



# Marin Local Agency Formation Commission

Regional Service Planning | Subdivision of the State of California

## Notice

### LEGISLATIVE COMMITTEE MEETING AND AGENDA

March 28, 2024 ▪ 3:30 PM

#### **Appointed Members**

Roger Smith | Cathryn Hilliard | Craig Murray

Marin LAFCo Office | Suite 220 | 1401 Los Gamos Drive, San Rafael, CA

**3:30 PM CALL TO ORDER** – Deputy Executive Officer Seibel to call the meeting to order

**ROLL CALL** – Deputy EO to call the roll

#### **SELECTION OF CHAIR**

The Committee shall nominate and select a Chair of the Legislative Committee for calendar year 2024.

#### **PUBLIC COMMENT**

This portion of the meeting is reserved for persons desiring to address the Committee on any relevant matter not listed on this agenda and that are within the jurisdiction of the Committee. Speakers are limited to three minutes.

#### **BUSINESS ITEMS**

The Committee is scheduled to discuss and provide direction on the following items.

1. Approval of May 23, 2023, Meeting Minutes
2. Discussion of CALAFCO Tracked Legislation

#### **ADJOURNMENT**

*Claire Devereux*

Attest: Claire Devereux  
Clerk/Jr. Policy Analyst

Administrative Office  
Jason Fried, Executive Officer  
1401 Los Gamos Drive, Suite 220  
San Rafael, California 94903  
T: 415-448-5877 E: staff@marinlafco.org  
www.marinlafco.org

Dennis Rodoni, Vice-Chair  
County of Marin  
Eric Lucan, Regular  
County of Marin  
Stephanie Moulton-Peters, Alternate  
County of Marin

Barbara Coler, Chair  
Town of Fairfax  
Steve Burdo, Regular  
Town of San Anselmo  
Stephen Burke, Alternate  
City of Mill Valley

Lew Kious, Regular  
Almonte Sanitary District  
Craig Murray, Regular  
Las Gallinas Valley Sanitary District  
Cathryn Hilliard, Alternate  
Southern Marin Fire Protection District

Larry Chu, Regular  
Public Member  
Roger Smith, Alternate  
Public Member



# Marin Local Agency Formation Commission

## Regional Service Planning | Subdivision of the State of California

**AGENDA REPORT**  
March 28, 2024  
Item No. 1 (Business)

**TO:** Legislative Committee

**FROM:** Jeren Seibel, Deputy Executive Officer

**SUBJECT:** Approve the May 23, 2023 Legislative Committee Meeting Minutes

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### Background

The Ralph M. Brown Act was enacted by the State Legislature in 1953 and establishes standards and processes therein for the public to attend and participate in meetings of local government bodies as well as those local legislative bodies created by State law; the latter category applying to LAFCOs. The “Brown Act” requires – and among other items – public agencies to maintain minutes for all meetings.

### Discussion

The draft minutes for the May 23, 2023 Legislative Committee meeting accurately reflect the Committee’s actions as recorded by staff and are attached. A copy of the approved meeting minutes will be made available online.

### Staff Recommendation for Action

1. **Staff recommendation** – Approve the draft minutes prepared for the Legislative Committee meeting with any desired corrections or clarifications.
2. **Alternative Option** - Continue consideration of the item to the next committee meeting and provide direction to staff, as needed.

### Attachment:

1. Draft Minutes for May 23, 2023

**Administrative Office**  
Jason Fried, Executive Officer  
1401 Los Gatos Drive, Suite 220  
San Rafael, California 94903  
T: 415-448-5877 E: staff@marinlafco.org  
www.marinlafco.org

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Public Member

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Public Member



# Marin Local Agency Formation Commission

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**DRAFT**

## NOTICE OF LEGISLATIVE COMMITTEE MEETING MINUTES

### Marin Local Agency Formation Commission

**Tuesday, May 23, 2023, 3:00 p.m.**

#### CALL TO ORDER

DEO Seibel called the meeting to order at 3:00 P.M..

