2,521.00 63%
6670	GIS Contract (County)	\$ 3,000.00				\$ - 0%
6740	In-County Travel & Stipends	\$ 4,000.00				\$ - 0%
6750	Travel & Lodging Expense	\$ 6,500.00				\$ - 0%
6800	Conferences (Registrations)	\$ 4,500.00		\$ 1,950.00		\$ 1,950.00 43%
7000	Work Plan (MSR/SOI)	\$ 100,000.00	\$ 6,901.50	\$ 8,342.00	\$ 5,544.50	\$ 20,788.00 21%
9000	Misc Expenses (bank fees)	\$ 100.00	\$ 9.00	\$ 9.00	\$ 9.00	\$ 27.00 27%
	TOTAL	\$ 320,000.00	\$ 21,176.15	\$ 25,480.07	\$ 21,770.97	\$ 68,427.19

8000	APPLICATIONS	Deposits TD				Deposit Remaining
8022	City of Ukiah North Annexation Pre-Application (P-2020-01)	\$ 1,500.00				\$ - \$ 1,122.00
8024	Millview CWD Annexation Pre-Application (P-2020-04)	\$ 3,500.00				\$ - \$ (109.50)
8025	City of Ukiah Annexation of City-Owned Properties (A-2021-01)	\$ 8,283.75	\$ 111.25	\$ 875.00	\$ 2,955.00	\$ 3,941.25 \$ 125.00
8028	Elk CSD Activation of Latent Powers (L-2022-01)	\$ 5,000.00				\$ - \$ 763.75
8029	City of Ukiah Annexation of Western Hills Properties (A-2022-02)	\$ 5,000.00				\$ - \$ 4,750.00
8031	AVCSD Annexation of SOI (A-2023-01)	\$ 6,000.00	\$ 285.00		\$ 660.00	\$ 945.00 \$ 2,788.25
8032	Fort Bragg Pre-Application Request (P-2023-02)	\$ 1,500.00	\$ 1,177.50	\$ 312.50		\$ 1,490.00 \$ 10.00
	Applications Less Service Fees Subtotal		\$ 1,082.50	\$ 817.00	\$ 2,501.00	\$ 4,400.50
	Service Fees Subtotal		\$ 491.25	\$ 370.50	\$ 1,114.00	\$ 1,975.75
	TOTAL		\$ 1,573.75	\$ 1,187.50	\$ 3,615.00	\$ 6,376.25

EXPENSES TOTAL		\$ 22,749.90	\$ 26,667.57	\$ 25,385.97	\$ 74,803.44
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MONTHLY CLAIMS TOTAL (not including service fees and bank fees)	\$ 320,000.00	\$ 22,249.65	\$ 26,288.07	\$ 24,262.97	\$ 149,606.88
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Mendocino LAFCo
FY 2023-24 Estimated Work Plan Implementation Schedule and Cost Tracking
 October 1, 2023

Subject to Change: The estimated schedule and costs for the Fiscal Year 2022-23 Work Plan are subject to change based on agency responsiveness, timely provision of requested information, complexity of issues, level of public and affected agency controversy, and changing needs and priorities.

CEQA: Based on LAFCo practice, the work plan assumes minimal costs for CEQA compliance related to preparing a Notice of Exemption, unless an agency proposes a non-coterminous SOI and pays for any necessary studies and preparation of a Negative Declaration or Environmental Impact Report.

Rolling Work Plan: It is difficult to completely contain staff activities in a single fiscal year; therefore, completion of a study may roll over to the next fiscal year. This estimated work plan implementation schedule and cost tracking table is intended to enhance communication and transparency.

Agency	Coordination/ Request for Information	Admin Draft	Public Workshop	Public Hearing	Final Study	Previous FY Expenses	FY 2023-24 Budget	FY 2023-24 Expenses	Total Cost to Date ²
Coastal Water/Wastewater Districts (7)						\$ 18,754	\$ 100,000	\$ 20,788	\$ 39,542
Caspar South Water District	In process	In process							
Elk County Water District	In process	In process							
Gualala Community Services District	In process	In process							
Irish Beach Water District	In process	In process							
Mendocino County Water Works Water Works District No. 2	In process	In process							
Pacific Reefs Water District	In process	In process							
Westport County Water District	In process	In process							



Hinman & Associates Consulting

PO Box 1251 | Cedar Ridge, CA 95924
 (916) 813-0818 | uhinman@comcast.net

Date	October 2, 2023	Invoice No.	767
To	Mendocino LAFCo	Invoice Total	\$ 20,816.78
Project	Executive Officer Services		
Work Period	September 1 - 30, 2023		

Account	Description	Staff/Hours		Other (At Cost)	Totals
		Executive Officer \$110	Analyst \$86		
5300	Basic Services Public Records Act Requests	63.75	49.00	\$ 966.11	\$ 12,192.61
5601	Office Supplies Quickbooks Online fee			\$ 90.00	\$ 90.00
5700	Internet & Website Costs (Comcast, Hostinger)			\$ 93.67	\$ 93.67
6200	Bookkeeping	4.00			\$ 440.00
7001	Coastal Region Water/Wastewater MSR/SOI	9.75	52.00		\$ 5,544.50
8025	City of Ukiah Annex City Properties A-2021-01	1.00	22.00		\$ 2,002.00
8031	AVCSD Annex SOI A-2023-01	1.00	4.00		\$ 454.00
8032	Fort Bragg Pre-Application P-2023-02				\$ -
Totals		\$ 8,745.00	\$ 10,922.00	\$ 1,149.78	\$ 20,816.78

5300 Basic Services

Administrative tasks, file research and maintenance of official records and files. Respond to public inquiries and research requests. Prepare and process August and September Claims. Preparation for September 11, 2023 regular Commission meeting. Research and coordination meetings with City of Fort Bragg regarding inquiries and provision of water and sewer services outside of City boundaries. Scanning historic resolutions to support office efficiencies. Development of draft Commissioner Handbook. Development of draft updates to application forms. Research AB8 apportionment factors regarding incremental tax shares in support of discussions with County Auditor-Controller.

6200 Bookkeeping

Entered claims into Quickbooks and prepared checks. Reconciled Quickbooks.

7000 Work Plan (Sphere of Influence Updates, Municipal Service Reviews, and Special Studies)

Conduct research for coastal water and wastewater districts and private water companies (Pacific Reefs Water District, Caspar South Water District, Westport County Water District, Gualala CSD, Elk CWD, Irish Beach CWD, Mendocino County Water Works District 2 etc.); outreach with coastal agencies; develop administrative drafts and information requests.

8025 City of Ukiah Annexation of City-Owned Properties (A-2021-01)

Preparation of staff report for September 11, 2023 Commission meeting; coordination with the BOE and City staff.

8031 AVCSD Annexation of SOI (A-2023-01)

Reviewed and analyzed application materials for policy consistency; prepared updated incomplete letter. Coordinated with Auditor-Controller and updated applicant.

From: Intuit QuickBooks Team <No_Reply@notifications.intuit.com>
Sent: Tuesday, September 19, 2023 5:42 AM
To: eo@mendolafco.org
Subject: We received your QuickBooks subscription payment!



Payment success

Executive Officer, thank you for your payment.

Invoice number:
10001254994748
Invoice date: 09/19/2023
Total: \$90.00
Payment method: VISA ending in

Sign in to QuickBooks where you can see your billing history and view, save, and print your invoice.

[View billing history](#)

Account details

Billed to: Mendocino LAFCo
Company ID ending:
Items on this invoice: QuickBooks Online Plus

(1) For subscriptions, your payment method on file will be automatically charged monthly/annually at the then-current list price until you cancel. If you have a discount it will apply to the then-current list price until it expires. Additional service fees may apply based on whether you add or remove services and your usage. See your [Billing & Subscription](#) page for additional pricing details. To cancel your subscription at any time, go to [Account & Settings](#) and cancel the subscription. (2) For one-time services, your payment method on file will reflect the charge in the amount referenced in this invoice. Terms, conditions, pricing, features, service, and support options are subject to change without notice.

COMCAST BUSINESS

Mendocino Lafco

Account number
8155 30 052 0354952

For service at:
200 S SCHOOL ST STE K
UKIAH CA 95482-4828

Thanks for choosing Comcast Business

Need help?
Visit business.comcast.com/help or
call 1-800-391-3000

Ready to pay?
Visit business.comcast.com/myaccount

Your monthly account summary

Previous balance	93.67
Credit Card Payment Sep 04, 2023	-93.67 cr
New charges	
Comcast Business services	91.90
Taxes and fees	1.77

Amount due **\$93.67**
Payment due Oct 04, 2023



➔ **Manage your services online**
Your Comcast Business account online is the one-stop destination to pay your bill and manage your services. Visit business.comcast.com/myaccount.

Service updates
See the "additional information" section for upcoming service updates.

COMCAST BUSINESS

9602 S 300 W. STE B SANDY UT 84070-3302
8633 0500 NO RP 09 09102023 NNNNNNNN 01 999636

MENDOCINO LAFCO
ATTN UMA HINMAN
200 S SCHOOL ST STE K
UKIAH, CA 95482-4828

Account number **8155 30 052 0354952**
Automatic payment due **Oct 04, 2023**
Please pay **\$93.67**
Credit Card Payment To Be Applied 10/04/23

COMCAST
PO BOX 60533
CITY OF INDUSTRY CA 91716-0533

Marsha Burch

131 S. Auburn Street
Grass Valley, CA 95945
United States

INVOICE

Invoice # 160
Date: 09/14/2023
Due On: 10/14/2023

Mendocino LAFCo

00201-Mendocino LAFCo

General Counsel

Type	Date	Notes	Quantity	Rate	Total
Service	08/07/2023	LAFCo meeting	1.00	\$225.00	\$225.00
Service	08/17/2023	Meeting with EO and analyst re Fort Bragg MID	0.80	\$225.00	\$180.00
Service	08/22/2023	Research re Fort Bragg service extensions; history of MID	0.50	\$225.00	\$112.50
Service	08/24/2023	Tel. conf. with EO re Fort Bragg water service	0.40	\$225.00	\$90.00
Service	08/25/2023	Tel. conf. with EO re response to Fort Bragg re property in escrow; Review documents and research re creation of Fort Bragg Municipal Improvement District	1.00	\$225.00	\$225.00
Service	08/29/2023	Review draft letter to City; research; msg. to EO and Analyst re legal analysis and practical challenges	0.80	\$225.00	\$180.00
Service	08/30/2023	Mtg. with EO and Analyst re Fort Bragg MID	0.80	\$225.00	\$180.00
Service	09/06/2023	Review resolutions and agenda for posting	0.20	\$225.00	\$45.00
Service	09/07/2023	Review corrections to agenda item	0.20	\$225.00	\$45.00
Service	09/11/2023	Attend meeting	1.80	\$225.00	\$405.00
Service	09/12/2023	Tel. conf. with Uma Hinman re Fort Bragg MID	0.40	\$225.00	\$90.00
Service	09/13/2023	Research re OASE; review and revise letter to City of Fort Bragg	0.40	\$225.00	\$90.00
				Total	\$1,867.50

Detailed Statement of Account

Current Invoice

Invoice Number	Due On	Amount Due	Payments Received	Balance Due
160	10/14/2023	\$1,867.50	\$0.00	\$1,867.50
			Outstanding Balance	\$1,867.50
			Total Amount Outstanding	\$1,867.50

Please make all amounts payable to: Marsha Burch

Please pay within 30 days.

Marsha Burch

131 S. Auburn Street
Grass Valley, CA 95945
United States

INVOICE

Invoice # 161
Date: 09/18/2023
Due On: 10/18/2023

Mendocino LAFCo

00204-Mendocino LAFCo

City of Ukiah

Type	Date	Notes	Quantity	Rate	Total
Service	09/18/2023	Review notes re city annexation applications and draft response to the City of Ukiah.	0.20	\$225.00	\$45.00
Total					\$45.00

Detailed Statement of Account

Current Invoice

Invoice Number	Due On	Amount Due	Payments Received	Balance Due
161	10/18/2023	\$45.00	\$0.00	\$45.00
Outstanding Balance				\$45.00
Total Amount Outstanding				\$45.00

Please make all amounts payable to: Marsha Burch

Please pay within 30 days.

MENDOCINO Local Agency Formation Commission Staff Report

DATE: November 6, 2023
 TO: Mendocino Local Agency Formation Commission
 FROM: Uma Hinman, Executive Officer
 SUBJECT: **Claims and Financial Report for October 2023**

RECOMMENDED ACTION

Approve the October 2023 claims and financial report.

Name	Account Description	Amount	Total
Hinman & Associates Consulting, Inc.	5300 Basics Services	\$ 9,005.56	\$ 15,554.29
	5601 Office Supplies (QB)	\$ 90.00	
	5700 Internet (Comcast)	\$ 93.67	
	6200 Bookkeeping	\$ 440.00	
	7001 Work Plan (Coastal W/WW Districts)	\$ 4,541.50	
	8025 City of Ukiah Annex City Props	\$ 86.00	
	8031 AVCSD Annexation of SOI	\$ 172.00	
	6800 Conference Registration (CALAFCO)	\$ 650.00	
	6750 Travel & Lodging Expense (Gonzalez hotel)	\$ 475.56	
Commissioner Stipends	6740 In-County Travel & Stipends		
	Weinkle (September)	\$ 78.82	\$ 177.95
	Christen (September)	\$ 99.13	
Streamline	5700 Website Hosting	\$ 63.00	\$ 63.00
CSDA	6600 Memberships (CALAFCO/CSDA)	\$ 1,281.00	\$ 1,281.00
SDRMA	6500 Insurance	\$ 2,857.81	\$ 2,857.81
Commissioner Gonzalez	6750 Travel & Lodging Expense	\$ 366.96	\$ 366.96
Ukiah Valley Conf. Center	5500 Office Space	\$ 555.00	\$ 683.29
	5600 Postage and copies	\$ 128.29	
Total Claims			\$ 20,984.30

Deposits: \$783.75 (City of Ukiah)

Transfers: None

Attachments:

- Budget Tracking Spreadsheet
- Work Plan Tracking
- Invoices: Hinman & Associates Consulting

Please note that copies of all invoices, bank statements, reconciliation reports, and petty cash register were forwarded to the Treasurer.

MENDOCINO LAFCO FY 2023-24 BUDGET TRACKING

BUDGET SUMMARY		2023-24 Budget	July	August	September	October	Totals To Date	% Expended
Total Revenue		\$ 285,000.00	\$ 1,583.15	\$ 101,198.42	\$ 3,626.51	\$ 375.00	\$ 106,783.08	
Total Expenses								
Operations		\$ 320,000.00	\$ 21,176.15	\$ 25,480.07	\$ 21,770.97	\$ 20,735.30	\$ 89,162.49	28%
Applications		\$ 30,000.00	\$ 1,082.50	\$ 817.00	\$ 2,501.00	\$ 258.00	\$ 4,658.50	
		Balance Beginning of Year					Balance	
Treasury (apportionments held in Treasury until moved to Checking for claims)		\$ 52,598.14						
Checking Account (Bank Statement)		\$ 49,459.33	\$ 44,814.99	\$ 110,712.10	\$ 84,402.21			
Reserves (Bank Statement)		\$ 116,027.49	\$ 116,033.25	\$ 130,009.41	\$ 130,012.74	\$ 130,015.00		

Account #	REVENUE							
4000	LAFCo Apportionments Fees (held in Treasury until moved to Checking for claims)	\$ 275,000.00		\$ 100,000.00			\$ 100,000.00	
4100	Fees and Reimbursements						\$ -	
4800	Miscellaneous						\$ -	
4910	Interest	\$ 500.00	\$ 9.40	\$ 10.92	\$ 11.51		\$ 31.83	
8000	Applications							
4150	Service Fees	\$ 9,500.00	\$ 491.25	\$ 370.50	\$ 1,114.00	\$ 117.00	\$ 2,092.75	
80XX	Applications Less Service Fees	\$ 20,500.00	\$ 591.25	\$ 446.50	\$ 1,387.00	\$ 141.00	\$ 4,565.75	
	TOTAL	\$ 285,000.00	\$ 1,583.15	\$ 101,198.42	\$ 3,626.51	\$ 375.00	\$ 106,783.08	

Account #	EXPENSES							
OPERATIONS								
5300	Basic Services	\$ 133,000.00	\$ 7,427.59	\$ 12,817.55	\$ 12,192.61	\$ 9,005.56	\$ 41,443.31	31%
5500	Rent	\$ 7,000.00	\$ 555.00	\$ 555.00	\$ 555.00	\$ 555.00	\$ 2,220.00	32%
5600	Office Expenses	\$ 4,500.00	\$ 249.22	\$ 309.85	\$ 1,005.69	\$ 218.29	\$ 1,783.05	40%
5700	Internet & Website	\$ 3,000.00	\$ 172.84	\$ 156.67	\$ 156.67	\$ 156.67	\$ 642.85	21%
5900	Publication and Legal Notices	\$ 3,000.00					\$ -	0%
6000	Televising Meetings	\$ 2,400.00					\$ -	0%
6100	Audit Services	\$ 4,000.00	\$ 2,000.00				\$ 2,000.00	50%
6200	Bookkeeping	\$ 5,500.00	\$ 440.00	\$ 440.00	\$ 440.00	\$ 440.00	\$ 1,760.00	32%
6300	Legal Counsel	\$ 30,000.00	\$ 900.00	\$ 900.00	\$ 1,867.50		\$ 3,667.50	12%
6400	A-87 Costs County Services	\$ 2,500.00					\$ -	0%
6500	Insurance - General Liability	\$ 3,000.00				\$ 2,857.81	\$ 2,857.81	95%
6600	Memberships (CALAFCO/CSDA)	\$ 4,000.00	\$ 2,521.00			\$ 1,281.00	\$ 3,802.00	95%
6670	GIS Contract (County)	\$ 3,000.00					\$ -	0%
6740	In-County Travel & Stipends	\$ 4,000.00				\$ 177.95	\$ 177.95	4%
6750	Travel & Lodging Expense	\$ 6,500.00				\$ 842.52	\$ 842.52	13%
6800	Conferences (Registrations)	\$ 4,500.00		\$ 1,950.00		\$ 650.00	\$ 2,600.00	58%
7000	Work Plan (MSR/SOI)	\$ 100,000.00	\$ 6,901.50	\$ 8,342.00	\$ 5,544.50	\$ 4,541.50	\$ 25,329.50	25%
9000	Misc Expenses (bank fees)	\$ 100.00	\$ 9.00	\$ 9.00	\$ 9.00	\$ 9.00	\$ 36.00	36%
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8000	APPLICATIONS	Deposits TD					Deposit Remaining	
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	Service Fees Subtotal		\$ 491.25	\$ 370.50	\$ 1,114.00	\$ 117.00	\$ 2,092.75	
	TOTAL		\$ 1,573.75	\$ 1,187.50	\$ 3,615.00	\$ 375.00	\$ 6,751.25	

EXPENSES TOTAL			\$ 22,749.90	\$ 26,667.57	\$ 25,385.97	\$ 21,110.30	\$ 95,913.74	
MONTHLY CLAIMS TOTAL (not including service fees and bank fees)		\$ 320,000.00	\$ 22,249.65	\$ 26,288.07	\$ 24,262.97	\$ 20,984.30	\$ 191,827.48	

Mendocino LAFCo
FY 2023-24 Estimated Work Plan Implementation Schedule and Cost Tracking
 November 1, 2023

Subject to Change: The estimated schedule and costs for the Fiscal Year 2023-24 Work Plan are subject to change based on agency responsiveness, timely provision of requested information, complexity of issues, level of public and affected agency controversy, and changing needs and priorities.

CEQA: Based on LAFCo practice, the work plan assumes minimal costs for CEQA compliance related to preparing a Notice of Exemption, unless an agency proposes a non-coterminous SOI and pays for any necessary studies and preparation of a Negative Declaration or Environmental Impact Report.

Rolling Work Plan: It is difficult to completely contain staff activities in a single fiscal year; therefore, completion of a study may roll over to the next fiscal year. This estimated work plan implementation schedule and cost tracking table is intended to enhance communication and transparency.

Agency	Coordination/ Request for Information	Admin Draft	Public Workshop	Public Hearing	Final Study	Previous FY Expenses	FY 2023-24 Budget	FY 2023-24 Expenses	Total Cost to Date ²
Coastal Water/Wastewater Districts (7)						\$ 18,754	\$ 100,000	\$ 25,330	\$ 44,083
Caspar South Water District	In process	In process							
Elk County Water District	In process	In process							
Gualala Community Services District	In process	In process							
Irish Beach Water District	In process	In process							
Mendocino County Water Works Water Works District No. 2	10/12/2023	In process							
Pacific Reefs Water District	10/27/2023	In process							
Westport County Water District	In process	In process							



Hinman & Associates Consulting

PO Box 1251 | Cedar Ridge, CA 95924
 (916) 813-0818 | uhinman@comcast.net

Date	November 2, 2023	Invoice No.	772
To	Mendocino LAFCo	Invoice Total	\$ 15,554.29
Project	Executive Officer Services		
Work Period	October 1 - 31, 2023		

Account	Description	Staff/Hours		Other (At Cost)	Totals
		Executive Officer \$110	Analyst \$86		
5300	Basic Services Public Records Act Requests	41.50	40.50	\$ 957.56	\$ 9,005.56
5601	Office Supplies Quickbooks Online fee			\$ 90.00	\$ 90.00
5700	Internet & Website Costs (Comcast, Hostinger)			\$ 93.67	\$ 93.67
6200	Bookkeeping	4.00			\$ 440.00
6750	Travel & Lodging Expense (Comm. Gonzalez hotel)			\$ 475.56	\$ 475.56
6800	Conferences (Registrations)			\$ 650.00	\$ 650.00
7001	Coastal Region Water/Wastewater MSR/SOI	12.75	36.50		\$ 4,541.50
8025	City of Ukiah Annex City Properties A-2021-01		1.00		\$ 86.00
8031	AVCSD Annex SOI A-2023-01		2.00		\$ 172.00
8032	Fort Bragg Pre-Application P-2023-02				\$ -
Totals		\$ 6,407.50	\$ 6,880.00	\$ 2,266.79	\$ 15,554.29

5300 Basic Services

Administrative tasks, file research and maintenance of official records and files. Respond to public inquiries and research requests. Prepare and process September and October claims. Preparation for November 6, 2023 regular Commission meeting and Policies & Procedures Committee meeting. Scanning historic resolutions to support office efficiencies. Development of draft Commissioner Handbook. Development of draft updates to application forms. Research of recent legislation. Research of out of agency service procedures. Development of streamlined MSR/SOI review process. Coordination with County staff regarding financial statements.