#### ROLL CALL BY COMMISSION CLERK

Roll was taken and quorum was met. The following were in attendance:

Commissioners Present: Barbara Coler  
Craig Murray  
Cathryn Hilliard

Alternate Commissioners Present: N/A

Marin LAFCo Staff Present: Jason Fried, Executive Officer  
Jeren Seibel, Deputy Executive Officer

Marin LAFCo Counsel Present: None

Commissioners Absent: None

Alternate Members Absent: N/A

#### SELECTION OF CHAIR

Commissioner Coler nominated Commissioner Murray to be Chair of the Committee. There were no objections.

Approved: Motion by Commissioner Coler to nominate.

Ayes: Commissioners Coler and Hilliard

Nays: None

Abstain: None

Absent: None

Motion approved unanimously.

#### PUBLIC COMMENT

DEO Seibel opened the public comment. Seeing no comment, DEO Seibel closed public comment.

## BUSINESS ITEMS

### 1. Approval of March 19, 2022, Meeting Minutes

There were no substantive comments from the Committee.

Approved: Motion by Commissioner Coler to approve the minutes.

Ayes: Commissioners Murray and Hilliard

Nays: None

Abstain: None

Absent: None

Motion approved unanimously.

### 2. Discussion of CALAFCO Tracked Legislation

DEO Seibel gave the staff report giving some background information on eight bills being tracked by CALAFCO. He mentioned that as five of the current bills pertained to Brown Act/Public Meetings, the CALAFCO Legislative Committee had created and circulated a survey amongs all LAFCOs to get feedback on possible changes to public meeting formats in the future. He went on to explain the changes that this year's CALAFCO-sponsored Omnibus Bill would make. also noted that staff was recommending that LAFCo. He, lastly, recommended that the Committee take a position of alignment with CALAFCO as a Priority 3 item on all the currently tracked legislation, as recommended by CALAFCO and as outlined in Marin LAFCo Policy.

Commissioner Coler requested to go through each of the pieces of tracked legislation to review each one. DEO Seibel proceeded to read the summary texts for each bill.

Commissioner Murray had questions regarding how CALAFCO picked the specific pieces of legislation that it tracks. DEO Seibel explained that CALAFCO has a legislative lobbyist that it contracts with. Commissioner Murray requested that DEO Seibel find out who the lobbyist for CALAFCO is.

Approved: Motion by Commissioner Coler to make the recommendation to the full Commission of the position of Alignment with CALAFCO at Priority 3.

Ayes: Commissioners Hilliard and Murray

Nays: None

Abstain: None

Absent: None

Motion approved unanimously.

DEO Seibel adjourned the meeting at 3:40 P.M.

## ADJOURNMENT TO NEXT MEETING

Time TBD | Location TBD

Attest: Jeren Seibel  
Deputy Executive Officer

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Any writings or documents pertaining to an open session item provided to a majority of the Commission less than 72 hours prior to a regular meeting shall be made available for public inspection at Marin LAFCo Administrative Office, 1401 Los Gamos Drive, Suite 220, San Rafael, CA 94903, during normal business hours.

Pursuant to GC Section 84308, if you wish to participate in the above proceedings, you or your agent are prohibited from making a campaign contribution of \$250 or more to any Commissioner. This prohibition begins on the date you begin to actively support or oppose an application before LAFCo and continues until 3 months after a final decision is rendered by LAFCo. If you or your agent have made a contribution of \$250 or more to any Commissioner during the 12 months preceding the decision, in the proceeding that Commissioner must disqualify himself or herself from the decision. However, disqualification is not required if the Commissioner returns that campaign contribution within 30 days of learning both about the contribution and the fact that you are a participant in the proceedings. Separately, any person with a disability under the Americans with Disabilities Act (ADA) may receive a copy of the agenda or a copy of all the documents constituting the agenda packet for a meeting upon request. Any person with a disability covered under the ADA may also request a disability-related modification or accommodation, including auxiliary aids or services, in order to participate in a public meeting. Please contact the LAFCo office at least three (3) working days prior to the meeting for any requested arraignments or accommodations.