6200 Bookkeeping

Entered claims into Quickbooks and prepared checks. Reconciled Quickbooks.

7000 Work Plan (Sphere of Influence Updates, Municipal Service Reviews, and Special Studies)

Conduct research for coastal water and wastewater districts and private water companies (Pacific Reefs Water District, Caspar South Water District, Westport County Water District, Gualala CSD, Elk CWD, Irish Beach CWD, Mendocino County Water Works District 2 etc.); outreach with coastal agencies; develop administrative drafts and information requests.

8025 City of Ukiah Annexation of City-Owned Properties (A-2021-01)

Preparation of Certificate of Completion and BOE packet submittal.

8031 AVCSD Annexation of SOI (A-2023-01)

Provided examples of Plan for Services and supporting documents; coordinated with AVCSD staff regarding application needs.

From: Intuit QuickBooks Team <No_Reply@notifications.intuit.com>
Sent: Thursday, October 19, 2023 4:40 AM
To: eo@mendolafco.org
Subject: We received your QuickBooks subscription payment!



Payment success

Executive Officer, thank you for your payment.

Invoice number:
10001261445297
Invoice date: 10/19/2023
Total: \$90.00
Payment method: VISA ending
in [REDACTED]

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Account details

Billed to: Mendocino LAFCo
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Items on this invoice: QuickBooks Online Plus

(1) For subscriptions, your payment method on file will be automatically charged monthly/annually at the then-current list price until you cancel. If you have a discount it will apply to the then-current list price until it expires. Additional service fees may apply based on whether you add or remove services and your usage. See your [Billing & Subscription](#) page for additional pricing details. To cancel your subscription at any time, go to [Account & Settings](#) and cancel the subscription. (2) For one-time services, your payment method on file will reflect the charge in the amount referenced in this invoice. Terms, conditions, pricing, features, service, and support options are subject to change without notice.



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 Monterey, CA 93940
 Tel: 831-372-1234
 Fax: 831-375-3960
 monterey.hyatt.com

INVOICE

Gerardo Gonzalez
 Po Box 1251
 Cedar Ridge CA 95924
 United States

Room No. 1555
 Arrival 10-18-23
 Departure 10-20-23
 Folio Window 1
 Folio No.

Confirmation No. 414797601
 Group Name CALAFCO

Date	Description	Charges	Credits
10-18-23	Package Room	205.00	
10-18-23	Occupancy Tax 12.0%	24.60	
10-18-23	CA Assessment	0.40	
10-18-23	Monterey County Fee	4.50	
10-18-23	Monterey CCFD Tax 1.6%	3.28	
10-19-23	Package Room	205.00	
10-19-23	Occupancy Tax 12.0%	24.60	
10-19-23	CA Assessment	0.40	
10-19-23	Monterey County Fee	4.50	
10-19-23	Monterey CCFD Tax 1.6%	3.28	

	Total	475.56	0.00
Guest Signature	Balance	475.56	

I agree that my liability for this bill is not waived and I agree to be held personally liable in the event that the indicated person, company or association fails to pay for any part or the full amount of these charges.

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Your monthly account summary

Previous balance	93.67
Credit Card Payment Oct 04, 2023	-93.67 cr
New charges	
Comcast Business services	91.90
Taxes and fees	1.77

Amount due **\$93.67**

Payment due Nov 04, 2023



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MENDOCINO LAFCO
ATTN UMA HINMAN
200 S SCHOOL ST STE K
UKIAH, CA 95482-4828

Account number **8155 30 052 0354952**

Automatic payment due **Nov 04, 2023**

Please pay **\$93.67**

Credit Card Payment To Be Applied 11/04/23

COMCAST
PO BOX 60533
CITY OF INDUSTRY CA 91716-0533

California Local Agency Formation Commission

1451 River Park Dr Ste 185
Sacramento, CA 95815 US
+1 9164426536
jtickler@calafco.org
www.calafco.org

Sales Receipt

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2023 - Monterey

SALES #	DATE
2023 Con044	08/30/2023

PMT METHOD

Check

DATE	SERVICE	DESCRIPTION	QTY	RATE	AMOUNT
	Conferences	2023 CALFCO Conference in Monterey - Standard Mbr Reg: Uma	1	650.00	650.00

Thank you for registering for the 2023 CALAFCO Conference!

TOTAL	650.00
BALANCE DUE	\$0.00

MENDOCINO Local Agency Formation Commission

Staff Report

MEETING November 6, 2023
TO Mendocino Local Agency Formation Commission
FROM Uma Hinman, Executive Officer
SUBJECT **Ukiah Valley Groundwater Sustainability Agency Fee Rate Study**

RECOMMENDATION

The Commission will receive an informational presentation on behalf of the Ukiah Valley Groundwater Sustainability Agency regarding a rate and fee study being conducted to pay for activities of the Ukiah Valley Basin Groundwater Sustainability Agency.

BACKGROUND

The [Ukiah Valley Basin Groundwater Sustainability Agency](#) (UVBGSA/Agency) was created in 2017 by a Joint Powers Agreement (JPA) to serve as the official groundwater management agency for the Ukiah Valley Basin required by the Sustainable Groundwater Management Act (SGMA) of 2014. Member agencies include the City of Ukiah, County of Mendocino, Russian River Flood Control and Water Conservation District, and the Upper Russian River Water Agency. All member agencies have representation on the Board of Directors. Additional board members include Tribal and Agricultural representatives.

Currently, the UVBGSA is funded by members of the GSA. The UVBGSA has embarked on the process of establishing a long-term dependable funding mechanism for the Agency, which will reduce or eliminate the need for member contributions. The Rate Fee Study was initiated in June 2023 and is anticipated to be completed by August 2024. The new funding mechanism will pay for operating expenses necessary to manage and staff the Agency, and fund investigative and feasibility studies that advance understanding of the groundwater basin, monitoring activities as described in the Groundwater Sustainability Plan (GSP), annual reports required under SGMA, and five-year updates to the GSP. Additionally, the new funding mechanism will pay for management and implementation actions detailed in the GSP.

The UVBGSA is soliciting input from stakeholders.

Attachment(s) UVBGSA Draft Rate & Fee Study Outreach Plan

Attachment



UKIAH VALLEY BASIN GROUNDWATER SUSTAINABILITY AGENCY

340 Lake Mendocino Dr. • Ukiah • California 95482 • (707)463-4363 • fax (707)463-5474

GSA Administration Staff Report

Item No.	10
Date	8/30/2023
From	UVBGSA General Manager (Erik Cadaret)
To	Technical Advisory Committee
Subject	Rate and Fee Study – Draft Outreach and Engagement Plan
Consent Agenda <input type="checkbox"/> Regular Agenda <input checked="" type="checkbox"/> Notice of Public Hearing <input type="checkbox"/>	

Recommended Action

TAC will receive an update from Hansford Economics Consulting, LLC on the Draft Rate and Fee Study Outreach Plan. TAC will discuss and provide feedback on Draft Rate and Fee Study Outreach Plan.

Background

The purpose of conducting a rate and fee study (RFS) is to establish a long-term, dependable funding mechanism for administration of the GSA and GSP implementation. The GSA issued a Request for Proposals in January 2023 to receive proposals from consultants to support the GSA in implementing an RFS. At the June 2023 Board meeting, the Board entered into a contract with Hansford Economics and directed GSA Staff to initiate the project in June 2023 with an expedited target completion date of August 2024. Hansford Economics will be engaging the TAC throughout the development of the RFS to receive feedback on community engagement and technical aspects of the RFS.

Public outreach will be one of the fundamental components of establishing a reasonable, equitable, and legally defensible fee structure. Key principles include transparency, inclusion, and recognition of the diversity of groundwater users in the Ukiah Valley Basin, as well as cultural, environmental, and economic considerations. A draft Rate and Fee Study Outreach Plan has been prepared by Hansford Economic Consulting and RollinsPR Consulting which outlines the fee setting goals, outreach objectives, and strategies for engagement. As part of the development of the Rate and Fee Study Outreach Plan, the Agency’s Communication and Engagement Plan was reviewed, and GSA staff, including GSA legal counsel, were consulted on best practices for Tribal engagement.

Engagement strategies include presentations at scheduled public meetings, one-on-one meetings, website updates, articles, e-notices, communication materials, social and traditional media, and public workshops.



UKIAH VALLEY BASIN GROUNDWATER SUSTAINABILITY AGENCY

340 Lake Mendocino Dr. • Ukiah • California 95482 • (707)463-4363 • fax (707)463-5474

The RFS team has identified several potential stakeholders and interested parties thus far, and is seeking the TAC's support in identifying additional specific stakeholders, interest groups, and community members that should be targeted and how best to involve them.

The RFS team has also identified a list of Tribes that will be engaged throughout the RFS and is seeking the TAC tribal representatives' interest to support the RFS team and GSA staff to verify contact information in the near future.

GSA Staff are seeking input from the TAC on the draft Rate and Fee Study Outreach Plan, including any missing stakeholder groups, strategies to best engage with specific interest groups, and whether or not the RFS workshops should occur during non-work hours (between 6-7:30 pm).

Fiscal Impact

The RFS is estimated anticipated to cost up to \$165,000 depending on which funding mechanism the GSA Board decides to pursue and is already accounted for in the FY 2024 budget.

Attachments

Attachment 1 - Draft Rate and Fee Study Outreach Plan



Ukiah Valley Basin

Groundwater Sustainability Agency

Rate & Fee Study Outreach Plan

Prepared by Hansford Economic Consulting and RollinsPR Consulting

The Ukiah Valley Basin Groundwater Sustainability Agency (UVBGSA/Agency) was created in 2017 by a Joint Powers Agreement (JPA) to serve as the official groundwater management agency for the Ukiah Valley Basin required by the Sustainable Groundwater Management Act (SGMA) of 2014. Member agencies include the City of Ukiah, County of Mendocino, Russian River Flood Control and Water Conservation District, and the Upper Russian River Water Agency. All member agencies have representation on the Board of Directors. Additional board members include Tribal and Agricultural representatives.

Currently, the UVBGSA is funded by members of the GSA. The UVBGSA has embarked on the process of establishing a long-term dependable funding mechanism for the Agency, which will reduce or eliminate the need for member contributions. The Rate Fee Study was initiated in June 2023 and is anticipated to be completed by August 2024. The new funding mechanism will pay for operating expenses necessary to manage and staff the Agency, and fund investigative and feasibility studies that advance understanding of the groundwater basin, monitoring activities as described in the Groundwater Sustainability Plan (GSP), annual reports required under SGMA, five-year updates to the GSP. Additionally, the new funding mechanism will pay for management and implementation actions detailed in the GSP.

Public outreach will be one of the fundamental components of establishing a reasonable, equitable and legally defensible fee structure. Key principles include transparency, inclusion, and recognition of the diversity of groundwater users in the Ukiah Valley Basin, as well as cultural, environmental, and economic considerations. Clarity about the setting of and use of the fee will also be key given the GSA has been funded thus far by JPA members. As part of the development of the Rate & Fee Study Outreach Plan, the Agency's Communication and Engagement Plan was reviewed and GSA staff, including GSA legal counsel, were consulted on Tribal engagement protocol and communication tactics.

Fee-Setting Goals

- Establish a fee structure that the UVBGSA Board of Directors will adopt with confidence.
- Secure a fee structure adopted with maximum buy-in from interested parties, stakeholders and the community.
- Provide a fee structure that supports the financial obligations and budget needs of the UVBGSA.
- Set a fee structure that is easily administered, charged and collected.
- Proceed with a fee-setting process that recognizes the financial challenges of Disadvantaged Communities (DACs) and Severely Disadvantaged Communities (SDACs) in the Ukiah Valley Basin.
- Demonstrate due diligence to incorporate input and knowledge received during the outreach process into the fee-setting process.

Outreach Objectives

- Inform and educate those within the UVBGSA's boundaries about the GSA's current roles and responsibilities, potential future roles in implementing and supporting actions identified in the

GSP that will secure groundwater sustainability for the Ukiah Valley Basin, and potential fee structure options in clear, easy to understand communications.

- Maintain transparency throughout the project.
- Provide ample opportunities for stakeholders and impacted public to review and comment on fee structure options.
- Provide a clear explanation about how the UVBGSA's operating budget, and any capital project estimated cost, is determined.
- Identify and engage stakeholders/interested parties who will have a role in the development of the fee structure.
- Engage with Tribal Sovereign Nations to understand potential sensitivities related to the fee-setting process.
- Engage with leaders from DAC communities during the fee-setting process to establish a threshold of an acceptable annual fee amount.

Observations

- There are three primary land use categories identified in the Ukiah Valley Basin – Native (forests and riparian) Vegetation, Vineyards, and Urban/Domestic Users. Additional uses include minor farming of fruit and nut crops, grain and hay crops, and pasture.
- According to the Department of Water Resources Well Completion Reports, most wells serve private properties (domestic uses).
- Most communities within the basin are classified as either DACs or SDACs.
- The financial impact of imposing new fees on DACs and SDACs is a concern throughout the Ukiah Valley Basin.
- Federal Tribal lands are exempt from paying regulatory fees under SGMA.
- The Ukiah Valley Basin has a significant number of Tribal communities with water systems that are at risk due to depleting groundwater supplies.
- JPA members are stretched thin of resources and face budget constraints.
- There is a concern over groundwater quality, now and in the future.
- There is a strong sensitivity over natural ecosystems in the Ukiah Valley Basin. While the fee itself is not environmentally related, environmental representation during the process will be important.

Stakeholder and Interested Parties Identification and Outreach

Current stakeholders/interested parties include, but are not limited to:

- California Indian Environmental Alliance
- California Area Indian Health Services
- California Land Stewardship Institute*
- City of Ukiah* (including Diversity and Equity Committee)
- County of Mendocino*
- Mendocino Cannabis Alliance
- Mendocino County Farm Bureau
- Mendocino County Resource Conservation District*
- Mendocino, Lake, Sonoma Tribal Environmental Professionals (MLSTEP)
- North Coast Resource Partnership
- Redwood Valley Municipal Advisory Committee
- Rural Communities Housing Development (Property manager for Senior housing HOAs)
- Russian River Flood Control & Water Conservation Improvement District*

- Russian Riverkeeper
- Upper Russian River Water Agency*
- Large acre properties/Agriculture owners
- Commercial/Industrial business interests
- Disadvantaged communities (especially those most reliant on groundwater)
- Small water systems and public water systems
- Domestic well owners

**Representative on GSA Board or Technical Advisory Committee*

Tribal Engagement

- Coyote Valley Band of Pomo Indians*
- Guidiville Rancheria*
- Hopland Band of Pomo Indians
- Pinoleville Pomo Nation*
- Potter Valley Rancheria
- Redwood Valley Little River Band of Pomo Indians (Redwood Valley Rancheria)*
- Yokayo Tribe

**Certain categories of tribal government land are exempt from SGMA's requirements; however, tribal members may not live on tribal lands and their private properties may be subject to the UVBGSAs fee as ratepayers with property located on non-tribal lands.*

Interaction with tribal governments is essential to the fee study process. An internal planning meeting was held and steps were identified about how to best engage local Tribal Governments, including federally recognized sovereign nations, through strategic outreach and government to government consultation. Initial contact will involve:

- Information letter that introduces the project, team and purpose of the (RFS). Contact information will be provided should there be interest in scheduling a consultation.
- Attempts to contact identified tribal government leaders and appropriate staff will be made via phone call and/or email after 30 days to those that did not respond to introduction letters.

Follow-up engagement and tactics will be determined once initial contact and level of desired involvement has been established from the Tribal Government's representatives.

Interested Parties Engagement

Initial meetings with the GSA Board and the Technical Advisory Committee (TAC) will allow for further identification of specific contacts and resources suggested by Board and TAC members. One-on-one meetings may be held with members representing specific agencies and organizations. Introductory emails will be sent to contacts at other agencies/organizations to allow direct contact to schedule interviews and offer presentations at regularly scheduled meetings (i.e., Mendocino County Farm Bureau, Russian River Keeper, Rural Communities Housing Development). Common involvement includes:

- Consultant team to present at scheduled GSA Board and TAC meetings
- Conduct one-on-one meetings as appropriate (these will be virtual or via phone)

Outreach will be targeted to request and fulfill as many meetings/conversations as possible with identified stakeholders and interested parties. The result is to have a summary of input gathered from

most, if not all, identified parties that is then incorporated into the fee study analysis and considered in the fee development.

Public-at-Large Communication and Engagement Activities

In addition to the UVBGSA Board and TAC meetings, and stakeholder meetings, additional outreach activities will be implemented to inform and involve the Ukiah community. Outreach efforts will maximize use of existing communication channels to provide information to the community at large, including the existing UVBGSA newsletter and website, and local media channels. Additional communications may include postcards targeted to specific groups and public workshops. All workshops will be scheduled with respect to convenience of location and time scheduled.

Website – create RFS specific page. Content will include overview, FAQ, point of contact, map(s), advertise workshops and other project information as developed.

Articles and e-notices – provide RFS update articles and advertise opportunities for involvement as applicable. In addition to the UVBGSA’s newsletter, other agencies and organizations may allow a brief article or e-notice to be placed in its regular publication/e-blast, which will increase community reach about the fee-setting process and involvement opportunities.

Communication materials – create materials that best support project efforts. Materials may include postcards and flyers, posters and handouts. Materials will be created to fulfill a specific need, including reaching targeted populations or to provide notice about upcoming meetings and presentations.

Social and Traditional media – develop and place news releases, calendar announcements and notices. Media communication will be distributed as appropriate to highlight milestones, workshops, hearing to adopt fee study, and similar. Targeted media includes, but is not limited to:

- Ukiah Daily Journal/Willits News/Advocate News (same online publication with targeted audience and social media content)
- MendocinoNewsPlus Facebook Page
- Mendocino Voice (online/social media)
- Mendocino Coast Media

Workshops – schedule workshops in geographical locations convenient to reach Ukiah Valley Basin communities. Workshops offer a way for the general public to engage in issues that affect them outside of stakeholder/interested parties’ engagement. The workshops will be held from 6-7:30 p.m. on existing Board or TAC meeting dates to allow those who work an opportunity to attend in person or virtually. The first anticipated workshop will be held January 11th following the joint board meeting to review insights to be considered that were identified by UVBGSA, TAC members and stakeholders, and after fee-setting options have been narrowed down. A second workshop will be held following the TAC March 13th meeting when the fee study draft report will be presented.

Spanish – offer written and verbal translation, where feasible, into Spanish to reach Spanish-language communities that reside within the Basin. Staff are currently reaching out to Facilitation Support Services to assess their ability to support with translation services.

Conclusion

Other outreach opportunities may become available during the RFS process. The outreach plan should be considered a fluid document that allows for changes in engagement that will ultimately benefit the RFS process. The plan will be modified as needed to allow for thorough outreach and engagement.

MENDOCINO Local Agency Formation Commission

Staff Report

MEETING November 6, 2023
TO Mendocino Local Agency Formation Commission
FROM Uma Hinman, Executive Officer
SUBJECT **AB 399**

RECOMMENDATION

The Commission receive an informational report on AB 399 Water Ratepayers Provisions Act of 2023, which was signed into legislation by the Governor on October 13, 2023.

BACKGROUND

AB 399 created a fundamental change in the county water authority principal act to require any detachment approval by LAFCO be conditioned on a vote of the entire electorate within the subject county water authority. AB 399 also proposes to tab the subject county water authority to prepare the “independent analysis” presented to voters on the topic. There is only one affected agency operating under this principal act – San Diego County Water Authority.

Fallbrook Public Utility District (PUD) and Rainbow Municipal Water District (MWD)

To understand how the legislature got here, it is critical to understand the context of the environment. In March of 2020, both the Fallbrook Public Utility District (FPUD) and Rainbow Municipal Water District (RMWD) submitted proposals requesting LAFCO approval for each agency to separately and concurrently detach from the San Diego County Water Authority (SDCWA) and annex to the Eastern Municipal Water District (EMWD) in (Riverside County for purposes of changing wholesale water suppliers. Both districts serve agricultural rural regions of San Diego County and their customers are primarily farming communities. The districts are both already equipped with infrastructure that is connected to the EMWD allowing for a more or less seamless transition.

The districts both cite rising costs on imported water as the main reason for seeking detachment, but also note other motivating factors such as infrastructure costs and lack of accessibility to infrastructure.

Opponents of the detachment cite concerns related to long-term debt obligations and infrastructure costs. They also expressed concern over rate increases for those districts that remain in the SDCWA.

San Diego and Riverside LAFCOs entered into an agreement assigning all related approvals for both proposals to San Diego LAFCO.

Bill History

AB 399 was originally introduced to the state legislature on February 2, 2023 by Assemblymember Tasha Boerner (Encinitas) and was sponsored by the City of San Diego Mayor’s Office. The bill revises the County Water Authority Act of 1945 (CWAA) to require an additional confirming vote of the entire electorate of

the SDCWA (as the only special district formed under the Act) should any member agency receive approval from LAFCO to detach.

To remedy a missed deadline to make it out of Assembly, the contents of AB 399 were subsequently amended into AB 530 on May 15th through a comprehensive bill amendment (AB 530 was originally introduced on February 8th as a bill intended to help manage carbon emissions in the state). An urgency clause was also added to the proposed legislation to enact the provisions immediately. It is worth noting that the comprehensive amendment to the bill was added approximately three weeks after San Diego LAFCO staff posted a final report on the Fallbrook PUD and Rainbow MWD proposals and noticed a public hearing for June 5th to move forward with their detachment/annexation.

AB 399 was ultimately signed into law by the Governor on October 13th 2023.

Analysis

Originally, the CWAA required a majority vote of approval from among only the voting residents of a detaching agency (i.e., FPUD and RMWD), which is essentially consistent with the mandates under which LAFCOs operate. However, with the passage of AB 399, a second election is now required to be held (concurrently if desired) among the residents of the larger county water authority (i.e., the greater San Diego County Water Authority region) which is not consistent with LAFCO law.

Supporters of the bill erroneously justified the legislation by comparing it to the level of voter input required in cities should any of their neighborhoods seek to detach and self-incorporate. The cited comparison is known as the “San Fernando Valley” provision and requires city-wide electorate approvals to divide cities into two or more municipalities given the redistribution of general taxes and impacts on non-enterprise functions – like public safety. No other allowance exists in statute to require a city-wide or district-wide vote on detachments.

AB 399 has created an unbalanced public policy with proponents citing the need for County Water Authority voters to decide on detachments and, in doing so, having input on the disposition of any remaining long-term debts. The unbalancing ties to voters having no role to date in voting on long-term debts of the County Water Authority with the Board instead taking administrative action to finance projects by pledging future water rate revenues. (If the County Water Authority received voter approval to finance long-term debts, the debt payments would be drawn from the tax roll and would continue to be paid post-detachment under LAFCO statute.)

Direct Impacts (San Diego County Water Authority Case)

Prior to the LAFCO approval of the detachment, as stated in the San Diego LAFCo staff report related to this legislation (Attachment 1), both FPUD and RMWD contend they would have pursued alternatives other than detachments had the legislation been known at the time of their application filings in 2020, particularly given the costs and variables in holding expanded elections.

The FPUD and RMWD detachment/annexation was approved in July 2023 by San Diego LAFCo in a 5-3 affirmative decision and is currently set to hold the local election among voters in their districts that was once the only requirement post LAFCo approval November 2023. Given the timing of the election, if all goes accordingly, the two detachment and annexations should not be impacted by the effects of AB 399.

As a result of LAFCO’s approval of the two detachments, in August the SDCWA voted to pursue litigation against San Diego LAFCO’s decision on the grounds of inadequate environmental analysis, citing CEQA. The case is pending.

Larger Impacts on LAFCO

AB 399 was passed under the assumption that higher water rates are a given should any agencies detach from the County Water Authority. While detachments may generate higher water rates for end users, it is not a certainty since the lost revenue could be absorbed through cost-savings and/or recovered through new income streams. Existing statute also empowers LAFCO to mitigate any ratepayer impacts through various true-ups, including conditioning approvals on exit fee payments.

AB 399 circumvents LAFCO's decision-making authority by trumping any potential approvals creating an otherwise poisonous conditional requirement. This circumvention now applies to all other member agencies in the SDCWA's region in the future should they choose to pursue detachments based on otherwise meritorious local conditions and circumstances.

In summary:

- AB 399 serves the San Diego County Water Authority's interest – and by extension the City of San Diego – to sidestep San Diego LAFCO's recent decision to allow two agencies to detach (with a \$60m exit fee less a credit) and in doing so change the "rules" after the fact.
- No special districts' electorate currently gets to vote on detachments. AB 399 changes this and in doing so creates significant uncertainty for applicants to come forward given the variable of a vote plus the expenses that go with it. (There are 1.6 million voters in SDCWA.)

Attachments (1) San Diego LAFCo June 14, 2023 Staff Report
(2) Mendocino LAFCo AB 399 Opposition Letter, September 11, 2023
(3) Text of AB 399, Chaptered October 13, 2023

Attachment 1



San Diego County Local Agency Formation Commission Regional Service Planning | Subdivision of the State of California

7a

AGENDA REPORT Business | Action

June 14, 2023

TO: Commissioners
FROM: Keene Simonds, Executive Officer
SUBJECT: Action to Oppose Assembly Bill 530 and/or Related Legislation

SUMMARY

The San Diego County Local Agency Formation Commission (LAFCO) will consider a staff recommendation to take an oppose position on Assembly Bill 530 as amended on May 15th as well as on any related legislative efforts this session. The proposed legislation is authored by Assemblymember Tasha Boerner (Encinitas) and sponsored by the City of San Diego Mayor’s Office. The proposed legislation seeks an affirmative vote of the entire San Diego County Water Authority electorate as a statutory condition to any member agency receiving LAFCO approval to detach. This agenda item was initially placed on the Commission’s June 5th meeting but pulled to accommodate a meeting with the author. Staff subsequently met with the author on June 9th and – among other items – received confirmation they will be proceeding with the legislation this session through a substitute bill while also seeking an urgency clause to enact the provisions immediately. This timeline moots opportunities to work with the author and sponsor on any material amendments this session. As a result, and irrespective of the author and sponsor’s fair intentions, staff recommends the Commission proceed now to oppose the amended bill and any related legislation this session given substantive timing and content concerns as detailed. These concerns are collectively marked by disenfranchising Fallbrook Public Utility District (PUD) and Rainbow Municipal Water District (MWD) given their current proposal filings by establishing new and inconsistent thresholds in statute for special district detachments.

Administration Keene Simonds, Executive Officer 2550 Fifth Avenue, Suite 725 San Diego, California 92103-6624 T 619.321.3380 www.sdlafco.org lafco@sdcountry.ca.gov	Chair Jim Desmond County of San Diego Joel Anderson County of San Diego Nora Vargas, Alt. County of San Diego	Kristi Becker City of Solana Beach Dane White City of Escondido John McCann City of Chula Vista	Vice Chair Stephen Whitburn City of San Diego Marni von Wilpert, Alt. City of San Diego	Jo MacKenzie Vista Irrigation Barry Willis Alpine Fire Protection David A. Drake, Alt. Rincon del Diablo	Andy Vanderlaan General Public Harry Mathis, Alt. General Public
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BACKGROUND

Legislation to Amend County Water Authority Act

Assembly Bill (AB) 530 was introduced by Assemblymember Boerner on February 8, 2023 to further address and manage methane emissions in California. The bill was comprehensively amended on May 15th to revise the County Water Authority Act to require a confirming vote of the entire electorate of the San Diego County Water Authority – as the only special district formed under the Act – should any member agency receive approval from LAFCO to detach. The amended bill is sponsored by the City of San Diego through the Mayor’s Office. A copy of the amended bill is provided as Attachment One.

Response from County Water Authority and Letter of Concern to Assemblymember Boerner

LAFCO staff became aware of Assemblymember Boerner’s amended bill on May 16th. Staff contacted the County Water Authority and ultimately solicited a response from the General Manager on May 19th confirming the Authority’s support of the legislation. Staff proceeded to discuss the proposed legislation with the Mayor’s Office before issuing a letter of concern via email to the author on May 25th. Staff also submitted a meeting request with the author. Copies of the referenced communications (County Water Authority and Executive Officer) are provided as Attachments Two and Three.

Initial Agenda Placement and Meeting with Assemblymember Boerner

Staff initially placed Assemblymember Boerner’s amended bill on the agenda for San Diego LAFCO’s June 5th meeting with a recommendation to take an oppose position. The agenda item, however, was pulled in conjunction with staff receiving a meeting invite from the author on June 2nd. The meeting was subsequently held on June 9th by video and included the Executive Officer, LAFCO Consultant Chris Cate, and Commissioner Kristi Becker. During the meeting, the author confirmed their objectives for the legislation and most notably wanting to require the same level of voter input available to cities should any incorporated neighborhoods seek to detach and incorporate on their own (e.g., La Jolla). The author also confirmed plans to transfer the contents of the legislation into another bill that has already passed into the Senate and in doing so remedy a missed deadline. Amendment inquiries were raised by LAFCO staff but materially mooted given the author’s intent to fast-track the legislation by seeking an urgency clause this session.

DISCUSSION

This item is for San Diego LAFCO to consider a staff recommendation to approve an oppose position AB 530 as amended on May 15th as well as on any related legislative efforts this session. The timing of the recommendation is two-fold. It follows confirmation from Assemblymember Boerner of their intention to proceed with an urgency clause to enact the proposed legislation – currently in AB 530 and presumably to be transferred to a substitute bill shortly – immediately and impacts therein on Fallbrook PUD and Rainbow MWD’s detachment proposals. Pertinently, should the proposed legislation become law before the Commission take action on the proposals, any approvals would require affirmative votes of the entire County Water Authority electorate. The applicants contend they would have pursued alternatives other than detachments had the legislation been known at the time of their filings in April 2020 given the costs and variables in holding expanded elections.

ANALYSIS

San Diego LAFCO staff believes AB 530, as amended on May 15th generates considerable concerns with respect to both timing and content. LAFCO staff and counsel have made a series of decisions and determinations to guide its review of the Fallbrook PUD and Rainbow MWD proposals in step with forwarding recommendations to the Commission ahead of opening the joint hearing on June 5th. The proposed legislation – and irrespective of fair intentions – introduces an additional layer of uncertainty and influence at the 11th hour and negatively impacts staff’s ability to provide clear and reasonable guidelines and answers to Commissioners. This includes complications for three of the five options evaluated by staff and currently under consideration by the Commission.¹ The proposed legislation similarly creates uncertainty for the applicants in receiving due consideration for their proposals. Specific timing and content concerns follow.

With respect to timing:

- The proposed legislation was added to AB 530 through a comprehensive amendment process involving a bill previously introduced on February 8th to address methane emissions in California.
- The comprehensive amendment to AB 530 was published on May 15th. This is approximately three weeks after LAFCO staff posted a final report on the Fallbrook PUD and Rainbow MWD proposals and noticed a public hearing for June 5th.
- No committee in the Legislature has held a meeting on the proposed legislation and none are currently scheduled. Similarly, there have been no committee analyses performed on the proposed legislation.

¹ The June 5th agenda report on the proposed detachments outlines five distinct options for the Commission’s consideration. Three of the five options - which involve either approval (Options One and Two) or an administrative pause to first complete a municipal service review on the County Water Authority (Option Three) - are complicated by the proposed legislation. Options One and Two would need to be approved before the legislation becomes effective. Option Three – and unless substantively adjusted into a hybrid format with either of the two preceding alternatives – becomes moot.

- Because a June 2nd deadline to pass AB 530 out of the Assembly was missed, the author expects to place the proposed legislation in another bill that is already in the Senate through a second comprehensive amendment process.
- The author is expected to add an urgency clause to the proposed legislation as part of the second comprehensive amendment process. This means the proposed legislation could be enacted at any time this summer.

With respect to content:

- The proposed legislation disenfranchises Fallbrook PUD and Rainbow MWD by depriving established statutes that were otherwise and reasonably assumed to apply at the time of their respective proposal filings with LAFCO in April 2020.
- The proposed legislation circumvents LAFCO's decision-making involving the Fallbrook PUD and Rainbow MWD proposals by trumping any potential approvals by creating an otherwise poisonous condition requirement. This circumvention would similarly apply to other member agencies in the future should they choose to pursue detachments based on otherwise meritorious local conditions and circumstances.
- The proposed legislation is inconsistent with State law given no other provision exists that provides special districts' electorate veto-power over detachments.
- An unfit comparison is cited in justifying the proposed legislation by seeking the same level of voter input available in statute to cities should any of their neighborhoods seek to detach and self-incorporate. The cited comparison is known as the "San Fernando Valley" provision and requires city-wide electorate approvals to divide cities into two or more municipalities given the redistribution of general taxes and impacts on non-enterprise functions – like public safety. No other allowance exists in statute to require a city-wide or district-wide vote on detachments.
- The proposed legislation assumes higher water rates are a given should any agencies detach from the County Water Authority. While detachments may generate higher water rates for end users, it is not a certainty since the loss revenue could be absorbed through cost-savings and/or recovered through new income streams. Existing statute also empowers LAFCO to mitigate any ratepayer impacts through various true-ups – including conditioning approvals on exit fee payments.
- The proposed legislation creates an unbalanced public policy with proponents citing the need for County Water Authority voters to decide on detachments and in doing so having input on the disposition of any remaining long-term debts. The unbalancing ties to voters having no role to date in voting on long-term debts of the County Water Authority with the Board instead taking administrative action to finance projects by pledging future water rate revenues. (If the County Water Authority received voter approval to finance long-term debts, the debt payments would be drawn from the tax roll and can continue to be paid post detachment under LAFCO statute.)

RECOMMENDATION

It is recommended San Diego LAFCO approve an oppose position on AB 530 as amended on May 15th and any related legislation this session consistent with Alternative One as outlined in the proceeding section.

ALTERNATIVES FOR ACTION

The following alternative actions are available to San Diego LAFCO:

Alternative One (recommended):

Approve an oppose position on AB 530 as amended on May 15th as well as on any other related legislation this session and authorize the Executive Officer to prepare a letter for the Chair's signature for distribution.

Alternative Two:

Continue consideration of the item to a future meeting.

Alternative Three:

Take no action.

PROCEDURES FOR CONSIDERATION

This item has been placed on San Diego LAFCO's agenda for action as part of the business calendar. The following procedures are recommended in the consideration of this item:

- 1) Receive verbal presentation from staff unless waived.
- 2) Invite comments from interested audience members.
- 3) Discuss item and consider the recommendation.

Respectfully,



Keene Simonds
Executive Officer

Attachments:

1. AB 530, as Amended on May 15, 2023
2. Correspondence from County Water Authority to LAFCO on AB 530
3. Correspondence from LAFCO EO to Assemblymember Boerner on AB 530

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AMENDED IN ASSEMBLY MAY 15, 2023
 AMENDED IN ASSEMBLY MARCH 09, 2023

CALIFORNIA LEGISLATURE— 2023–2024 REGULAR SESSION

ASSEMBLY BILL

NO. 530

Introduced by Assembly Member Boerner

February 08, 2023

~~An act to amend Section 39731 of the Health and Safety Code, relating to greenhouse gases.~~ *An act to amend Section 11 of the County Water Authority Act (Chapter 545 of the Statutes of 1943), relating to water.*

LEGISLATIVE COUNSEL'S DIGEST

AB 530, as amended, Boerner. ~~Methane emissions.~~ *County Water Authority Act: exclusion of territory: procedure.*

The County Water Authority Act provides for the formation of county water authorities and grants to those authorities specified powers with regards to providing water service. The act provides 2 methods of excluding territory from any county water authority, one of which is that a public agency whose corporate area as a unit is part of a county water authority may obtain exclusion of the area by submitting to the electors within the public agency, at any general or special election, the proposition of excluding the public agency's corporate area from the county water authority. Existing law requires that, if a majority of the electors approve the proposition, specified actions take place to implement the exclusion.

This bill would additionally require the public entity to submit the proposition of excluding the public agency's corporate area from the county water authority to the electors within the territory of the county water authority. The bill would require the 2 elections to be separate; however, the bill authorizes both elections to run concurrently. The bill would require a majority vote for withdrawal in both elections for the withdrawal of the public agency from the territory of the county water authority.

~~Existing law requires the State Air Resources Board, no later than January 1, 2016, to complete a comprehensive strategy to reduce emissions of short-lived climate pollutants in the state. Existing law requires the state board, no later than January 1, 2018, to approve and begin implementing the comprehensive short-lived climate pollutant strategy to achieve a reduction in the statewide emissions of methane by 40%, hydrofluorocarbon gases by 40%, and anthropogenic black carbon by 50% below 2013 levels by 2030. Existing law requires the state board to undertake certain tasks, including consulting with federal and state agencies, independent scientific experts, and any other appropriate entities to gather or acquire the necessary information to carry out a life-cycle greenhouse gas emission analysis of natural gas produced and imported into the state using the best available and cost-effective scientific and technical methods, and to update relevant policies and programs to incorporate this information and other specified information.~~

~~This bill would additionally require the state board to consult with the aforementioned stakeholders to gather and acquire the necessary information to estimate, using the best available and cost-effective scientific and technical methods, methane emissions from landfills in the state. The bill would require the state board, no later than~~

~~December 31, 2024, to update relevant policies and programs to incorporate this information. The bill would require the state board to consider additional policies to encourage the use of natural gas produced in the state with the lowest life-cycle emissions.~~

Digest Key

Vote: majority Appropriation: no Fiscal Committee: ~~yes~~no Local Program: no

Bill Text

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Section 11 of the County Water Authority Act (Chapter 545 of the Statutes of 1943), as amended by Section 3 of Chapter 1408 of the Statutes of 1985, is amended to read:

Sec. 11. (a) Exclusion of territory from any county water authority may be effected by either of the following methods:

(1) Territory excluded from the portion of the corporate area of any public agency ~~which that~~ lies within the exterior boundaries of a county water authority, the public agency being a unit of the authority, and ~~which that~~ exclusion occurs in accordance with the provisions of law applicable to those exclusions, shall thereby be excluded from and shall no longer be a part of the authority; provided, that the taxable property within the excluded territory shall continue to be taxable by the county water authority for the purpose of paying the ~~bounded~~ bonded or other indebtedness outstanding or contracted for at the time of the exclusion and until the bonded or other indebtedness has been satisfied; provided further, that if the taxable property within the excluded territory or any part thereof shall be, at the time of the exclusion, subject to special taxes levied, or to be levied, by the county water authority pursuant to terms and conditions previously fixed under paragraph subdivision (c) or (d) of Section 10 for the annexation of the excluded territory or part thereof to the county water authority, the taxable property within the excluded territory or part thereof so subject to those special taxes shall continue to be taxable by the county water authority for the purpose of raising the aggregate sums to be raised by the levy of special taxes upon taxable property within the respective annexing areas pursuant to terms and conditions for the annexation or annexations as so fixed and until the aggregate sums have been so raised by the special tax levies.

Exclusion of territory from a county water authority pursuant to this paragraph shall not occur if two or more public agencies that are included in a county water authority as separate units are subject to a reorganization of their boundaries under applicable provisions of law ~~which that~~ would result in an exchange or transfer, but not an overlapping, of territory that is entirely within the county water authority. The boundaries of those agencies within the county water authority, upon that reorganization and the filing with the secretary of the county water authority of a copy of the certificate of completion prepared, executed, and filed by the executive officer of the local agency formation commission responsible therefore constitute the boundaries of the agencies for all purposes of the county water authority, without action by the board of directors of the county water authority. If the exchange includes territory subject to special conditions and tax levies pursuant to the terms of annexation at the time the territory became a part of the county water authority, the territory shall continue to be subject to those conditions and to be taxable by the county water authority or those levies.

From and after the effective date of the inclusion of the territory by the including public agency, the territory shall be considered to be a part of the corporate area of the including agency; provided, however, that, if the taxable property within the territory, or any portion thereof, is subject to special taxes levied or to be levied by

the county water authority pursuant to terms and ~~condition~~ *conditions* previously fixed under subdivision (c) or (d) of Section 10 for the annexation of the territory or portion thereof to the county water authority, then the taxable property within the territory shall continue to be taxable by the county water authority for the purpose of raising the aggregate sums to be raised by the levy of the special taxes pursuant to the terms and conditions for the annexation or annexations as so fixed and until the aggregate sums have been ~~or so~~ raised by the special tax levy.

(2) Any public agency whose corporate area as a unit has become or is a part of any county water authority may obtain the exclusion of the area therefrom *by elections conducted* in the following manner:

~~The~~

(A) (i) The governing body of any public agency may submit to the electors thereof at any general or special election the proposition of excluding from the county water authority the corporate area of the public agency. Notice of the election shall be given in the manner provided in subdivision (c) of Section 10. The election shall be conducted and the returns thereof canvassed in the manner provided by law for the conduct of elections in the public agency. If a majority of electors voting thereon vote in favor of withdrawal, the result thereof shall be certified by the governing body of the public agency to the board of directors of the county water authority. ~~A~~

(ii) The governing body of any public agency may submit to the electors within the territory of the county water authority at any general or special election the proposition of excluding from the county water authority the corporate area of the public agency. Notice of the election shall be given in the manner provided in subdivision (c) of Section 10. The election shall be conducted and the returns thereof canvassed in the manner provided by law for the conduct of elections in the public agency. If a majority of electors within the territory of the county water authority voting thereon vote in favor of withdrawal, the result thereof shall be certified by the governing body of the public agency to the board of directors of the county water authority.

(iii) The elections conducted pursuant to this subparagraph shall be separate elections; however, they may run currently with one another. A majority vote in both elections for withdrawal is necessary for the withdrawal of the public agency from the territory of the county water authority.

*(B) A certificate of the proceedings shall be made by the secretary of the county water authority and filed with the Secretary of State. Upon the filing of the certificate, the corporate area of the public agency shall be excluded from the county water authority and shall no longer be a part thereof; provided, that the taxable property within the excluded area shall continue to be taxable by the county water authority for the purpose of paying the bonded and other indebtedness of the county water authority outstanding or contracted for at the time of the exclusion and until the bonded or other indebtedness has been satisfied; provided further, that if the taxable property within the excluded area or any part thereof is, at the time of the exclusion, subject to special taxes levied or to be levied by the county water authority pursuant to the terms and conditions previously fixed under subdivision (c) or (d) of Section 10 for the annexation of the excluded area or part thereof to the county water authority, the taxable property within the excluded area or part thereof so subject to the special taxes shall continue to be taxable by the county water authority for the purpose of raising the aggregate sums to be raised by the levy of special taxes upon taxable property within the respective annexing areas pursuant to the terms and conditions for the annexation or annexations as so fixed and until the aggregate sums have been so raised by the special tax levies. Upon the filing of the certificate of proceedings, the Secretary of State shall, within 10 days, issue a certificate reciting the filing of the papers in ~~his or her~~ *the Secretary of State's* office and the exclusion of the corporate area of the public agency from the county water authority. The Secretary of State shall transmit the original of the certificate to the secretary of the county water authority and shall forward a certified copy thereof to the county clerk of the county in which the county water authority is situated.*

(b) Whenever territory is excluded from any public agency in accordance with paragraph (1) of subdivision (a), the governing body, or clerk thereof, of the public agency shall file with the board of directors of the county

water authority a statement of the change of boundaries of the public agency, setting forth the legal description of the boundaries of the public agency, as so changed, and of the part thereof within the county water authority, which statement shall be accompanied by a map or plat indicating the boundaries.