**Marin LAFCo**

Administrative Office

1401 Los Gamos Drive, Suite 220

San Rafael California 94903

T: 415-448-5877

E: [staff@marinlafco.org](mailto:staff@marinlafco.org)

W: [marinlafco.org](http://marinlafco.org)

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# Marin Local Agency Formation Commission

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## AGENDA REPORT

March 28, 2024

Item No. 2 (Business)

**TO:** Legislative Committee

**FROM:** Jeren Seibel, Deputy Executive Officer

**SUBJECT:** Discussion of CALAFCO Tracked Legislation

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### Background

During each legislative cycle, the CALAFCO Executive Director tracks and reports out to the CALAFCO Legislative Committee on proposed legislation that is deemed to be pertinent to LAFCos. Currently, seven bills are being tracked (AB 3277, SB 1209, SB 537, AB 805, AB 817, AB 2302, SB 2715), with four of these consisting of Brown Act/public meeting format changes. A daily legislative report from CALAFCO was captured on Wednesday, March 22<sup>nd</sup>, and is included in your packet as an attachment for additional context on the previously mentioned bills.

This year's annual CALAFCO-sponsored Omnibus Bill (AB 3277) seeks to make one specific change to the Cortese-Knox-Hertzberg Act which governs the work of LAFCos. These changes are necessary as Commissions implement the Act and small inconsistencies are found or clarifications are needed to make the law as unambiguous as possible. AB 3277 seeks to limit the requirement for a financial analysis of ad valorem taxes during the formation of a district to those instances when a share of the tax is sought. The other bill sponsored by CALAFCO this year, SB 1209, seeks to authorize LAFCos to use indemnification provisions on their applications. This proposal/bill is in response to a 2022 Appellate court decision that found that LAFCos, as delegates of the state legislature, may not use indemnification provisions on applications because they have not been authorized by the legislature to enter into indemnification agreements. CALAFCO has requested letters of support for each of these two bills from all of its members. You will find the proposed letters as attachments to this item for your review and approval.

Marin LAFCo Policy section 3.15 gives the Commission the option to take positions and assign priority to any legislation moving through the process in Sacramento. Staff would suggest the "Alignment with CALAFCO" position at the Priority 3 level.

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Jason Fried, Executive Officer  
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## **Staff Recommendation for Action**

- 1. Staff recommendation** – Recommend to the Commission to take the position of “alignment with CALAFCO” at the priority 3 level for each of the seven tracked bills, as well as approving the transmission of the two included letters of support for AB 3277 and SB 1209
- 2. Alternative Option** - Continue consideration of the item to the next committee meeting and provide direction to staff, as needed.

### Attachment:

- 1) CALAFCO Tracked Legislation
- 2) Marin LAFCo Legislative Matters policy
- 3) SB 1209 Text
- 4) AB 3277 Text
- 5) AB 3277 Letter of Support
- 6) SB 1209 Letter of Support

**Priority 1 Bills - (Major importance & direct, significant impact or policy precedent. Resource intensive.)**

**A. AB 3277 (ALGC) Local agency formation commission: districts: property tax. – CALAFCO sponsored.**

This was an Omnibus bill submission and was moved forward as that. However, it was determined by the ALGC to not meet the technical definition of an Omnibus bill as making technical changes. However, they graciously brought it forward as a stand-alone bill.

This bill would limit the requirement for a financial analysis of ad valorem taxes during the formation of a district to those instances when a share of the tax is sought. This bill has been keyed as fiscal, and is awaiting scheduling in Appropriations, where it will most likely be placed on the Consent agenda. Once through Appropriations, it will be scheduled before the Assembly Local Government Committee for hearing.

A Call for Action went out to the LAFCOs on February 29<sup>th</sup>, and letters of support have begun trickling in. The CALAFCO letter of support can be found attached as 3.A(2).

***CURRENT POSITION: Sponsor***

**B. SB 1209 (Cortese) Indemnification – CALAFCO sponsored.**

This bill was proposed at the beginning of 2023, and seeks to authorize LAFCOs to use indemnification provisions on their applications. The proposal/bill is in response to a 2022 Appellate court decision that found that LAFCOs, as delegates of the state legislature, may not



use indemnification provisions on applications because they have not been authorized by the legislature to enter into indemnification agreements. This bill was proposed to correct that oversight. As of this writing, this is scheduled to go before the Senate Local Government Committee for hearing on March 20, 2024.

A Call for Action went out to the LAFCOs on February 29<sup>th</sup>, and letters of support have begun coming in. The CALAFCO letter of support can be found attached as 3.B(2).