(c) Whenever any territory has been excluded from any public agency prior to the effective date of this section, under conditions ~~which~~ *that* would have resulted in the exclusion of the territory from a county water authority had paragraph (1) of subdivision (a) then been in effect, upon compliance with the following provisions of this paragraph, the territory shall be excluded from and shall no longer be a part of, the authority, the last-mentioned provisions being as follows:

(1) The governing body of the public agency may adopt an ordinance ~~which,~~ *that,* after reciting that the territory has been excluded from the public agency by proceedings previously taken under statutory authority, and after referring to the applicable statutes and to the date or dates upon which the exclusion became effective, shall describe the territory and shall determine and declare that the territory shall be, and thereby is, excluded from the county water authority.

(2) The governing body, or clerk thereof, of the public agency shall file a certified copy of the ordinance with the Secretary of State. Upon the filing of the certified copy of the ordinance in the office of the Secretary of State, the territory shall be excluded from, and shall no longer be a part of, the county water authority; provided, that the taxable property within the excluded territory shall continue to be taxable by the county water authority for the purpose of paying the bonded or other indebtedness outstanding or contracted for at the time of the exclusion, and until the bonded or other indebtedness has been satisfied; provided further, that if the taxable property within the excluded territory or any part thereof is, at the time of the exclusion, subject to special taxes levied or to be levied by the county water authority pursuant to terms and conditions previously fixed under subdivision (c) or (d) of Section 10 for the annexation of the excluded territory or part thereof to the county water authority, the taxable property within the excluded territory or part thereof so subject to the special taxes shall continue to be taxable by the county water authority for the purpose of raising the aggregate sums to be raised by the levy of special taxes upon taxable property within the respective annexing areas pursuant to the terms and conditions for the annexation or annexations as so fixed, and until the aggregate sums have been so raised by the special tax levies.

(3) Upon the filing of the certified copy of the ordinance, the Secretary of State shall, within 10 days issue a certificate describing the territory, reciting the filing of certified copy of the ordinance and the exclusion of the territory from the county water authority, and declaring that the territory is no longer a part of the county water authority. The Secretary of State shall transmit the original of the certificate to the secretary of the county water authority and shall forward a certified copy of the certificate to the county clerk of the county in which the county water authority is situated.

(d) Whenever any territory has been exchanged or transferred pursuant to law prior to January 1, 1986, among two or more public agencies that are included in a county water authority as separate units, the territory shall not be deemed excluded from the county water authority, notwithstanding the failure of the county water authority to give its consent to the exchange or transfer of the territory, if there has been filed with the board of directors of the county water authority prior to January 1, 1986, a statement of the change of boundaries of the agencies, as so changed, and of the part within the county water authority, which statement shall be accompanied by a map or plat indicating those boundaries.

~~SECTION 1. Section 39731 of the Health and Safety Code is amended to read:~~

~~39731. The state board shall do all of the following:~~

~~(a) Monitor and measure, in consultation with districts that monitor methane, high-emission methane hot spots in the state using the best available and cost-effective scientific and technical methods.~~

~~(b) Consult with federal and state agencies, independent scientific experts, and any other appropriate entities to gather or acquire the necessary information to estimate, using the best available and cost-effective scientific and technical methods, methane emissions from landfills in the state and carry out a life-cycle greenhouse gas~~

~~emission analysis of natural gas produced and imported into the state.~~

~~(c) Update, no later than December 31, 2024, relevant policies and programs to incorporate the information gathered and acquired pursuant to subdivisions (a) and (b).~~

~~(d) Consider additional policies to encourage the use of natural gas produced in the state with the lowest life-cycle emissions.~~

~~(e) Review, in consultation with independent scientific experts, the most recent available scientific data and reports on the atmospheric reactivity of methane as a precursor to the formation of photochemical oxidants.~~

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VIA EMAIL

Keene Simonds, Executive Officer

San Diego County Local Agency Formation Commission
2550 Fifth Avenue, Suite 725
San Diego, CA 92103
(keene.simonds@sdcounty.ca.gov)

May 19, 2023

Re: Rainbow Letter of May 18, 2023

Dear Mr. Simonds:

We are in receipt of Mr. Tom Kennedy's letter to you of May 18, 2023, about new pending legislation, Assembly Bill 530. We are disappointed at both the tone and the content of Mr. Kennedy's letter. He makes a number of inaccurate and disparaging remarks that are counter-productive. We address some of his main contentions here so that you and the Commission are not misinformed.

For context, you will recall that years ago the Water Authority Board requested that LAFCO consider a vote in our service area so that all persons who would be affected by the requested Fallbrook/Rainbow reorganizations could have a say. As your own current Agenda Report for June 5 notes, millions of ratepayers in San Diego County will see increased water rates and loss of some of our County's MWD voting rights if the Commission were to approve the pending applications. Our Board felt it very important that all local residents who would face such impacts have a voice in the matter. Indeed, at the very first LAFCO Commission hearing on these applications years ago, then LAFCO Chair Dianne Jacob expressed exactly the same concern and supported such a vote in our entire service area.

However, as your Draft Report also notes, LAFCO's counsel has stated that LAFCO has no statutory authority to grant a vote by all those affected. As you know, our legal counsel disagrees, but we understand attorneys can have differing views.

Given LAFCO counsel's stated position that your agency is constrained by law from requiring a vote by all those persons affected by the applications, it is no surprise that the City of San Diego (not the Water Authority), decided that a vote by all those concerned was important enough to be reviewed by the Legislature. AB 530, the bill Mr. Kennedy addresses, simply allows a vote in our service area when agencies seek to detach. Though we did not propose this law, we certainly

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City of Oceanside • Olivenhain MWD • Otay Water District • Padre Dam MWD • Camp Pendleton Marine Corps Base • City of Poway • Rainbow MWD
Ramona MWD • Rincon del Diablo MWD • City of San Diego • San Dieguito Water District • Santa Fe Irrigation District • Sweetwater Authority
Vallecitos Water District • Valley Center MWD • Vista Irrigation District • Yuima Municipal Water District

understand the concerns that led our member agency -- the largest City in the County --to seek legislation that would let the voters decide such an important issue.

Indeed, in a March 21, 2023, *Union-Tribune* article, it was noted that when you were asked about La Jolla's trying to leave the rest of the City of San Diego:

Simonds said . . . that communities that are already part of a city must win majority approval from the rest of the city's voters [to leave]."

It is our understanding that the City of San Diego is simply asking the Legislature to apply the same legal principle for the Water Authority that you cited as to cities in California. There is nothing wrong in asking the Legislature to let affected voters have a say in this matter, something the Commission itself might well prefer, but for the legal opinion it received.

A few additional specific comments as to accusations made by Mr. Kennedy:

- He claims this was an “attempt by SDCWA to bypass the determinations that SDLAFCO and its counsel have made in the staff report that will be considered on June 5th by the Commission.” First, AB 530 was not written, drafted, or reviewed by our staff or counsel. It is a proposal sponsored by the City of San Diego. Second, we are sure you would disagree with Mr. Kennedy that LAFCO staff have made “determinations” via your report. We are sure you would instead agree that the Commission, and not LAFCO staff, will make determinations on this matter for your agency.
- Mr. Kennedy states that AB 530 is “an affront to the processes ongoing at LAFCO” and that this legislation will “corrode the authority of LAFCOs statewide.” The exact opposite is true. The proposed legislation, which the Water Authority Board will soon review at a noticed meeting, simply allows voters to be heard, which is what our Board requested of LAFCO years ago, which former Chair Jacob supported, and which in fact might be welcomed by most of your Commissioners.
- Mr. Kennedy asserts that the Water Authority has just recently been “finally willing to have open discussions.” That is not correct. We have sent extensive correspondence over the years to LAFCO pointing out how Rainbow and Fallbrook had not honored commitments to us for proposals to resolve this matter.
- Mr. Kennedy asks that you remove Option 3 (a delay for an MSR on the Water Authority) as a possibility. Though our agency does not support this option, as you will see in our upcoming formal comment letter, it is not up to Mr. Kennedy, or you, to remove options from the Commission. We reiterate the point that it is the Commission, not staff, and certainly not Mr. Kennedy and his agency, which decide matters at LAFCO. All legal options are of course open to the Commission.

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City of Oceanside • Olivenhain MWD • Otay Water District • Padre Dam MWD • Camp Pendleton Marine Corps Base • City of Poway • Rainbow MWD
Ramona MWD • Rincon del Diablo MWD • City of San Diego • San Dieguito Water District • Santa Fe Irrigation District • Sweetwater Authority
Vallecitos Water District • Valley Center MWD • Vista Irrigation District • Yuima Municipal Water District

Thank you for your consideration of these matters.

Sincerely,



Sandra L. Kerl
General Manager

cc via email:

All LAFCO Commissioners
Holly Whatley, LAFCO General Counsel
Adam Wilson, Ad Hoc Committee Moderator
David Edwards, General Counsel, San Diego County Water Authority
Mark Hattam, Special Counsel, San Diego County Water Authority
Claire Collins, Counsel, San Diego County Water Authority
Jack Bebee, General Manager, Fallbrook PUD
Paula C. P. de Sousa, Counsel, Fallbrook PUD
Nick Kanetis, Deputy General Manager, Eastern MWD
Tom Kennedy, General Manager, Rainbow MWD
Alfred Smith, Counsel, Rainbow MWD
Water Authority Board of Directors
Rainbow Municipal Water District Board of Directors

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San Diego County
Local Agency Formation Commission
 Regional Service Planning | Subdivision of the State of California

May 25, 2023

DELIVERED BY ELECTRONIC MAIL

Assemblymember Tasha Boerner
 State of California
 77th Assembly District
 c/o Robert Charles, Chief of Staff
robert.charles@asm.ca.gov

SUBJECT: Concerns with Assembly Bill (AB) 530

Honorable Assemblymember Boerner:

As the Executive Officer of the San Diego County Local Agency Formation Commission (LAFCO), I am writing to express concerns regarding your proposed AB 530, and the amendments that were introduced on May 15th. The amendments to a previously unrelated bill involving the reduction of methane emissions seek to revise the County Water Authority Act to require expanded voter confirmations of any LAFCO approved detachments. The San Diego County Water Authority is the only agency organized under this principal act. The amended bill, accordingly, would require any member agency of the County Water Authority to receive majority confirmation among registered voters throughout the entirety of the Authority’s jurisdictional boundary as a condition to detachment.

As amended, AB 530 generates significant concerns in terms of timing and content.

- With respect to timing, the amended bill comes at the end of a prolonged administrative review process that began in April 2020 in which San Diego LAFCO has expended considerable public resources in evaluating Fallbrook Public Utility District (PUD) and Rainbow Municipal Water District’s (MWD) applications to detach from the County Water Authority. This includes staff holding more than a dozen publicly noticed meetings with three different advisory committees as well as employing multiple outside experts. LAFCO staff has recently capitalized on this extensive administrative review and the 4,000 plus pages of documents therein in issuing a final

<p>Administration Keene Simonds, Executive Officer 2550 Fifth Avenue, Suite 725 San Diego, California 92103 T 619.321.3380 www.sdlafco.org lafco@sdcounty.ca.gov</p>	<p>Chair Jim Desmond County of San Diego</p> <p>Joel Anderson County of San Diego</p> <p>Nora Vargas, Alt. County of San Diego</p>	<p>Kristi Becker City of Solana Beach</p> <p>Dane White City of Escondido</p> <p>John McCann Alt. City of Chula Vista</p>	<p>Vice Chair Stephen Whitburn City of San Diego</p> <p>Marni von Wilpert, Alt. City of San Diego</p>	<p>Jo MacKenzie Vista Irrigation</p> <p>Barry Willis Alpine Fire Protection</p> <p>David Drake, Alt. Rincon del Diablo</p>	<p>Andy Vanderlaan General Public</p> <p>Harry Mathis, Alt. General Public</p>
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report with recommendations on April 26, 2023 with a public hearing set for June 5th. Further, one of the merited options evaluated and available to the Commission involves administratively pausing action on the proposals in favor of completing a comprehensive municipal service review on the County Water Authority, which would likely take 18-24 months to complete. This option now appears impractical with the potential chaptering of the amended bill.

- With respect to content, the amended bill would establish a defacto prohibition on member agency detachments from the County Water Authority given the unfavorable odds for any single agency in receiving majority approval from the entire Authority electorate, which presently tallies 1.9 million registered voters. As the current proposals filed by Fallbrook PUD and Rainbow MWD indicate, there may be unique and locally meritorious reasons for member agencies to seek future detachments that would be otherwise mooted from consideration should the amended bill proceed into law. Similarly, I am not aware of any existing provision – certainly not in LAFCO statute and presumably not in any other principal act – that provides special district voters the approval power over proposed detachments. Accordingly, the precedent setting nature of the amended bill and potential for unintended consequences should not be dismissed. Similarly, the amended bill’s sidestepping of the Legislature’s long-standing delegation to LAFCOs to independently consider jurisdictional changes and term any approvals as appropriate should not be dismissed given its own precedent setting nature.

San Diego LAFCO staff and counsel have made a series of decisions and determinations to guide its review of the Fallbrook PUD and Rainbow MWD detachment proposals in step with forwarding recommendations to the Commission ahead of a June 5th public hearing. The amended bill introduces an additional layer of uncertainty and influence at the 11th hour and negatively impacts our ability to provide clear and reasonable guidelines and answers to Commissioners. The precedent setting nature of the bill is equally concerning as detailed.

I appreciate your consideration of my letter. I would also welcome any opportunity to further discuss the amended bill with you and/or your staff and will make myself available to accommodate your schedules. I am available by telephone at 619-321-3380 or email at keene.simonds@sdcountry.ca.gov.

Respectfully,



Keene Simonds
Executive Officer

cc:

San Diego LAFCO Commissioners
Honorable Mayor Todd Gloria of the City of San Diego
Holly Whatley, Commission Counsel
Aleks Giragosian, Deputy Commission Counsel
Priscilla Mumpower, Analyst II
Chris Cate, LAFCO Consultant
Adam Wilson, LAFCO Consultant
Nick Serrano, Deputy Chief of Staff for Mayor Todd Gloria
Sandy Kerl, County Water Authority General Manager
Jack Bebee, Fallbrook PUD General Manager
Tom Kennedy, Rainbow MWD General Manager
Nick Kanetis, Eastern MWD Assistant General Manager
René LaRoche, CALAFCO Director

MENDOCINO

Local Agency Formation Commission

Ukiah Valley Conference Center | 200 South School Street | Ukiah, California 95482
Telephone: (707) 463-4470 | E-mail: eo@mendolafco.org | Web: www.mendolafco.org

COMMISSIONERS

September 11, 2023

Maureen Mulheren, Chair
County Member

Gerald Ward,
Vice Chair/Treasurer
Public Member

Assemblymember Tasha Boerner
State of California
77th Assembly District
c/o Robert Charles, Chief of Staff
robert.charles@asm.ca.gov

Katharine Cole
Special District Member

Gerardo Gonzalez
City Member

Dear Assemblymember Boerner,

Candace Horsley
Special District Member

RE: **AB 399 – OPPOSE**

Glenn McGourty
County Member

The Mendocino Local Agency Formation Commission (LAFCo) has been following your bill, **AB 399**, as amended on June 14th. The proposed legislation seeks an affirmative vote of the entire San Diego County Water Authority electorate via its principal act as a statutory condition to any member agency receiving LAFCo approval to detach. The proposed legislation also includes an urgency clause to enact the provisions immediately. Mendocino LAFCo respectfully opposes **AB 399**.

Mari Rodin
City Member

Francois Christen, Alternate
Special District Member

Douglas Crane, Alternate
City Member

Mendocino LAFCo opposes **AB 399** as currently drafted because it seeks to change the way detachment elections are conducted under provisions contained within the uncodified statutes of the County Water Authority Act of 1943 (the CWAA). This existing process is essentially consistent with the Cortese – Knox – Hertzberg Local Government Reorganization Act of 2000 (CKH) under which LAFCos operate.

John Haschak, Alternate
County Member

Richard Weinkle, Alternate
Public Member

AB 399 deviates by requiring a second election to be held in addition to the above election. However, this second election will be held among all the voters within the territory of the larger county water authority, which is not consistent with existing CKH law.

STAFF

Executive Officer
Uma Hinman

Requiring an additional election from among the entire voting base within the larger county water authority boundary skews the LAFCo process by diminishing the voices of those within the area proposed for detachment who will feel most of the effects. Thus, it will, in effect, remove local control and self-determination as the voices of the residents within the detaching territory get diluted among those of the entire water authority.

Clerk/Analyst
Larkyn Feiler

Counsel
Marsha Burch

While we are pleased to hear that urgency clause has been removed from **AB 399**, for the above reasons, Mendocino LAFCo opposes **AB 399** as currently written.

REGULAR MEETINGS

First Monday of each month
at 9:00 AM in the
Mendocino County
Board of Supervisors
Chambers
501 Low Gap Road, Ukiah

While Mendocino LAFCo appreciates and sympathizes with the gravity of the underlying issues driving **AB 399**, we must respectfully oppose it for the above reasons.

(continued)

Assemblymember Tasha Boerner

RE: AB 399

September 11, 2023

Page 2

Please contact our Executive Officer, Uma Hinman, at eo@mendolafco.org or (707) 463-4470, if you have any questions.

Yours sincerely,



Maureen Mulheren
Commission Chair

Cc: Members, Assembly Local Government Committee
Jimmy MacDonald, Consultant, Assembly Local Government Committee
William Weber, Consultant, Assembly Republican Caucus
Senator Mike McGuire, District 2
Assemblymember Jim Wood, District 2
Rene LaRoche, Executive Director, CALAFCO

Assembly Bill No. 399

CHAPTER 802

An act to amend Section 11 of the County Water Authority Act (Chapter 545 of the Statutes of 1943), relating to water.

[Approved by Governor October 13, 2023. Filed with Secretary of State October 13, 2023.]

LEGISLATIVE COUNSEL'S DIGEST

AB 399, Boerner. Water Ratepayers Protections Act of 2023: County Water Authority Act: exclusion of territory: procedure.

The County Water Authority Act provides for the formation of county water authorities and grants to those authorities specified powers with regards to providing water service. The act provides 2 methods of excluding territory from any county water authority, one of which is that a public agency whose corporate area as a unit is part of a county water authority may obtain exclusion of the area by submitting to the electors within the public agency, at any general or special election, the proposition of excluding the public agency's corporate area from the county water authority. Existing law requires that, if a majority of the electors approve the proposition, specified actions take place to implement the exclusion.

This bill, the Water Ratepayers Protections Act of 2023, would additionally require the public entity to submit the proposition of excluding the public agency's corporate area from the county water authority to the electors within the territory of the county water authority. The bill would require the 2 elections to be separate; however, the bill would authorize both elections to run concurrently. The bill would require the ballot materials to include a fiscal impact statement, as described. The bill would also require the ballot materials for the election encompassing the territory of the county water authority to include a statement describing the annual aggregated fiscal impact to remaining members of the county water authority as a result of the reorganization. The bill would require the county water authority to prepare that statement. By imposing a higher level of service on a local agency, the bill would impose a state-mandated local program. The bill would require a majority vote for withdrawal in both elections for the withdrawal of the public agency from the territory of the county water authority.

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, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement

for those costs shall be made pursuant to the statutory provisions noted above.

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

SECTION 1. This act shall be known, and may be cited, as the Water Ratepayers Protections Act of 2023.

SEC. 2. Section 11 of the County Water Authority Act (Chapter 545 of the Statutes of 1943), as amended by Section 3 of Chapter 1408 of the Statutes of 1985, is amended to read:

Sec.11. (a) Exclusion of territory from any county water authority may be effected by either of the following methods:

(1) Territory excluded from the portion of the corporate area of any public agency that lies within the exterior boundaries of a county water authority, the public agency being a unit of the authority, and that exclusion occurs in accordance with the provisions of law applicable to those exclusions, shall thereby be excluded from and shall no longer be a part of the authority; provided, that the taxable property within the excluded territory shall continue to be taxable by the county water authority for the purpose of paying the bonded or other indebtedness outstanding or contracted for at the time of the exclusion and until the bonded or other indebtedness has been satisfied; provided further, that if the taxable property within the excluded territory or any part thereof shall be, at the time of the exclusion, subject to special taxes levied, or to be levied, by the county water authority pursuant to terms and conditions previously fixed under subdivision (c) or (d) of Section 10 for the annexation of the excluded territory or part thereof to the county water authority, the taxable property within the excluded territory or part thereof so subject to those special taxes shall continue to be taxable by the county water authority for the purpose of raising the aggregate sums to be raised by the levy of special taxes upon taxable property within the respective annexing areas pursuant to terms and conditions for the annexation or annexations as so fixed and until the aggregate sums have been so raised by the special tax levies.

Exclusion of territory from a county water authority pursuant to this paragraph shall not occur if two or more public agencies that are included in a county water authority as separate units are subject to a reorganization of their boundaries under applicable provisions of law that would result in an exchange or transfer, but not an overlapping, of territory that is entirely within the county water authority. The boundaries of those agencies within the county water authority, upon that reorganization and the filing with the secretary of the county water authority of a copy of the certificate of completion prepared, executed, and filed by the executive officer of the local agency formation commission responsible therefore constitute the boundaries of the agencies for all purposes of the county water authority, without action by the board of directors of the county water authority. If the exchange includes territory subject to special conditions and tax levies

pursuant to the terms of annexation at the time the territory became a part of the county water authority, the territory shall continue to be subject to those conditions and to be taxable by the county water authority or those levies.

From and after the effective date of the inclusion of the territory by the including public agency, the territory shall be considered to be a part of the corporate area of the including agency; provided, however, that, if the taxable property within the territory, or any portion thereof, is subject to special taxes levied or to be levied by the county water authority pursuant to terms and conditions previously fixed under subdivision (c) or (d) of Section 10 for the annexation of the territory or portion thereof to the county water authority, then the taxable property within the territory shall continue to be taxable by the county water authority for the purpose of raising the aggregate sums to be raised by the levy of the special taxes pursuant to the terms and conditions for the annexation or annexations as so fixed and until the aggregate sums have been so raised by the special tax levy.

(2) Any public agency whose corporate area as a unit has become or is a part of any county water authority may obtain the exclusion of the area therefrom by elections conducted in the following manner:

(A) (i) (I) The governing body of any public agency may submit to the electors thereof at any general or special election the proposition of excluding from the county water authority the corporate area of the public agency. Notice of the election shall be given in the manner provided in subdivision (c) of Section 10. The election shall be conducted and the returns thereof canvassed in the manner provided by law for the conduct of elections in the public agency. If a majority of electors voting thereon vote in favor of withdrawal, the result thereof shall be certified by the governing body of the public agency to the board of directors of the county water authority.

(II) The ballot materials submitted to the electors shall include a fiscal impact statement in the statement of the ordinance to be voted upon, which the public agency shall prepare. The fiscal impact statement shall include an estimate of the measure's impact on the public agency's water rates, any anticipated exit fees the member public agency expects to pay to the county water authority, and the amount and duration of any bonded and other indebtedness the public agency is required to pay pursuant to subparagraph (B).

(ii) (I) The governing body of any public agency may submit to the electors within the territory of the county water authority at any general or special election the proposition of excluding from the county water authority the corporate area of the public agency. Notice of the election shall be given in the manner provided in subdivision (c) of Section 10. The election shall be conducted and the returns thereof canvassed in the manner provided by law for the conduct of elections in the public agency. If a majority of electors within the territory of the county water authority voting thereon vote in favor of withdrawal, the result thereof shall be certified by the governing body of the public agency to the board of directors of the county water authority.

(II) The ballot materials submitted to the electors shall include both of the following:

(ia) The fiscal impact statement described in subclause (II) of clause (i).

(ib) A statement describing the annual aggregated fiscal impact to remaining members of the county water authority as a result of the reorganization. The county water authority shall prepare that statement.

(iii) The elections conducted pursuant to this subparagraph shall be separate elections; however, they may run concurrently with one another. A majority vote in both elections for withdrawal is necessary for the withdrawal of the public agency from the territory of the county water authority.

(iv) The requirement set forth in clause (ii) does not apply to a public agency that is a “federal military reservation” or “military reservation,” as defined in Section 10.2, or a “military installation,” as defined in Section 2801 of Title 10 of the United States Code.

(B) A certificate of the proceedings shall be made by the secretary of the county water authority and filed with the Secretary of State. Upon the filing of the certificate, the corporate area of the public agency shall be excluded from the county water authority and shall no longer be a part thereof; provided, that the taxable property within the excluded area shall continue to be taxable by the county water authority for the purpose of paying the bonded and other indebtedness of the county water authority outstanding or contracted for at the time of the exclusion and until the bonded or other indebtedness has been satisfied; provided further, that if the taxable property within the excluded area or any part thereof is, at the time of the exclusion, subject to special taxes levied or to be levied by the county water authority pursuant to the terms and conditions previously fixed under subdivision (c) or (d) of Section 10 for the annexation of the excluded area or part thereof to the county water authority, the taxable property within the excluded area or part thereof so subject to the special taxes shall continue to be taxable by the county water authority for the purpose of raising the aggregate sums to be raised by the levy of special taxes upon taxable property within the respective annexing areas pursuant to the terms and conditions for the annexation or annexations as so fixed and until the aggregate sums have been so raised by the special tax levies. Upon the filing of the certificate of proceedings, the Secretary of State shall, within 10 days, issue a certificate reciting the filing of the papers in the Secretary of State’s office and the exclusion of the corporate area of the public agency from the county water authority. The Secretary of State shall transmit the original of the certificate to the secretary of the county water authority and shall forward a certified copy thereof to the county clerk of the county in which the county water authority is situated.

(b) Whenever territory is excluded from any public agency in accordance with paragraph (1) of subdivision (a), the governing body, or clerk thereof, of the public agency shall file with the board of directors of the county water authority a statement of the change of boundaries of the public agency, setting forth the legal description of the boundaries of the public agency,

as so changed, and of the part thereof within the county water authority, which statement shall be accompanied by a map or plat indicating the boundaries.

(c) Whenever any territory has been excluded from any public agency prior to the effective date of this section, under conditions that would have resulted in the exclusion of the territory from a county water authority had paragraph (1) of subdivision (a) then been in effect, upon compliance with the following provisions of this paragraph, the territory shall be excluded from and shall no longer be a part of, the authority, the last-mentioned provisions being as follows:

(1) The governing body of the public agency may adopt an ordinance that, after reciting that the territory has been excluded from the public agency by proceedings previously taken under statutory authority, and after referring to the applicable statutes and to the date or dates upon which the exclusion became effective, shall describe the territory and shall determine and declare that the territory shall be, and thereby is, excluded from the county water authority.

(2) The governing body, or clerk thereof, of the public agency shall file a certified copy of the ordinance with the Secretary of State. Upon the filing of the certified copy of the ordinance in the office of the Secretary of State, the territory shall be excluded from, and shall no longer be a part of, the county water authority; provided, that the taxable property within the excluded territory shall continue to be taxable by the county water authority for the purpose of paying the bonded or other indebtedness outstanding or contracted for at the time of the exclusion, and until the bonded or other indebtedness has been satisfied; provided further, that if the taxable property within the excluded territory or any part thereof is, at the time of the exclusion, subject to special taxes levied or to be levied by the county water authority pursuant to terms and conditions previously fixed under subdivision (c) or (d) of Section 10 for the annexation of the excluded territory or part thereof to the county water authority, the taxable property within the excluded territory or part thereof so subject to the special taxes shall continue to be taxable by the county water authority for the purpose of raising the aggregate sums to be raised by the levy of special taxes upon taxable property within the respective annexing areas pursuant to the terms and conditions for the annexation or annexations as so fixed, and until the aggregate sums have been so raised by the special tax levies.

(3) Upon the filing of the certified copy of the ordinance, the Secretary of State shall, within 10 days issue a certificate describing the territory, reciting the filing of the certified copy of the ordinance and the exclusion of the territory from the county water authority, and declaring that the territory is no longer a part of the county water authority. The Secretary of State shall transmit the original of the certificate to the secretary of the county water authority and shall forward a certified copy of the certificate to the county clerk of the county in which the county water authority is situated.

(d) Whenever any territory has been exchanged or transferred pursuant to law prior to January 1, 1986, among two or more public agencies that are included in a county water authority as separate units, the territory shall not be deemed excluded from the county water authority, notwithstanding the failure of the county water authority to give its consent to the exchange or transfer of the territory, if there has been filed with the board of directors of the county water authority prior to January 1, 1986, a statement of the change of boundaries of the agencies, as so changed, and of the part within the county water authority, which statement shall be accompanied by a map or plat indicating those boundaries.

SEC. 3. If the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code.

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**MENDOCINO
Local Agency Formation Commission**

Staff Report

MEETING November 6, 2023
TO Mendocino Local Agency Formation Commission
FROM Uma Hinman, Executive Officer
SUBJECT **AB 557**

RECOMMENDATION

The Commission will receive an informational report on AB 557 amending GOV 54953 regarding open meeting law for local agencies, which was signed into legislation by the Governor on October 8, 2023.

BACKGROUND

Legal Counsel Marsh Burch will provide a summary and overview of AB 557, which amends the open meetings law for local agencies.

Attachment(s) Text of AB 557



AB-557 Open meetings: local agencies: teleconferences. (2023-2024)

SHARE THIS:



Date Published: 10/10/2023 09:00 PM

Assembly Bill No. 557

CHAPTER 534

An act to amend and repeal Section 54953 of the Government Code, relating to local government.

[Approved by Governor October 08, 2023. Filed with Secretary of State
October 08, 2023.]

LEGISLATIVE COUNSEL'S DIGEST

AB 557, Hart. Open meetings: local agencies: teleconferences.

(1) Existing law, the Ralph M. Brown Act, requires, with specified exceptions, that all meetings of a legislative body of a local agency, as those terms are defined, be open and public and that all persons be permitted to attend and participate. The act contains specified provisions regarding providing for the ability of the public to observe and provide comment. The act allows for meetings to occur via teleconferencing subject to certain requirements, particularly that the legislative body notice each teleconference location of each member that will be participating in the public meeting, that each teleconference location be accessible to the public, that members of the public be allowed to address the legislative body at each teleconference location, that the legislative body post an agenda at each teleconference location, and that at least a quorum of the legislative body participate from locations within the boundaries of the local agency's jurisdiction. The act provides an exemption to the jurisdictional requirement for health authorities, as defined.

Existing law, until January 1, 2024, authorizes the legislative body of a local agency to use teleconferencing without complying with those specified teleconferencing requirements in specified circumstances when a declared state of emergency is in effect. Those circumstances are that (1) state or local officials have imposed or recommended measures to promote social distancing, (2) the legislative body is meeting for the purpose of determining whether, as a result of the emergency, meeting in person would present imminent risks to the health or safety of attendees, or (3) the legislative body has previously made that determination. If there is a continuing state of emergency, or if state or local officials have imposed or recommended measures to promote social distancing, existing law requires a legislative body to make specified findings not later than 30 days after the first teleconferenced meeting, and to make those findings every 30 days thereafter, in order to continue to meet under these abbreviated teleconferencing procedures.

Existing law requires a legislative body that holds a teleconferenced meeting under these abbreviated teleconferencing procedures to give notice of the meeting and post agendas, as described, to allow members of the public to access the meeting and address the legislative body, to give notice of the means by which members of the public may access the meeting and offer public comment, including an opportunity for all persons to

attend via a call-in option or an internet-based service option. Existing law prohibits a legislative body that holds a teleconferenced meeting under these abbreviated teleconferencing procedures from requiring public comments to be submitted in advance of the meeting and would specify that the legislative body must provide an opportunity for the public to address the legislative body and offer comment in real time.

This bill would revise the authority of a legislative body to hold a teleconference meeting under those abbreviated teleconferencing procedures when a declared state of emergency is in effect. Specifically, the bill would extend indefinitely that authority in the circumstances under which the legislative body either (1) meets for the purpose of determining whether, as a result of the emergency, meeting in person would present imminent risks to the health or safety of attendees, or (2) has previously made that determination. The bill would also extend the period for a legislative body to make the above-described findings related to a continuing state of emergency to not later than 45 days after the first teleconferenced meeting, and every 45 days thereafter, in order to continue to meet under the abbreviated teleconferencing procedures.

The bill would additionally make nonsubstantive changes to those provisions and correct erroneous cross-references.

(2) This bill would incorporate additional changes to Section 54953 of the Government Code proposed by SB 537 to be operative only if this bill and SB 537 are enacted and this bill is enacted last.

(3) The California Constitution requires local agencies, for the purpose of ensuring public access to the meetings of public bodies and the writings of public officials and agencies, to comply with a statutory enactment that amends or enacts laws relating to public records or open meetings and contains findings demonstrating that the enactment furthers the constitutional requirements relating to this purpose.

This bill would make legislative findings to that effect.

Vote: majority Appropriation: no Fiscal Committee: no Local Program: no

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Section 54953 of the Government Code, as amended by Section 1 of Chapter 285 of the Statutes of 2022, is amended to read:

54953. (a) All meetings of the legislative body of a local agency shall be open and public, and all persons shall be permitted to attend any meeting of the legislative body of a local agency, except as otherwise provided in this chapter.

(b) (1) Notwithstanding any other provision of law, the legislative body of a local agency may use teleconferencing for the benefit of the public and the legislative body of a local agency in connection with any meeting or proceeding authorized by law. The teleconferenced meeting or proceeding shall comply with all otherwise applicable requirements of this chapter and all otherwise applicable provisions of law relating to a specific type of meeting or proceeding.

(2) Teleconferencing, as authorized by this section, may be used for all purposes in connection with any meeting within the subject matter jurisdiction of the legislative body. If the legislative body of a local agency elects to use teleconferencing, the legislative body of a local agency shall comply with all of the following:

(A) All votes taken during a teleconferenced meeting shall be by rollcall.

(B) The teleconferenced meetings shall be conducted in a manner that protects the statutory and constitutional rights of the parties or the public appearing before the legislative body of a local agency.

(C) The legislative body shall give notice of the meeting and post agendas as otherwise required by this chapter.

(D) The legislative body shall allow members of the public to access the meeting and the agenda shall provide an opportunity for members of the public to address the legislative body directly pursuant to Section 54954.3.

(3) If the legislative body of a local agency elects to use teleconferencing, it shall post agendas at all teleconference locations. Each teleconference location shall be identified in the notice and agenda of the meeting or proceeding, and each teleconference location shall be accessible to the public. During the teleconference, at least a quorum of the members of the legislative body shall participate from locations within the boundaries of the territory over which the local agency exercises jurisdiction, except as provided in subdivisions (d) and (e).

(c) (1) No legislative body shall take action by secret ballot, whether preliminary or final.

(2) The legislative body of a local agency shall publicly report any action taken and the vote or abstention on that action of each member present for the action.

(3) Prior to taking final action, the legislative body shall orally report a summary of a recommendation for a final action on the salaries, salary schedules, or compensation paid in the form of fringe benefits of a local agency executive, as defined in subdivision (d) of Section 3511.1, during the open meeting in which the final action is to be taken. This paragraph shall not affect the public's right under the California Public Records Act (Division 10 (commencing with Section 7920.000) of Title 1) to inspect or copy records created or received in the process of developing the recommendation.

(d) (1) Notwithstanding the provisions relating to a quorum in paragraph (3) of subdivision (b), if a health authority conducts a teleconference meeting, members who are outside the jurisdiction of the authority may be counted toward the establishment of a quorum when participating in the teleconference if at least 50 percent of the number of members that would establish a quorum are present within the boundaries of the territory over which the authority exercises jurisdiction, and the health authority provides a teleconference number, and associated access codes, if any, that allows any person to call in to participate in the meeting and the number and access codes are identified in the notice and agenda of the meeting.

(2) Nothing in this subdivision shall be construed as discouraging health authority members from regularly meeting at a common physical site within the jurisdiction of the authority or from using teleconference locations within or near the jurisdiction of the authority. A teleconference meeting for which a quorum is established pursuant to this subdivision shall be subject to all other requirements of this section.

(3) For purposes of this subdivision, a health authority means any entity created pursuant to Sections 14018.7, 14087.31, 14087.35, 14087.36, 14087.38, and 14087.9605 of the Welfare and Institutions Code, any joint powers authority created pursuant to Article 1 (commencing with Section 6500) of Chapter 5 of Division 7 for the purpose of contracting pursuant to Section 14087.3 of the Welfare and Institutions Code, and any advisory committee to a county-sponsored health plan licensed pursuant to Chapter 2.2 (commencing with Section 1340) of Division 2 of the Health and Safety Code if the advisory committee has 12 or more members.

(e) (1) The legislative body of a local agency may use teleconferencing without complying with the requirements of paragraph (3) of subdivision (b) if the legislative body complies with the requirements of paragraph (2) of this subdivision in either of the following circumstances:

(A) The legislative body holds a meeting during a proclaimed state of emergency for the purpose of determining, by majority vote, whether as a result of the emergency, meeting in person would present imminent risks to the health or safety of attendees.

(B) The legislative body holds a meeting during a proclaimed state of emergency and has determined, by majority vote, pursuant to subparagraph (A), that, as a result of the emergency, meeting in person would present imminent risks to the health or safety of attendees.

(2) A legislative body that holds a meeting pursuant to this subdivision shall do all of the following:

(A) In each instance in which notice of the time of the teleconferenced meeting is otherwise given or the agenda for the meeting is otherwise posted, the legislative body shall also give notice of the means by which members of the public may access the meeting and offer public comment. The agenda shall identify and include an opportunity for all persons to attend via a call-in option or an internet-based service option.

(B) In the event of a disruption that prevents the legislative body from broadcasting the meeting to members of the public using the call-in option or internet-based service option, or in the event of a

disruption within the local agency's control that prevents members of the public from offering public comments using the call-in option or internet-based service option, the legislative body shall take no further action on items appearing on the meeting agenda until public access to the meeting via the call-in option or internet-based service option is restored. Actions taken on agenda items during a disruption that prevents the legislative body from broadcasting the meeting may be challenged pursuant to Section 54960.1.

(C) The legislative body shall not require public comments to be submitted in advance of the meeting and must provide an opportunity for the public to address the legislative body and offer comment in real time.

(D) Notwithstanding Section 54953.3, an individual desiring to provide public comment through the use of an internet website, or other online platform, not under the control of the local legislative body, that requires registration to log in to a teleconference may be required to register as required by the third-party internet website or online platform to participate.

(E) (i) A legislative body that provides a timed public comment period for each agenda item shall not close the public comment period for the agenda item, or the opportunity to register, pursuant to subparagraph (D), to provide public comment until that timed public comment period has elapsed.

(ii) A legislative body that does not provide a timed public comment period, but takes public comment separately on each agenda item, shall allow a reasonable amount of time per agenda item to allow public members the opportunity to provide public comment, including time for members of the public to register pursuant to subparagraph (D), or otherwise be recognized for the purpose of providing public comment.

(iii) A legislative body that provides a timed general public comment period that does not correspond to a specific agenda item shall not close the public comment period or the opportunity to register, pursuant to subparagraph (D), until the timed general public comment period has elapsed.

(3) If a state of emergency remains active, in order to continue to teleconference without compliance with paragraph (3) of subdivision (b), the legislative body shall, not later than 45 days after teleconferencing for the first time pursuant to subparagraph (A) or (B) of paragraph (1), and every 45 days thereafter, make the following findings by majority vote:

(A) The legislative body has reconsidered the circumstances of the state of emergency.

(B) The state of emergency continues to directly impact the ability of the members to meet safely in person.

(4) This subdivision shall not be construed to require the legislative body to provide a physical location from which the public may attend or comment.

(f) (1) The legislative body of a local agency may use teleconferencing without complying with paragraph (3) of subdivision (b) if, during the teleconference meeting, at least a quorum of the members of the legislative body participates in person from a singular physical location clearly identified on the agenda, which location shall be open to the public and situated within the boundaries of the territory over which the local agency exercises jurisdiction and the legislative body complies with all of the following:

(A) The legislative body shall provide at least one of the following as a means by which the public may remotely hear and visually observe the meeting, and remotely address the legislative body:

(i) A two-way audiovisual platform.

(ii) A two-way telephonic service and a live webcasting of the meeting.

(B) In each instance in which notice of the time of the teleconferenced meeting is otherwise given or the agenda for the meeting is otherwise posted, the legislative body shall also give notice of the means by which members of the public may access the meeting and offer public comment.

(C) The agenda shall identify and include an opportunity for all persons to attend and address the legislative body directly pursuant to Section 54954.3 via a call-in option, via an internet-based service option, and at the in-person location of the meeting.

(D) In the event of a disruption that prevents the legislative body from broadcasting the meeting to members of the public using the call-in option or internet-based service option, or in the event of a disruption within the local agency's control that prevents members of the public from offering public comments using the call-in option or internet-based service option, the legislative body shall take no further action on items appearing on the meeting agenda until public access to the meeting via the call-in option or internet-based service option is restored. Actions taken on agenda items during a disruption that prevents the legislative body from broadcasting the meeting may be challenged pursuant to Section 54960.1.

(E) The legislative body shall not require public comments to be submitted in advance of the meeting and must provide an opportunity for the public to address the legislative body and offer comment in real time.

(F) Notwithstanding Section 54953.3, an individual desiring to provide public comment through the use of an internet website, or other online platform, not under the control of the local legislative body, that requires registration to log in to a teleconference may be required to register as required by the third-party internet website or online platform to participate.

(2) A member of the legislative body shall only participate in the meeting remotely pursuant to this subdivision, if all of the following requirements are met:

(A) One of the following circumstances applies:

(i) The member notifies the legislative body at the earliest opportunity possible, including at the start of a regular meeting, of their need to participate remotely for just cause, including a general description of the circumstances relating to their need to appear remotely at the given meeting. The provisions of this clause shall not be used by any member of the legislative body for more than two meetings per calendar year.

(ii) The member requests the legislative body to allow them to participate in the meeting remotely due to emergency circumstances and the legislative body takes action to approve the request. The legislative body shall request a general description of the circumstances relating to their need to appear remotely at the given meeting. A general description of an item generally need not exceed 20 words and shall not require the member to disclose any medical diagnosis or disability, or any personal medical information that is already exempt under existing law, such as the Confidentiality of Medical Information Act (Chapter 1 (commencing with Section 56) of Part 2.6 of Division 1 of the Civil Code). For the purposes of this clause, the following requirements apply:

(I) A member shall make a request to participate remotely at a meeting pursuant to this clause as soon as possible. The member shall make a separate request for each meeting in which they seek to participate remotely.

(II) The legislative body may take action on a request to participate remotely at the earliest opportunity. If the request does not allow sufficient time to place proposed action on such a request on the posted agenda for the meeting for which the request is made, the legislative body may take action at the beginning of the meeting in accordance with paragraph (4) of subdivision (b) of Section 54954.2.

(B) The member shall publicly disclose at the meeting before any action is taken, whether any other individuals 18 years of age or older are present in the room at the remote location with the member, and the general nature of the member's relationship with any such individuals.

(C) The member shall participate through both audio and visual technology.

(3) The provisions of this subdivision shall not serve as a means for any member of a legislative body to participate in meetings of the legislative body solely by teleconference from a remote location for a period of more than three consecutive months or 20 percent of the regular meetings for the local agency within a calendar year, or more than two meetings if the legislative body regularly meets fewer than 10 times per calendar year.

(g) The legislative body shall have and implement a procedure for receiving and swiftly resolving requests for reasonable accommodation for individuals with disabilities, consistent with the federal Americans with Disabilities Act. Pg 71 of 93

Act of 1990 (42 U.S.C. Sec. 12132), and resolving any doubt in favor of accessibility. In each instance in which notice of the time of the meeting is otherwise given or the agenda for the meeting is otherwise posted, the legislative body shall also give notice of the procedure for receiving and resolving requests for accommodation.

(h) The legislative body shall conduct meetings subject to this chapter consistent with applicable civil rights and nondiscrimination laws.

(i) (1) Nothing in this section shall prohibit a legislative body from providing the public with additional teleconference locations.

(2) Nothing in this section shall prohibit a legislative body from providing the public with additional physical locations in which the public may observe and address the legislative body by electronic means.

(j) For the purposes of this section, the following definitions shall apply:

(1) "Emergency circumstances" means a physical or family medical emergency that prevents a member from attending in person.

(2) "Just cause" means any of the following:

(A) A childcare or caregiving need of a child, parent, grandparent, grandchild, sibling, spouse, or domestic partner that requires them to participate remotely. "Child," "parent," "grandparent," "grandchild," and "sibling" have the same meaning as those terms do in Section 12945.2.

(B) A contagious illness that prevents a member from attending in person.

(C) A need related to a physical or mental disability as defined in Sections 12926 and 12926.1 not otherwise accommodated by subdivision (g).

(D) Travel while on official business of the legislative body or another state or local agency.

(3) "Remote location" means a location from which a member of a legislative body participates in a meeting pursuant to subdivision (f), other than any physical meeting location designated in the notice of the meeting. Remote locations need not be accessible to the public.

(4) "Remote participation" means participation in a meeting by teleconference at a location other than any physical meeting location designated in the notice of the meeting. Watching or listening to a meeting via webcasting or another similar electronic medium that does not permit members to interactively hear, discuss, or deliberate on matters, does not constitute remote participation.

(5) "State of emergency" means a state of emergency proclaimed pursuant to Section 8625 of the California Emergency Services Act (Article 1 (commencing with Section 8550) of Chapter 7 of Division 1 of Title 2).

(6) "Teleconference" means a meeting of a legislative body, the members of which are in different locations, connected by electronic means, through either audio or video, or both.

(7) "Two-way audiovisual platform" means an online platform that provides participants with the ability to participate in a meeting via both an interactive video conference and a two-way telephonic function.

(8) "Two-way telephonic service" means a telephone service that does not require internet access, is not provided as part of a two-way audiovisual platform, and allows participants to dial a telephone number to listen and verbally participate.

(9) "Webcasting" means a streaming video broadcast online or on television, using streaming media technology to distribute a single content source to many simultaneous listeners and viewers.

(k) This section shall remain in effect only until January 1, 2026, and as of that date is repealed.

SEC. 1.5. Section 54953 of the Government Code, as amended by Section 1 of Chapter 285 of the Statutes of 2022, is amended to read:

54953. (a) All meetings of the legislative body of a local agency shall be open and public, and all persons shall be permitted to attend any meeting of the legislative body of a local agency, except as otherwise provided in this

chapter.

(b) (1) Notwithstanding any other provision of law, the legislative body of a local agency may use teleconferencing for the benefit of the public and the legislative body of a local agency in connection with any meeting or proceeding authorized by law. The teleconferenced meeting or proceeding shall comply with all otherwise applicable requirements of this chapter and all otherwise applicable provisions of law relating to a specific type of meeting or proceeding.

(2) Teleconferencing, as authorized by this section, may be used for all purposes in connection with any meeting within the subject matter jurisdiction of the legislative body. If the legislative body of a local agency elects to use teleconferencing, the legislative body of a local agency shall comply with all of the following:

(A) All votes taken during a teleconferenced meeting shall be by rollcall.

(B) The teleconferenced meetings shall be conducted in a manner that protects the statutory and constitutional rights of the parties or the public appearing before the legislative body of a local agency.

(C) The legislative body shall give notice of the meeting and post agendas as otherwise required by this chapter.

(D) The legislative body shall allow members of the public to access the meeting and the agenda shall provide an opportunity for members of the public to address the legislative body directly pursuant to Section 54954.3.

(3) If the legislative body of a local agency elects to use teleconferencing, it shall post agendas at all teleconference locations. Each teleconference location shall be identified in the notice and agenda of the meeting or proceeding, and each teleconference location shall be accessible to the public. During the teleconference, at least a quorum of the members of the legislative body shall participate from locations within the boundaries of the territory over which the local agency exercises jurisdiction, except as provided in subdivisions (d) and (e).

(c) (1) No legislative body shall take action by secret ballot, whether preliminary or final.

(2) The legislative body of a local agency shall publicly report any action taken and the vote or abstention on that action of each member present for the action.

(3) Prior to taking final action, the legislative body shall orally report a summary of a recommendation for a final action on the salaries, salary schedules, or compensation paid in the form of fringe benefits of a local agency executive, as defined in subdivision (d) of Section 3511.1, during the open meeting in which the final action is to be taken. This paragraph shall not affect the public's right under the California Public Records Act (Division 10 (commencing with Section 7920.000) of Title 1) to inspect or copy records created or received in the process of developing the recommendation.

(d) (1) Notwithstanding the provisions relating to a quorum in paragraph (3) of subdivision (b), if a health authority conducts a teleconference meeting, members who are outside the jurisdiction of the authority may be counted toward the establishment of a quorum when participating in the teleconference if at least 50 percent of the number of members that would establish a quorum are present within the boundaries of the territory over which the authority exercises jurisdiction, and the health authority provides a teleconference number, and associated access codes, if any, that allows any person to call in to participate in the meeting and the number and access codes are identified in the notice and agenda of the meeting.

(2) Nothing in this subdivision shall be construed as discouraging health authority members from regularly meeting at a common physical site within the jurisdiction of the authority or from using teleconference locations within or near the jurisdiction of the authority. A teleconference meeting for which a quorum is established pursuant to this subdivision shall be subject to all other requirements of this section.

(3) For purposes of this subdivision, a health authority means any entity created pursuant to Sections 14018.7, 14087.31, 14087.35, 14087.36, 14087.38, and 14087.9605 of the Welfare and Institutions Code, any joint powers authority created pursuant to Article 1 (commencing with Section 6500) of Chapter 5 of Division 7 for the purpose of contracting pursuant to Section 14087.3 of the Welfare and Institutions Code, and

any advisory committee to a county-sponsored health plan licensed pursuant to Chapter 2.2 (commencing with Section 1340) of Division 2 of the Health and Safety Code if the advisory committee has 12 or more members.

(e) (1) The legislative body of a local agency may use teleconferencing without complying with the requirements of paragraph (3) of subdivision (b) if the legislative body complies with the requirements of paragraph (2) of this subdivision in either of the following circumstances:

(A) The legislative body holds a meeting during a proclaimed state of emergency for the purpose of determining, by majority vote, whether as a result of the emergency, meeting in person would present imminent risks to the health or safety of attendees.

(B) The legislative body holds a meeting during a proclaimed state of emergency and has determined, by majority vote, pursuant to subparagraph (A), that, as a result of the emergency, meeting in person would present imminent risks to the health or safety of attendees.

(2) A legislative body that holds a meeting pursuant to this subdivision shall do all of the following:

(A) In each instance in which notice of the time of the teleconferenced meeting is otherwise given or the agenda for the meeting is otherwise posted, the legislative body shall also give notice of the means by which members of the public may access the meeting and offer public comment. The agenda shall identify and include an opportunity for all persons to attend via a call-in option or an internet-based service option.

(B) In the event of a disruption that prevents the legislative body from broadcasting the meeting to members of the public using the call-in option or internet-based service option, or in the event of a disruption within the local agency's control that prevents members of the public from offering public comments using the call-in option or internet-based service option, the legislative body shall take no further action on items appearing on the meeting agenda until public access to the meeting via the call-in option or internet-based service option is restored. Actions taken on agenda items during a disruption that prevents the legislative body from broadcasting the meeting may be challenged pursuant to Section 54960.1.

(C) The legislative body shall not require public comments to be submitted in advance of the meeting and must provide an opportunity for the public to address the legislative body and offer comment in real time.

(D) Notwithstanding Section 54953.3, an individual desiring to provide public comment through the use of an internet website, or other online platform, not under the control of the local legislative body, that requires registration to log in to a teleconference may be required to register as required by the third-party internet website or online platform to participate.

(E) (i) A legislative body that provides a timed public comment period for each agenda item shall not close the public comment period for the agenda item, or the opportunity to register, pursuant to subparagraph (D), to provide public comment until that timed public comment period has elapsed.

(ii) A legislative body that does not provide a timed public comment period, but takes public comment separately on each agenda item, shall allow a reasonable amount of time per agenda item to allow public members the opportunity to provide public comment, including time for members of the public to register pursuant to subparagraph (D), or otherwise be recognized for the purpose of providing public comment.

(iii) A legislative body that provides a timed general public comment period that does not correspond to a specific agenda item shall not close the public comment period or the opportunity to register, pursuant to subparagraph (D), until the timed general public comment period has elapsed.

(3) If a state of emergency remains active, in order to continue to teleconference without compliance with paragraph (3) of subdivision (b), the legislative body shall, not later than 45 days after teleconferencing for the first time pursuant to subparagraph (A) or (B) of paragraph (1), and every 45 days thereafter, make the following findings by majority vote:

(A) The legislative body has reconsidered the circumstances of the state of emergency.

(B) The state of emergency continues to directly impact the ability of the members to meet safely in person.

(4) This subdivision shall not be construed to require the legislative body to provide a physical location from which the public may attend or comment.

(f) (1) The legislative body of a local agency may use teleconferencing without complying with paragraph (3) of subdivision (b) if, during the teleconference meeting, at least a quorum of the members of the legislative body participates in person from a singular physical location clearly identified on the agenda, which location shall be open to the public and situated within the boundaries of the territory over which the local agency exercises jurisdiction and the legislative body complies with all of the following:

(A) The legislative body shall provide at least one of the following as a means by which the public may remotely hear and visually observe the meeting, and remotely address the legislative body:

(i) A two-way audiovisual platform.

(ii) A two-way telephonic service and a live webcasting of the meeting.

(B) In each instance in which notice of the time of the teleconferenced meeting is otherwise given or the agenda for the meeting is otherwise posted, the legislative body shall also give notice of the means by which members of the public may access the meeting and offer public comment.

(C) The agenda shall identify and include an opportunity for all persons to attend and address the legislative body directly pursuant to Section 54954.3 via a call-in option, via an internet-based service option, and at the in-person location of the meeting.

(D) In the event of a disruption that prevents the legislative body from broadcasting the meeting to members of the public using the call-in option or internet-based service option, or in the event of a disruption within the local agency's control that prevents members of the public from offering public comments using the call-in option or internet-based service option, the legislative body shall take no further action on items appearing on the meeting agenda until public access to the meeting via the call-in option or internet-based service option is restored. Actions taken on agenda items during a disruption that prevents the legislative body from broadcasting the meeting may be challenged pursuant to Section 54960.1.

(E) The legislative body shall not require public comments to be submitted in advance of the meeting and must provide an opportunity for the public to address the legislative body and offer comment in real time.

(F) Notwithstanding Section 54953.3, an individual desiring to provide public comment through the use of an internet website, or other online platform, not under the control of the local legislative body, that requires registration to log in to a teleconference may be required to register as required by the third-party internet website or online platform to participate.

(2) A member of the legislative body shall only participate in the meeting remotely pursuant to this subdivision, if all of the following requirements are met:

(A) One of the following circumstances applies:

(i) The member notifies the legislative body at the earliest opportunity possible, including at the start of a regular meeting, of their need to participate remotely for just cause, including a general description of the circumstances relating to their need to appear remotely at the given meeting. The provisions of this clause shall not be used by any member of the legislative body for more than two meetings per calendar year.

(ii) The member requests the legislative body to allow them to participate in the meeting remotely due to emergency circumstances and the legislative body takes action to approve the request. The legislative body shall request a general description of the circumstances relating to their need to appear remotely at the given meeting. A general description of an item generally need not exceed 20 words and shall not require the member to disclose any medical diagnosis or disability, or any personal medical information that is already exempt under existing law, such as the Confidentiality of Medical Information Act (Chapter 1 (commencing with Section 56) of Part 2.6 of Division 1 of the Civil Code). For the purposes of this clause, the following requirements apply:

(I) A member shall make a request to participate remotely at a meeting pursuant to this clause as soon as possible. The member shall make a separate request for each meeting in which they seek to participate remotely.

(II) The legislative body may take action on a request to participate remotely at the earliest opportunity. If the request does not allow sufficient time to place proposed action on such a request on the posted agenda for the meeting for which the request is made, the legislative body may take action at the beginning of the meeting in accordance with paragraph (4) of subdivision (b) of Section 54954.2.

(B) The member shall publicly disclose at the meeting before any action is taken, whether any other individuals 18 years of age or older are present in the room at the remote location with the member, and the general nature of the member's relationship with any such individuals.

(C) The member shall participate through both audio and visual technology.

(3) The provisions of this subdivision shall not serve as a means for any member of a legislative body to participate in meetings of the legislative body solely by teleconference from a remote location for a period of more than three consecutive months or 20 percent of the regular meetings for the local agency within a calendar year, or more than two meetings if the legislative body regularly meets fewer than 10 times per calendar year.

(g) The legislative body shall have and implement a procedure for receiving and swiftly resolving requests for reasonable accommodation for individuals with disabilities, consistent with the federal Americans with Disabilities Act of 1990 (42 U.S.C. Sec. 12132), and resolving any doubt in favor of accessibility. In each instance in which notice of the time of the meeting is otherwise given or the agenda for the meeting is otherwise posted, the legislative body shall also give notice of the procedure for receiving and resolving requests for accommodation.

(h) The legislative body shall conduct meetings subject to this chapter consistent with applicable civil rights and nondiscrimination laws.

(i) (1) Nothing in this section shall prohibit a legislative body from providing the public with additional teleconference locations.

(2) Nothing in this section shall prohibit a legislative body from providing the public with additional physical locations in which the public may observe and address the legislative body by electronic means.

(j) For the purposes of this section, the following definitions shall apply:

(1) "Emergency circumstances" means a physical or family medical emergency that prevents a member from attending in person.

(2) "Just cause" means any of the following:

(A) A childcare or caregiving need of a child, parent, grandparent, grandchild, sibling, spouse, or domestic partner that requires them to participate remotely. "Child," "parent," "grandparent," "grandchild," and "sibling" have the same meaning as those terms do in Section 12945.2.

(B) A contagious illness that prevents a member from attending in person.

(C) A need related to a physical or mental disability as defined in Sections 12926 and 12926.1 not otherwise accommodated by subdivision (g).

(D) Travel while on official business of the legislative body or another state or local agency.

(E) An immunocompromised child, parent, grandparent, grandchild, sibling, spouse, or domestic partner that requires them to participate remotely.

(3) "Remote location" means a location from which a member of a legislative body participates in a meeting pursuant to subdivision (f), other than any physical meeting location designated in the notice of the meeting. Remote locations need not be accessible to the public.

(4) "Remote participation" means participation in a meeting by teleconference at a location other than any physical meeting location designated in the notice of the meeting. Watching or listening to a meeting via webcasting or another similar electronic medium that does not permit members to interactively hear, discuss, or deliberate on matters, does not constitute remote participation.

(5) "State of emergency" means a state of emergency proclaimed pursuant to Section 8625 of the California Emergency Services Act (Article 1 (commencing with Section 8550) of Chapter 7 of Division 1 of Title 2).

(6) "Teleconference" means a meeting of a legislative body, the members of which are in different locations, connected by electronic means, through either audio or video, or both.

(7) "Two-way audiovisual platform" means an online platform that provides participants with the ability to participate in a meeting via both an interactive video conference and a two-way telephonic function.

(8) "Two-way telephonic service" means a telephone service that does not require internet access, is not provided as part of a two-way audiovisual platform, and allows participants to dial a telephone number to listen and verbally participate.

(9) "Webcasting" means a streaming video broadcast online or on television, using streaming media technology to distribute a single content source to many simultaneous listeners and viewers.

(k) This section shall remain in effect only until January 1, 2026, and as of that date is repealed.

SEC. 2. Section 54953 of the Government Code, as amended by Section 2 of Chapter 285 of the Statutes of 2022, is amended to read:

54953. (a) All meetings of the legislative body of a local agency shall be open and public, and all persons shall be permitted to attend any meeting of the legislative body of a local agency, except as otherwise provided in this chapter.

(b) (1) Notwithstanding any other provision of law, the legislative body of a local agency may use teleconferencing for the benefit of the public and the legislative body of a local agency in connection with any meeting or proceeding authorized by law. The teleconferenced meeting or proceeding shall comply with all otherwise applicable requirements of this chapter and all otherwise applicable provisions of law relating to a specific type of meeting or proceeding.

(2) Teleconferencing, as authorized by this section, may be used for all purposes in connection with any meeting within the subject matter jurisdiction of the legislative body. If the legislative body of a local agency elects to use teleconferencing, the legislative body of a local agency shall comply with all of the following:

(A) All votes taken during a teleconferenced meeting shall be by rollcall.

(B) The teleconferenced meetings shall be conducted in a manner that protects the statutory and constitutional rights of the parties or the public appearing before the legislative body of a local agency.

(C) The legislative body shall give notice of the meeting and post agendas as otherwise required by this chapter.

(D) The legislative body shall allow members of the public to access the meeting and the agenda shall provide an opportunity for members of the public to address the legislative body directly pursuant to Section 54954.3.

(3) If the legislative body of a local agency elects to use teleconferencing, it shall post agendas at all teleconference locations. Each teleconference location shall be identified in the notice and agenda of the meeting or proceeding, and each teleconference location shall be accessible to the public. During the teleconference, at least a quorum of the members of the legislative body shall participate from locations within the boundaries of the territory over which the local agency exercises jurisdiction, except as provided in subdivisions (d) and (e).

(c) (1) No legislative body shall take action by secret ballot, whether preliminary or final.

(2) The legislative body of a local agency shall publicly report any action taken and the vote or abstention on that action of each member present for the action.

(3) Prior to taking final action, the legislative body shall orally report a summary of a recommendation for a final action on the salaries, salary schedules, or compensation paid in the form of fringe benefits of a local agency executive, as defined in subdivision (d) of Section 3511.1, during the open meeting in which the final action is to be taken. This paragraph shall not affect the public's right under the California Public Records Act (Division 10 (commencing with Section 7920.000) of Title 1) to inspect or copy records created or received in the process of developing the recommendation.

(d) (1) Notwithstanding the provisions relating to a quorum in paragraph (3) of subdivision (b), if a health authority conducts a teleconference meeting, members who are outside the jurisdiction of the authority may be counted toward the establishment of a quorum when participating in the teleconference if at least 50 percent of the number of members that would establish a quorum are present within the boundaries of the territory over which the authority exercises jurisdiction, and the health authority provides a teleconference number, and associated access codes, if any, that allows any person to call in to participate in the meeting and the number and access codes are identified in the notice and agenda of the meeting.

(2) Nothing in this subdivision shall be construed as discouraging health authority members from regularly meeting at a common physical site within the jurisdiction of the authority or from using teleconference locations within or near the jurisdiction of the authority. A teleconference meeting for which a quorum is established pursuant to this subdivision shall be subject to all other requirements of this section.

(3) For purposes of this subdivision, a health authority means any entity created pursuant to Sections 14018.7, 14087.31, 14087.35, 14087.36, 14087.38, and 14087.9605 of the Welfare and Institutions Code, any joint powers authority created pursuant to Article 1 (commencing with Section 6500) of Chapter 5 of Division 7 for the purpose of contracting pursuant to Section 14087.3 of the Welfare and Institutions Code, and any advisory committee to a county-sponsored health plan licensed pursuant to Chapter 2.2 (commencing with Section 1340) of Division 2 of the Health and Safety Code if the advisory committee has 12 or more members.

(e) (1) The legislative body of a local agency may use teleconferencing without complying with the requirements of paragraph (3) of subdivision (b) if the legislative body complies with the requirements of paragraph (2) of this subdivision in either of the following circumstances:

(A) The legislative body holds a meeting during a proclaimed state of emergency for the purpose of determining, by majority vote, whether as a result of the emergency, meeting in person would present imminent risks to the health or safety of attendees.

(B) The legislative body holds a meeting during a proclaimed state of emergency and has determined, by majority vote, pursuant to subparagraph (A), that, as a result of the emergency, meeting in person would present imminent risks to the health or safety of attendees.

(2) A legislative body that holds a meeting pursuant to this subdivision shall do all of the following:

(A) In each instance in which notice of the time of the teleconferenced meeting is otherwise given or the agenda for the meeting is otherwise posted, the legislative body shall also give notice of the means by which members of the public may access the meeting and offer public comment. The agenda shall identify and include an opportunity for all persons to attend via a call-in option or an internet-based service option.

(B) In the event of a disruption that prevents the legislative body from broadcasting the meeting to members of the public using the call-in option or internet-based service option, or in the event of a disruption within the local agency's control that prevents members of the public from offering public comments using the call-in option or internet-based service option, the legislative body shall take no further action on items appearing on the meeting agenda until public access to the meeting via the call-in option or internet-based service option is restored. Actions taken on agenda items during a disruption that prevents the legislative body from broadcasting the meeting may be challenged pursuant to Section 54960.1.

(C) The legislative body shall not require public comments to be submitted in advance of the meeting and must provide an opportunity for the public to address the legislative body and offer comment in real time.

(D) Notwithstanding Section 54953.3, an individual desiring to provide public comment through the use of an internet website, or other online platform, not under the control of the local legislative body, that requires registration to log in to a teleconference may be required to register as required by the third-party internet website or online platform to participate.

(E) (i) A legislative body that provides a timed public comment period for each agenda item shall not close the public comment period for the agenda item, or the opportunity to register, pursuant to subparagraph (D), to provide public comment until that timed public comment period has elapsed.

(ii) A legislative body that does not provide a timed public comment period, but takes public comment separately on each agenda item, shall allow a reasonable amount of time per agenda item to allow public members the opportunity to provide public comment, including time for members of the public to register pursuant to subparagraph (D), or otherwise be recognized for the purpose of providing public comment.

(iii) A legislative body that provides a timed general public comment period that does not correspond to a specific agenda item shall not close the public comment period or the opportunity to register, pursuant to subparagraph (D), until the timed general public comment period has elapsed.

(3) If a state of emergency remains active, in order to continue to teleconference without compliance with paragraph (3) of subdivision (b), the legislative body shall, not later than 45 days after teleconferencing for the first time pursuant to subparagraph (A) or (B) of paragraph (1), and every 45 days thereafter, make the following findings by majority vote:

(A) The legislative body has reconsidered the circumstances of the state of emergency.

(B) The state of emergency continues to directly impact the ability of the members to meet safely in person.

(4) This subdivision shall not be construed to require the legislative body to provide a physical location from which the public may attend or comment.

(f) The legislative body shall have and implement a procedure for receiving and swiftly resolving requests for reasonable accommodation for individuals with disabilities, consistent with the federal Americans with Disabilities Act of 1990 (42 U.S.C. Sec. 12132), and resolving any doubt in favor of accessibility. In each instance in which notice of the time of the meeting is otherwise given or the agenda for the meeting is otherwise posted, the legislative body shall also give notice of the procedure for receiving and resolving requests for accommodation.

(g) The legislative body shall conduct meetings subject to this chapter consistent with applicable civil rights and nondiscrimination laws.

(h) (1) Nothing in this section shall prohibit a legislative body from providing the public with additional teleconference locations.

(2) Nothing in this section shall prohibit a legislative body from providing the public with additional physical locations in which the public may observe and address the legislative body by electronic means.

(i) For the purposes of this section, the following definitions shall apply:

(1) "State of emergency" means a state of emergency proclaimed pursuant to Section 8625 of the California Emergency Services Act (Article 1 (commencing with Section 8550) of Chapter 7 of Division 1 of Title 2).

(2) "Teleconference" means a meeting of a legislative body, the members of which are in different locations, connected by electronic means, through either audio or video, or both.

(j) This section shall become operative January 1, 2026.

SEC. 3. Section 54953 of the Government Code, as added by Section 3 of Chapter 285 of the Statutes of 2022, is repealed.

SEC. 4. Section 1.5 of this bill incorporates amendments to Section 54953 of the Government Code proposed by this bill and Senate Bill 537. That section of this bill shall only become operative if (1) both bills are enacted and become effective on or before January 1, 2024, (2) each bill amends Section 54953 of the Government Code,

and (3) this bill is enacted after Senate Bill 537, in which case Section 54953 of the Government Code, as amended by Senate Bill 537, shall remain operative only until the operative date of this bill, at which time Section 1.5 of this bill shall become operative, and Section 1 of this bill shall not become operative.

SEC. 5. The Legislature finds and declares that Sections 1 and 2 of this act, which amend Section 54953 of the Government Code, furthers, within the meaning of paragraph (7) of subdivision (b) of Section 3 of Article I of the California Constitution, the purposes of that constitutional section as it relates to the right of public access to the meetings of local public bodies or the writings of local public officials and local agencies. Pursuant to paragraph (7) of subdivision (b) of Section 3 of Article I of the California Constitution, the Legislature makes the following findings:

This act is necessary to ensure minimum standards for public participation and notice requirements allowing for greater public participation in teleconference meetings.

**MENDOCINO
Local Agency Formation Commission**

Staff Report

MEETING November 6, 2023
TO Mendocino Local Agency Formation Commission
FROM Uma Hinman, Executive Officer
SUBJECT **SB 938**

RECOMMENDATION

The Commission will receive an informational report on SB 938 amending the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 to streamline LAFCo-initiated consolidations and protest proceedings, which was signed into legislation by the Governor on July 1, 2022.

BACKGROUND

Legal Counsel Marsh Burch will provide a summary and overview of SB 938, which amends the Cortese-Knox-Hertzberg Local Government Reorganization Act (CKH) regarding protest thresholds for reorganizations and LAFCo-initiated dissolutions.

SB 938 provides for an updated LAFCo-initiated dissolution process, including raising the protest threshold for LAFCo-initiated dissolutions from 10 percent to 25 percent—making it harder for district residents to force an election in cases where the LAFCo adheres to the thorough and inclusive new process. The new legislation took effect on January 1, 2023.

Attachment(s) Text of SB 938



SB-938 The Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000: protest proceedings: procedural consoli

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Date Published: 07/05/2022 02:00 PM

Senate Bill No. 938

CHAPTER 89

An act to amend Sections 56375, 56824.14, 57002, 57075, 57077.1, 57077.2, 57077.3, 57077.4, and 57090 of, to add Sections 56375.1, 57077.5, and 57077.6 to, to add Chapter 4.5 (commencing with Section 57091) to Part 4 of Division 3 of Title 5 of, and to repeal Sections 57076, 57107, and 57113 of, the Government Code, and to amend Section 116687 of the Health and Safety Code, relating to local government.

[Approved by Governor July 01, 2022. Filed with Secretary of State July 01, 2022.]

LEGISLATIVE COUNSEL'S DIGEST

SB 938, Hertzberg. The Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000: protest proceedings: procedural consolidation.

Existing law, the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000, provides the exclusive authority and procedure for the initiation, conduct, and completion of changes of organization and reorganization for cities and districts, except as specified. Under existing law, in each county there is a local agency formation commission (commission) that oversees these changes of organization and reorganization. Existing law authorizes a commission to dissolve an inactive district if specified conditions are satisfied.

This bill would also authorize a commission to initiate a proposal for the dissolution of a district, as described, if the commission approves, adopts, or accepts a specified study that includes a finding, based on a preponderance of the evidence, that, among other things, the district has one or more documented chronic service provision deficiencies, the district spent public funds in an unlawful or reckless manner, or the district has shown willful neglect by failing to consistently adhere to the California Public Records Act. The bill would require the commission to adopt a resolution of intent to initiate a dissolution based on these provisions and to provide a remediation period of at least 12 months, during which the district may take steps to remedy the stated deficiencies. The bill would authorize the commission, at the conclusion of the remediation period, to find that the district has failed to remedy the deficiencies and adopt a resolution to dissolve the district.

With a specified exception, existing law provides for protest proceedings for a change of organization or reorganization following adoption of a resolution making certain determinations by the commission, as provided. Existing law sets forth required procedures for the commission following a protest hearing depending on the nature of the conducting authority, as defined, the type of change of organization or reorganization, and the results of the protest proceeding.

The bill would reorganize and consolidate the above-described procedures. The bill would make conforming changes and remove obsolete provisions.

Vote: majority Appropriation: no Fiscal Committee: no Local Program: no

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Section 56375 of the Government Code is amended to read:

56375. The commission shall have all of the following powers and duties subject to any limitations upon its jurisdiction set forth in this part:

(a) (1) To review and approve with or without amendment, wholly, partially, or conditionally, or disapprove proposals for changes of organization or reorganization, consistent with written policies, procedures, and guidelines adopted by the commission.

(2) The commission may initiate proposals by resolution of application 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) A reorganization that includes any of the changes specified in subparagraph (A), (B), (C), (D), or (E).

(G) The dissolution of an inactive district pursuant to Section 56879.

(H) The dissolution of a district pursuant to Section 56375.1.

(3) A commission may initiate a proposal described in paragraph (2) only if that change of organization or reorganization is consistent with a recommendation or conclusion of a study prepared pursuant to Section 56378, 56425, or 56430, and the commission makes the determinations specified in subdivision (b) of Section 56881.

(4) A commission shall not disapprove an annexation to a city, initiated by resolution, of contiguous territory that the commission finds is any of the following:

(A) Surrounded or substantially surrounded by the city to which the annexation is proposed or by that city and a county boundary or the Pacific Ocean if the territory to be annexed is substantially developed or developing, is not prime agricultural land as defined in Section 56064, is designated for urban growth by the general plan of the annexing city, and is not within the sphere of influence of another city.

(B) Located within an urban service area that has been delineated and adopted by a commission, which is not prime agricultural land, as defined by Section 56064, and is designated for urban growth by the general plan of the annexing city.

(C) An annexation or reorganization of unincorporated islands meeting the requirements of Section 56375.3.

(5) As a condition to the annexation of an area that is surrounded, or substantially surrounded, by the city to which the annexation is proposed, the commission may require, where consistent with the purposes of this division, that the annexation include the entire island of surrounded, or substantially surrounded, territory.

(6) A commission shall not impose any conditions that would directly regulate land use density or intensity, property development, or subdivision requirements.

(7) The decision of the commission with regard to a proposal to annex territory to a city shall be based upon the general plan and rezoning of the city. When the development purposes are not made known to the annexing city, the annexation shall be reviewed on the basis of the adopted plans and policies of the annexing city or county. A commission shall require, as a condition to annexation, that a city rezone the territory to be annexed or present evidence satisfactory to the commission that the existing development entitlements on the territory are vested or are already at build-out, and are consistent with the city's general plan. However, the commission shall not specify how, or in what manner, the territory shall be rezoned.

(8) (A) Except for those changes of organization or reorganization authorized under Section 56375.3, and except as provided by subparagraph (B), a commission shall not approve an annexation to a city of any territory greater than 10 acres, or smaller as determined by commission policy, where there exists a disadvantaged unincorporated community that is contiguous to the area of proposed annexation, unless an application to annex the disadvantaged unincorporated community to the subject city has been filed with the executive officer.

(B) An application to annex a contiguous disadvantaged unincorporated community shall not be required if either of the following apply:

(i) A prior application for annexation of the same disadvantaged unincorporated community has been made in the preceding five years.

(ii) The commission finds, based upon written evidence, that a majority of the registered voters within the affected territory are opposed to annexation.

(C) This paragraph shall also apply to the annexation of two or more contiguous areas that take place within five years of each other and that are individually less than 10 acres but cumulatively more than 10 acres.

(b) With regard to a proposal for annexation or detachment of territory to, or from, a city or district or with regard to a proposal for reorganization that includes annexation or detachment, to determine whether territory proposed for annexation or detachment, as described in its resolution approving the annexation, detachment, or reorganization, is inhabited or uninhabited.

(c) With regard to a proposal for consolidation of two or more cities or districts, to determine which city or district shall be the consolidated successor city or district.

(d) To approve the annexation of unincorporated, noncontiguous territory, subject to the limitations of Section 56742, located in the same county as that in which the city is located, and that is owned by a city and used for municipal purposes and to authorize the annexation of the territory without notice and hearing.

(e) To approve the annexation of unincorporated territory consistent with the planned and probable use of the property based upon the review of general plan and rezoning designations. No subsequent change may be made to the general plan for the annexed territory or zoning that is not in conformance to the rezoning designations for a period of two years after the completion of the annexation, unless the legislative body for the city makes a finding at a public hearing with written notice provided no less than 21 days to the commission that a substantial change has occurred in circumstances that necessitate a departure from the rezoning in the application to the commission.

(f) With respect to the incorporation of a new city or the formation of a new special district, to determine the number of registered voters residing within the proposed city or special district or, for a landowner-voter special district, the number of owners of land and the assessed value of their land within the territory proposed to be included in the new special district. The number of registered voters shall be calculated as of the time of the last report of voter registration by the county elections official to the Secretary of State prior to the date the first signature was affixed to the petition. The executive officer shall notify the petitioners of the number of registered voters resulting from this calculation. The assessed value of the land within the territory proposed to be included in a new landowner-voter special district shall be calculated as shown on the last equalized assessment roll.

(g) To adopt written procedures for the evaluation of proposals, including written definitions consistent with existing state law. The commission may adopt standards for any of the factors enumerated in Section 56668. Any standards adopted by the commission shall be written.

(h) To adopt standards and procedures for the evaluation of service plans submitted pursuant to Section 56653 and the initiation of a change of organization or reorganization pursuant to subdivision (a).

(i) To make and enforce regulations for the orderly and fair conduct of hearings by the commission.

(j) To incur usual and necessary expenses for the accomplishment of its functions.

(k) To appoint and assign staff personnel and to employ or contract for professional or consulting services to carry out and effect the functions of the commission.

(l) To review the boundaries of the territory involved in any proposal with respect to the definiteness and certainty of those boundaries, the nonconformance of proposed boundaries with lines of assessment or ownership, and other similar matters affecting the proposed boundaries.

(m) To waive the restrictions of Section 56744 if it finds that the application of the restrictions would be detrimental to the orderly development of the community and that the area that would be enclosed by the annexation or incorporation is so located that it cannot reasonably be annexed to another city or incorporated as a new city.

(n) To waive the application of Section 22613 of the Streets and Highways Code if it finds the application would deprive an area of a service needed to ensure the health, safety, or welfare of the residents of the area and if it finds that the waiver would not affect the ability of a city to provide any service. However, within 60 days of the inclusion of the territory within the city, the legislative body may adopt a resolution nullifying the waiver.

(o) If the proposal includes the incorporation of a city, as defined in Section 56043, or the formation of a district, as defined in Section 2215 of the Revenue and Taxation Code, the commission shall determine the property tax revenue to be exchanged by the affected local agencies pursuant to Section 56810. If the proposal includes the disincorporation of a city, as defined in Section 56034, the commission shall determine the property tax revenue to be exchanged by the affected local agencies pursuant to Section 56813.

(p) To authorize a city or district to provide new or extended services outside its jurisdictional boundaries pursuant to Section 56133.

(q) To enter into an agreement with the commission for an adjoining county for the purpose of determining procedures for the consideration of proposals that may affect the adjoining county or where the jurisdiction of an affected agency crosses the boundary of the adjoining county.

(r) To approve with or without amendment, wholly, partially, or conditionally, or disapprove pursuant to this section the annexation of territory served by a mutual water company formed pursuant to Part 7 (commencing with Section 14300) of Division 3 of Title 1 of the Corporations Code that operates a public water system to a city or special district. Any annexation approved in accordance with this subdivision shall be subject to the state and federal constitutional prohibitions against the taking of private property without the payment of just compensation. This subdivision shall not impair the authority of a public agency or public utility to exercise eminent domain authority.

SEC. 2. Section 56375.1 is added to the Government Code, to read:

56375.1. (a) A commission may initiate a proposal for the dissolution of a district that is eligible for the protest threshold under Section 57093 if both of the following conditions are satisfied:

(1) At a public hearing for which notice has been published and posted, the commission approves, adopts, or accepts a study prepared pursuant to Section 56430 that includes a finding, based on a preponderance of the evidence, that one or more of the following conditions is met:

(A) The district has one or more documented chronic service provision deficiencies that substantially deviate from industry or trade association standards or other government regulations and its board or management is not actively engaged in efforts to remediate the documented service deficiencies.

(B) The district spent public funds in an unlawful or reckless manner inconsistent with the principal act or other statute governing the district and has not taken any action to prevent similar future spending.

(C) The district has shown willful neglect by failing to consistently adhere to the California Public Records Act (Division 10 (commencing with Section 7920.000) of Title 1) and other public disclosure laws to which the agency is subject.

(D) The district has failed to meet the minimum number of times required in its principal act in the prior calendar year and has taken no action to remediate the failures to ensure future meetings are conducted on a timely basis.

(E) The district has consistently failed to perform timely audits in the prior three years, or failed to meet minimum financial requirements under Section 26909 over the prior five years as an alternative to performing an audit.

(F) The district's recent annual audits show chronic issues with the district's fiscal controls and the district has taken no action to remediate the issues.

(2) (A) At a public hearing for which notice has been published and posted, the commission adopts a resolution of intent to initiate dissolution based on one or more of the required findings in paragraph (1). The resolution shall provide a remediation period of not less than 12 months during which the district may take steps to remedy the specified deficiencies and also specify a date upon which the district shall provide the commission a mid-point report on such remediation efforts at a regularly scheduled commission meeting.

(B) At the conclusion of the remediation period, at a public hearing for which notice has been published and posted, the commission shall take one of the following actions:

(i) If the commission finds the district has adequately remedied the deficiencies, the commission shall rescind the notice of intent to initiate dissolution and no further action is required.

(ii) If the commission finds that the district has failed to remedy the deficiencies, the commission may adopt a resolution to dissolve the district making the determinations in paragraph (1) and in subdivision (b) of Section 56881.

(b) (1) Any public notice required pursuant to this section shall be published and posted pursuant to Chapter 4 (commencing with Section 56150) of Part 1.

(2) The public hearings required under subdivision (a) may be combined into a single public hearing for which notice has been published and posted.

(c) The commission's power to initiate dissolution of a district pursuant to this section is separate from and in addition to the commission's power to initiate dissolution pursuant to subparagraphs (B) and (G) of paragraph (2) of subdivision (a) of Section 56375.

SEC. 3. Section 56824.14 of the Government Code is amended to read:

56824.14. (a) The commission shall review and approve with or without amendments, wholly, partially, or conditionally, or disapprove proposals for the establishment of new or different functions or class of services, or the divestiture of the power to provide particular functions or class of services, within all or part of the jurisdictional boundaries of a special district, after a public hearing called and held for that purpose. The commission shall not approve a proposal for the establishment of new or different functions or class of services within the jurisdictional boundaries of a special district unless the commission determines that the special district will have sufficient revenues to carry out the proposed new or different functions or class of services except as specified in paragraph (1).

(1) The commission may approve a proposal for the establishment of new or different functions or class of services within the jurisdictional boundaries of a special district where the commission has determined that the special district will not have sufficient revenue to provide the proposed new or different functions or class of services, if the commission conditions its approval on the concurrent approval of sufficient revenue sources pursuant to Section 56886. In approving a proposal, the commission shall provide that if the revenue sources pursuant to Section 56886 are not approved, the authority of the special district to provide new or different functions or class of services shall not be established.

(2) Unless otherwise required by the principal act of the subject special district, or unless otherwise required by Section 57075, the approval by the commission for establishment of new or different functions or class of services, or the divestiture of the power to provide particular functions or class of services, shall not be subject to an election.

(b) At least 21 days prior to the date of that hearing, the executive officer shall give mailed notice of the hearing to each affected local agency or affected county, and to any interested party who has filed a written request for notice with the executive officer. In addition, at least 21 days prior to the date of that hearing, the executive officer shall cause notice of the hearing to be published in accordance with Section 56153 in a newspaper of general circulation that is circulated within the territory affected by the proposal proposed to be adopted.

(c) The commission may continue from time to time any hearing called pursuant to this section. The commission shall hear and consider oral or written testimony presented by any affected local agency, affected county, or any interested person who appears at any hearing called and held pursuant to this section.

SEC. 4. Section 57002 of the Government Code is amended to read:

57002. (a) Within 35 days following the adoption of the commission's resolution making determinations, the executive officer of the commission shall set the proposal for hearing and give notice of that hearing by mailing, publication, and posting, as provided in Chapter 4 (commencing with Section 56150) of Part 1. The hearing shall not be held prior to the expiration of the reconsideration period specified in subdivision (b) of Section 56895. The date of that hearing shall not be less than 21 days, or more than 60 days, after the date the notice is given.

(b) Where the proceeding is for the establishment of a district as a subsidiary district of a city, upon the request of the affected district, the date of the hearing shall be at least 90 days, but no more than 135 days, from the date the notice is given.

(c) Where the proceeding is for the dissolution of a district initiated by the commission pursuant to Section 56375.1, the date of the hearing shall be at least 60 days, but no more than 90 days, from the date the notice is given.

(d) If authorized by the commission pursuant to Section 56662 or 56663, a change of organization or reorganization may be approved without notice, hearing, and election.

SEC. 5. Section 57075 of the Government Code is amended to read:

57075. Where a change of organization or reorganization consists solely of annexations, detachments, the exercise of new or different functions or class of services or the divestiture of the power to provide particular functions or class of services within all or part of the jurisdictional boundaries of a special district, or any combination of those proposals, the commission, not more than 30 days after the conclusion of the hearing, shall make a finding regarding the value of written protests filed and not withdrawn, and take the action set forth in either subdivision (a) of Section 57091, in the case of registered voter districts or cities, or subdivision (b) of Section 57091, in the case of landowner-voter districts.

SEC. 6. Section 57076 of the Government Code is repealed.

SEC. 7. Section 57077.1 of the Government Code is amended to read:

57077.1. (a) If a change of organization consists of a dissolution, the commission shall order the dissolution without confirmation of the voters, except if the proposal meets the requirements of subdivision (b), the commission shall order the dissolution subject to confirmation of the voters.

(b) The commission shall order the dissolution subject to the confirmation of the voters as follows:

(1) If the proposal was not initiated by the commission, and if a subject agency has not objected by resolution to the proposal, the commission has found that protests meet the applicable protest thresholds set forth in Section 57092.

(2) If the proposal was not initiated by the commission, and if a subject agency has objected by resolution to the proposal, written protests have been submitted that meet the applicable protest thresholds set forth in Section 57093.

(3) Except as provided in paragraph (4), if the proposal was initiated by the commission, and regardless of whether a subject agency has objected to the proposal by resolution, written protests have been submitted that meet the requirements of Section 57094.

(4) If the proposal was initiated by the commission pursuant to Section 56375.1, and regardless of whether a subject agency has objected to the proposal by resolution, written protests have been submitted that meet the requirements of Section 57093.

(c) Notwithstanding subdivisions (a) and (b) and Sections 57102 and 57103, if a change of organization consists of the dissolution of a district that is consistent with a prior action of the commission pursuant to Section 56378, 56425, or 56430, the commission may do either of the following:

(1) If the dissolution is initiated by the district board, immediately approve and order the dissolution without an election or protest proceedings pursuant to this part.

(2) If the dissolution is initiated by an affected local agency, by the commission pursuant to Section 56375, or by petition pursuant to Section 56650, order the dissolution after holding at least one noticed public hearing, and after conducting protest proceedings in accordance with this part.

Notwithstanding any other law, the commission shall terminate proceedings if a majority protest exists in accordance with Section 57078. If a majority protest is not found, the commission shall order the dissolution without an election.

SEC. 8. Section 57077.2 of the Government Code is amended to read:

57077.2. (a) If the change of organization consists of a consolidation of two or more districts, the commission shall order the consolidation without confirmation by the voters, except that if the proposal meets the requirements of subdivision (b), the commission shall order the consolidation subject to confirmation of the voters.

(b) The commission shall order the consolidation subject to the confirmation of the voters as follows:

(1) If the commission has approved a proposal submitted by resolution of a majority of the members of the legislative bodies of two or more local agencies pursuant to Section 56853, and the commission has found that protests meet the applicable protest thresholds set forth in Section 57092.

(2) If the commission has approved a proposal not initiated by the commission and if a subject agency has not objected by resolution to the proposal, written protests have been submitted that meet the applicable protest thresholds set forth in Section 57092.

(3) If the proposal was not initiated by the commission, and if a subject agency has objected by resolution to the proposal, written protests have been submitted that meet one of the protest thresholds set forth in Section 57093.

(4) If the commission has approved a proposal initiated by the commission, and regardless of whether a subject agency has objected to the proposal by resolution, written protests have been submitted that meet the requirements of Section 57077.6.

SEC. 9. Section 57077.3 of the Government Code is amended to read:

57077.3. (a) If a proposal consists of a reorganization not described in Section 57075, 57077, 57077.4, or 57111, the commission shall order the reorganization without confirmation by the voters except that if the reorganization meets the requirements of subdivision (b), the commission shall order the reorganization subject to confirmation of the voters.

(b) The commission shall order the reorganization subject to confirmation of the voters as follows:

(1) If the commission has approved a proposal submitted by resolution of a majority of the members of the legislative bodies of two or more local agencies pursuant to Section 56853, and the commission has found that protests meet the applicable protest thresholds set forth in Section 57092.

(2) If the commission has approved a proposal not initiated by the commission, and if a subject agency has not objected by resolution to the proposal, a written protest has been submitted that meets the applicable protest thresholds set forth in Section 57092.

(3) If the commission has approved a proposal not initiated by the commission, and if a subject agency has objected by resolution to the proposal, written protests have been submitted that meet one of the protest thresholds set forth in Section 57093.

(4) If the commission has approved a proposal initiated by the commission, and regardless of whether a subject agency has objected to the proposal by resolution, written protests have been submitted that meet the requirements of Section 57077.6.

SEC. 10. Section 57077.4 of the Government Code is amended to read:

57077.4. (a) If a reorganization consists of the dissolution of one or more districts and the annexation of all or substantially all the territory to another district not initiated pursuant to Section 56853 or by the commission pursuant to Section 56375, the commission shall order the reorganization without confirmation by the voters except that if the reorganization meets the requirements of subdivision (b) or (c), the commission shall order the reorganization subject to confirmation by the voters.

(b) The commission shall order the reorganization subject to confirmation by the voters, if written protests have been submitted that meet the applicable protest thresholds set forth in Section 57093.

(c) The commission shall order the reorganization subject to confirmation by the voters if the reorganization has been initiated by the commission pursuant to Section 56375 and protests have been submitted that meet the requirements of Section 57077.6.

SEC. 11. Section 57077.5 is added to the Government Code, to read:

57077.5. (a) In any resolution ordering a merger or establishment of a subsidiary district, the commission shall approve the change of organization without an election except that if the change of organization meets the requirements of subdivision (b), the commission shall order the change of organization subject to confirmation of the voters.

(b) The commission shall order the change of organization subject to confirmation of the voters within any subject agency as follows:

(1) If the proposal was not initiated by the commission, and if a subject agency has not objected by resolution to the proposal, the commission has found that protests meet the applicable protest thresholds set forth in Section 57092.

(2) If the proposal was not initiated by the commission, and if a subject agency has objected by resolution to the proposal, written protests have been submitted that meet the applicable protest thresholds set forth in Section 57093.

(3) If the proposal was initiated by the commission, and regardless of whether a subject agency has objected to the proposal by resolution, written protests have been submitted that meet the requirements of Section 57077.6.

(c) Notwithstanding subdivision (a) or (b), the commission shall not order the merger or establishment of a subsidiary district without the consent of the subject city.

SEC. 12. Section 57077.6 is added to the Government Code, to read:

57077.6. Notwithstanding Section 57102, 57108, or 57111, both of the following shall apply:

(a) For any proposal that was initiated by the commission pursuant to Section 56375.1, the commission shall forward the change of organization or reorganization for confirmation by the voters if the commission finds written protests have been submitted that meet the applicable protest thresholds set forth in Section 57093.

(b) For any proposal that was initiated by the commission pursuant to subparagraphs (A) through (G), inclusive, of paragraph (2) of subdivision (a) of Section 56375, the commission shall forward the change of organization or reorganization for confirmation by the voters if the commission finds written protests have been submitted that meet the applicable protest thresholds set forth in Section 57094.

SEC. 13. Section 57090 of the Government Code is amended to read:

57090. (a) Except as otherwise provided in subdivision (b), if proceedings are terminated, either by majority protest as provided in Sections 57075 and 57077, or if a majority of voters do not confirm the change of organization or reorganization as provided in Section 57179, no substantially similar proposal for a change of organization or reorganization of the same or substantially the same territory may be filed with the commission within two years after the date of the certificate of termination if the proposal included an incorporation or city consolidation and within one year for any other change of organization or reorganization.

(b) The commission may waive the requirements of subdivision (a) if it finds these requirements are detrimental to the public interest.

SEC. 14. Chapter 4.5 (commencing with Section 57091) is added to Part 4 of Division 3 of Title 5 of the Government Code, to read:

CHAPTER 4.5. Protest Thresholds

57091. (a) For purposes of Section 57075, relating to annexations, detachments, and latent powers, in the case of registered voter districts or cities:

(1) For inhabited territory, the commission shall take one of the following actions:

(A) Terminate proceedings if a majority protest exists in accordance with Section 57078.

(B) Order the change of organization or reorganization subject to confirmation by the registered voters residing within the affected territory if written protests have been filed and not withdrawn by either of the following:

(i) At least 25 percent, but less than 50 percent, of the registered voters residing in the affected territory.

(ii) At least 25 percent of the number of owners of land who also own at least 25 percent of the assessed value of land within the affected territory.

(C) Order the change of organization or reorganization without an election if subparagraphs (A) and (B) of this paragraph do not apply.

(2) For uninhabited territory, the commission shall take either of the following actions:

(A) Terminate proceedings if a majority protest exists in accordance with Section 57078.

(B) Order the change of organization or reorganization if written protests have been filed and not withdrawn by owners of land who own less than 50 percent of the total assessed value of land within the affected territory.

(b) For purposes of Section 57075, in the case of landowner-voter districts, the commission shall take one of the following actions:

(1) Terminate proceedings if a majority protest exists in accordance with Section 57078.

(2) Order the change of organization or reorganization subject to an election within the affected territory if written protests that have been filed and not withdrawn represent either of the following:

(A) Twenty-five percent or more of the number of owners of land who also own 25 percent or more of the assessed value of land within the affected territory.

(B) Twenty-five percent or more of the voting power of landowner voters entitled to vote as a result of owning property within the affected territory.

(3) Order the change of organization or reorganization without an election if written protests have been filed and not withdrawn by less than 25 percent of the number of owners of land who own less than 25 percent of the assessed value of land within the affected territory.

57092. For purposes of Sections 57077.1, relating to dissolution, 57077.2, relating to consolidation, 57077.3, relating to reorganization, 57077.4, relating to dissolution and annexation, and 57077.5, relating to merger or establishment of a subsidiary district, the following protest thresholds shall apply:

(a) In the case of inhabited territory, protests have been signed by either of the following:

(1) At least 25 percent of the number of landowners within the affected territory who own at least 25 percent of the assessed value of land within the affected territory.

(2) At least 25 percent of the voters entitled to vote as a result of residing within, or owning land within, the affected territory.

(b) In the case of a landowner-voter district, that the territory is uninhabited and that protests have been signed by at least 25 percent of the number of landowners within the affected territory owning at least 25 percent of the assessed value of land within the affected territory.

57093. For proposals not initiated by the commission and where a subject agency has objected by resolution to the proposal, for purposes of Sections 57077.1, relating to dissolution, 57077.2, relating to consolidation, 57077.3, relating to reorganization, 57077.4, relating to dissolution and annexation, and 57077.5, relating to merger or establishment of a subsidiary district, the following protest thresholds shall apply:

(a) In the case of inhabited territory, protests have been signed by either of the following:

(1) At least 25 percent of the number of landowners within any subject agency within the affected territory who own at least 25 percent of the assessed value of land within the affected territory.

(2) At least 25 percent of the voters entitled to vote as a result of residing within, or owning land within, any subject agency within the affected territory.

(b) In the case of a landowner-voter district, that the territory is uninhabited and protests have been signed by at least 25 percent of the number of landowners within any subject agency within the affected territory, owning at least 25 percent of the assessed value of land within the subject agency.

57094. For purposes of Section 57077.6, relating to proposals initiated by the commission, the following protest thresholds shall apply:

(a) In the case of inhabited territory, protests have been signed by either of the following:

(1) At least 10 percent of the number of landowners within any subject agency within the affected territory who own at least 10 percent of the assessed value of land within the territory. However, if the number of landowners within a subject agency is less than 300, the protests shall be signed by at least 25 percent of the landowners who own at least 25 percent of the assessed value of land within the affected territory of the subject agency.

(2) At least 10 percent of the voters entitled to vote as a result of residing within, or owning land within, any subject agency within the affected territory. However, if the number of voters entitled to vote within a subject agency is less than 300, the protests shall be signed by at least 25 percent of the voters entitled to vote.

(b) In the case of a landowner-voter district, the territory is uninhabited and protests have been signed by at least 10 percent of the number of landowners within any subject agency within the affected territory, who own at least 10 percent of the assessed value of land within the territory. However, if the number of landowners entitled to vote within a subject agency is less than 300, protests shall be signed by at least 25 percent of the landowners entitled to vote.

SEC. 15. Section 57107 of the Government Code is repealed.

SEC. 16. Section 57113 of the Government Code is repealed.

SEC. 17. Section 116687 of the Health and Safety Code is amended to read:

116687. (a) For purposes of this section, the following terms have the following meanings:

(1) "District" means the Sativa-Los Angeles County Water District.

(2) "Commission" means the Local Agency Formation Commission for the County of Los Angeles.

(b) To provide affordable, safe drinking water to disadvantaged communities, the state board shall order the district to accept administrative and managerial services, including full management and control, from an administrator selected by the state board, as prescribed in Section 116686, except that the state board is not required to conduct a public meeting as described in paragraph (2) of subdivision (b) of Section 116686.

(c) (1) Upon the appointment of an administrator, all of the following apply:

(A) Notwithstanding Article 1 (commencing with Section 30500) of Chapter 1 of Part 3 of Division 12 of the Water Code, the district's board of directors shall surrender all control to the appointed administrator and shall thereafter cease to exist.

(B) The members of the board of directors of the district shall have no standing to represent the district's ratepayers, and a member of the board of directors shall have no claim for benefits other than those the member actually received while a member of the board of directors.

(C) Any action by the board of directors to divest the district of its assets shall be deemed tampering with a public water system pursuant to Section 116750 and is subject to the criminal penalties provided for in that section.

(2) Within 90 days of the appointment of an administrator, the Controller shall perform a desk audit or financial review of the district. The state board shall exercise its legal authority to facilitate the desk audit or financial review, including, but not limited to, its authority to take possession of the district's financial records.

(3) Any decision by the commission about the dissolution or consolidation of the district is not subject to the provisions of Section 57077.6 of the Government Code, nor to any other requirement for a protest proceeding or election. The commission shall not impose any condition on the successor agency that requires a protest proceeding or an election, as described in Part 4 (commencing with Section 57000) and Part 5 (commencing with Section 57300) of Division 3 of Title 5 of the Government Code, respectively.

(4) If the commission approves a dissolution of the district initiated by the commission, a successor agency designated in the dissolution by the commission, in consultation with the commission, may solicit proposals, evaluate submittals, and select any public water system to be the receiving water system and subsume all assets, liabilities, adjudicated water rights, responsibilities, and service obligations to provide retail water service to existing and future ratepayers within the former territory of the district. The successor agency shall represent the interests of the public and the ratepayers in the former territory of the district.

(d) The state board may provide additional funding to the administrator or the Water Replenishment District of Southern California or the successor agency designated by the commission for urgent infrastructure repairs to the public water system of the district without regard to the future ownership of any facilities affected by this funding. For purposes of this section, "urgent infrastructure repairs" are those that are immediately necessary to protect the public health, safety, and welfare of those served by the district.

(e) If the district is consolidated with a receiving water system as prescribed in Sections 116682 and 116684, the subsumed territory of the district may include both unincorporated territory of the County of Los Angeles and incorporated territory of the City of Compton.

(f) (1) Any administrator appointed pursuant to subdivision (b), any successor agency to the district designated by the commission to take over the district, any receiving operator of a public water system that provides service to the territory of the district, any water corporation that acquires the district, and the commission shall not be held liable for claims by past or existing district ratepayers or those who consumed water provided through the district concerning the operation and supply of water from the district during the interim operation period specified in subdivision (g) for any good faith, reasonable effort using ordinary care to assume possession of the territory of, to operate, or to supply water to the ratepayers within the territory of, the district.

(2) Any administrator appointed pursuant to subdivision (b), any successor agency to the district designated by the commission to take over the district, any receiving operator of a public water system that provides service to the territory of the district, any water corporation that acquires the district, and the commission shall not be held liable for claims by past or existing district ratepayers or those who consumed water provided through the district for any injury that occurred prior to the commencement of the interim operation period specified in subdivision (g).

(g) (1) Notwithstanding subdivision (d) of Section 116684, for any successor agency to the district designated by the commission to take over the district, any receiving operator of a public water system that provides service to the territory of the district, or any water corporation that acquires the district, the interim operation period shall commence upon the execution of an agreement or designation by the commission to provide water services to the district and shall end one year later. Upon the showing of good cause, the interim operation period shall be extended by the commission for up to three successive one-year periods at the request of an entity described in this paragraph.

(2) For the administrator appointed pursuant to subdivision (b), the interim operation period commences upon being appointed by the state board and ends when a successor agency has been designated by the commission to provide water service to ratepayers of the district, when a receiving water agency is consolidated with or extends service to ratepayers of the district, when a water corporation acquires the district with the approval of the Public Utilities Commission, or when the administrator's obligation to provide interim administrative and managerial services has otherwise ended.

**MENDOCINO
Local Agency Formation Commission**

Staff Report

MEETING November 6, 2023
TO Mendocino Local Agency Formation Commission
FROM Uma Hinman, Executive Officer
SUBJECT **Applications and Work Load**

RECOMMENDATION

Staff recommends the Commission receive and file this report.

BACKGROUND

The Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 delegates local agency formation commissions (LAFCos) with regulatory and planning duties to coordinate the logical formation and development of local government agencies. This includes approving or disapproving proposals for reorganizations (i.e., annexations, detachments, dissolutions, etc.), activation of latent powers, sphere of influence amendments, and outside service agreements.

LAFCo proceedings for jurisdictional changes are generally initiated by outside applicants through petitions (landowners or voters) and resolutions (local agencies). LAFCos may also initiate jurisdictional changes to form, consolidate, or dissolve special districts if consistent with the recommendations of approved municipal service reviews.

The item is for information and satisfies Mendocino LAFCo’s reporting requirement for current and future applications.

ACTIVE PROPOSALS

Attachment 1 is a regular update to the Commission on active proposals on file as well as identification of future proposals staff anticipates being filed with LAFCo in the near term based on discussions with local agencies and proponents.

WORK PLAN

Local policy directs the Commission to annually adopt a Work Plan for purposes of providing a comprehensive overview of municipal service reviews and sphere of influence updates over the course of the fiscal year. Attachment 2 is an update on the status of activities scheduled in the Work Plan. This report also serves to inform the Commission of any changes in circumstances or priorities.

Attachments

1. Summary Table – Application Activity and Potential Future Proposals
2. Summary Table – Work Plan Tracking and Status

Attachment 1. Summary Table – Application Activity and Potential Future Proposals

LAFCo File No. ¹	Applicant	Project Name	Date Application Received	Certificate of Filing	LAFCo Hearing Date	Certificate of Completion	BOE Submittal Date
P-2023-02	Fort Bragg	Pre-Application Review for Annexation of City-owned Properties	4/10/2023	N/A	N/A	N/A	N/A
<p>The City of Fort Bragg submitted a Pre-Application Review Request for annexation of Mendocino Coast Recreation and Park District properties consisting of 6 parcels totaling 582 acres. The intended use of the parcels is for water supply reservoirs, power generation, preservation and recreation. A pre-application meeting was held with Fort Bragg staff on July 25. Additional research is being conducted to provide guidance on identified issues.</p>							
A-2023-01	AVCSD	Annexation of Sphere	3/6/2023				
<p>The Anderson Valley Community Services District (AVCSD) proposes to annex the District’s Sphere of Influence (SOI) for fire and ambulance services. The Agency Referral and Notice of Filing have been distributed to initiate the tax share negotiation process (3/2023). The application is incomplete pending additional information and a tax share agreement. Coordination meetings are being held with AVCSD staff.</p>							
A-2022-02	Ukiah	City of Ukiah Annexation of Western Hills (Hull Properties)	6/8/2022				
<p>The City of Ukiah proposes to annex approximately 707 acres in the Western Hills for open space preservation, while allowing the potential for future low density residential up to 14 dwelling units on the 55 easternmost acres. The application is incomplete pending additional information and a tax share agreement.</p>							
L-2022-01	ECSD	Elk Community Services District Activation of Latent Powers for Wastewater Services	4/8/2022				
<p>The Elk Community Services District (ECSD) proposes to activate latent powers for the provision of wastewater services. The district will be assuming ownership and operation of a community leach field within the community of Elk. The application has been referred to affected agencies and a Notice of Filing sent to the County Assessor and Auditor-Controller to initiate the tax share negotiation process in accordance with Revenue & Tax Code Section 99. The application is incomplete pending a tax share agreement.</p>							
A-2021-01	Ukiah	City of Ukiah Annexation of City-Owned Properties	3/1/2021 2/25/2022	7/18/2023	9/11/2023	10/23/2023	11/1/2023
<p>The City of Ukiah’s proposal to annex City-owned properties was approved by the Commission on September 11, 2023. The proposal annexed City-owned parcels that are used for government purposes and consist of approximately 446 acres in total; parcels include the City’s Wastewater Treatment Plant, solid waste transfer station, a portion of the municipal airport and open space. The Certificate of Completion has been recorded and the Board of Equalization submittal was mailed on November 1, 2023.</p>							
Potential Future Proposals							

¹Key: A – Annexation
 C – Consolidation

 D – Detachment
 F – Formation

 L – Activation of Latent Powers
 O – Out of Agency Service Agreement

 P – Pre-application Review Request
 R – Reorganization

Attachment 2. Summary Table – Work Plan Tracking and Status

FY 2023-24 ESTIMATED WORK PLAN IMPLEMENTATION SCHEDULE AND STATUS						
<i>Work Plan status as of November 1, 2023</i>						
Subject to Change: The estimated schedule and costs for the Fiscal Year 2023-24 Work Plan are subject to change based on agency responsiveness, timely provision of requested information, complexity of issues, level of public and affected agency controversy, and changing needs and priorities.						
CEQA: Based on LAFCo practice, the work plan assumes minimal costs for CEQA compliance related to preparing a Notice of Exemption, unless an agency proposes a non-coterminous SOI and pays for any necessary studies and preparation of a Negative Declaration or Environmental Impact Report.						
Rolling Work Plan: It is difficult to completely contain staff activities in a single fiscal year; therefore, completion of a study may roll over to the next fiscal year. This estimated work plan implementation schedule is intended to enhance communication and transparency.						
Agency	Request for Information	Admin Draft	Public Workshop	Public Hearing	Final Study	Status/Notes
Caspar South Water District	In process	In process				Research and development of an Administrative Draft and Request for Information (RFI) is in process.
Elk County Water District	In process	In process				Research and development of an Administrative Draft and RFI is in process.
Gualala Community Services District	In process	In process				Research and development of an Administrative Draft and RFI is in process.
Irish Beach Water District	In process	In process				Research and development of an Administrative Draft and RFI is in process.
Mendocino County Water Works Water Works District No. 2	10/12/2023	In process				Research and development of an Administrative Draft; RFI sent to district. This will be the first MSR for the district.
Pacific Reefs Water District	10/27/2023	In process				Research and development of an Administrative Draft; RFI sent to district.
Westport County Water District	In process	In process				Research and development of an Administrative Draft and RFI is in process.



HOPLAND

MUNICIPAL ADVISORY COUNCIL

September 20, 2023

Mendocino Local Agency Formation Commission (LAFCo)
Ukiah Valley Conference Center
200 South School Street,
Ukiah, CA, 95482
Sent via email to: eo@mendolafco.org

Subject: Letter of Inquiry on Funding for the Hopland Cemetery District
14100 Old River Road, Hopland, California

Dear Mendocino LAFCo:

We, the Hopland Municipal Advisory Council (HMAC), write this letter on behalf of the Hopland Cemetery District (District) to request information on the District's current funding balance.

We understand from an update shared with us by the District in August that the District is unclear how its funding is allocated and if there are unspent funds for the District that would have been accrued during the years that the District did not have an active Board of Trustees. It sounds like the District is unclear on important information such as where its funding is saved, the total that has been collected, and the total that has been spent.

We understand that Mendocino County apportions secured and supplemental taxes under the "Teeter Plan" of apportioning property taxes and that districts should therefore receive 100 percent of the amount charged on the original tax roll, less any corrections made during the year (Mendocino County, Auditor-Controller, Property Tax Information, 2023).

We hope you are able to help the District engage with the County in order to better understand its budget status and manage its finances appropriately moving forward.

Thank you for your consideration.

Sincerely,

A handwritten signature in blue ink, appearing to read "J. Holden".

Hopland Municipal Advisory Council

cc. Hopland Cemetery District, hoplandcemetery@gmail.com
Mendocino County Board of Supervisors, COBSupport@mendocinocounty.org