Of the sister entities, CSAC has noted that they will be submitting a letter in support, while CSDA has advised of a watch position. However, on March 12<sup>th</sup>, the California Building Industry Association (CBIA) raised concerns with the author's office and proposed changes which would limit indemnifications only to approvals (Attachment B(3).) Such a change would be significant given that the underlying action out of San Luis Obispo, which was the impetus for the bill, was due to a commission denial. The effect of this proposed change is seen as limiting indemnifications to actions by third party litigants and only for approvals. The CALAFCO lobbying team conducted a listening session to hear CBIA's concerns on March 13<sup>th</sup> during which the author's office indicated its willingness to work with CBIA to address its concerns.

***CURRENT POSITION: Sponsor***

**Priority 2 Bills – (Direct impact, or set policy precedent. Letter & testimony.)**

None.

**Priority 3 Bills – (Of interest, may have substantive effect, but low priority as to time & effort. Letter.)**

**C. AB 805 (Arambula) Sewer service: disadvantaged communities**

This bill originally sought to amend Health and Safety Code to add language to provide a mechanism allowing the State Board to order a consolidation of sewer services at the same time that it ordered consolidation of drinking water systems, the latter of which being an existing authority. It was gutted and amended on 1/22/2024 to instead add language to the Water Code to authorize the State Water Resources Control Board to provide technical, administrative, managerial, legal, or financial aid to designated sewer systems in disadvantaged communities. The bill also carries an urgency clause which would cause it to take effect immediately upon chaptering, if passed.

At the Legislative Committee meeting of February 16, 2024, the committee approved a Support, if Amended position, if language was included that would require LAFCOs to be consulted by the state board prior to it making a determination that a sewer system is a designated sewer system entitled to the assistance outlined by the bill.

Ahead of the last meeting, an email was sent to the author's Legislative Director inquiring if the author would open to such an amendment. However, a response was never received. Given the committee's position approval, a formal letter to that effect (Attachment 3.C(2)) was submitted to the legislative portal on March 8, 2024. However, since no policy hearing has been scheduled, the letter went only to the author. At this writing, no response has been received from the author, and the bill still sits in Senate Rules waiting for committee assignment.

***CURRENT POSITION: Support, If Amended***

**BROWN ACT BILLS:**

**D. AB 817 (Pacheco) Open meetings: teleconferencing: subsidiary body. – BROWN ACT**

This bill began as a spot holder but was amended on 3/16/2023 to speak to teleconferenced meetings of subsidiary bodies, defined as a body that serves exclusively in an advisory capacity, and is not authorized to take final action on legislation, regulations, contracts, licenses, permits, or any other entitlements. For qualifying bodies, this bill would remove the requirement to post an agenda at the location of the subsidiary body member who was participating from off site-providing that the legislative body that formed the subsidiary body has previously made findings noting that teleconferenced meetings of the subsidiary body would enhance public access, and would promote the attractions, retention and diversity of the subsidiary body. The superior legislative body would need to revisit the matter and repeat those finding every 12 months thereafter. This bill also reaffirms that other provisions of the Brown Act are applicable to subsidiary bodies.

The bill received a minor amendment on 1/17/2024, when a sunset date of January 1, 2026 was added. Bill status is unchanged from last month as it still sits in the Senate Rules Committee waiting for assignment.

***CURRENT POSITION: Watch***

**E. NEW: AB 2302 (Addis) Open meetings: local agencies: teleconferences.**

Introduced on 2/12/2024, this bill would enact changes to Brown Act provisions that allow members of legislative bodies to teleconference for meetings. Currently, the law limits teleconferencing to no more than 3 consecutive months, 20% of the regular meetings in a calendar year, or 2 meetings for bodies that meet less than 10 times in a calendar year. This bill redefines those limits into new tiers based on the meeting frequency. As proposed, the limits would be recast as 2 meetings per year for bodies meeting monthly or less; 5 meetings per year for those meeting twice per month; or 7 meetings per year if the body meets three times or more per month.

This bill has been referred to the Assembly Local Government Committee, but no hearing date has yet been scheduled.

***Recommendation: Watch.***

**F. NEW: AB 2715 (Boerner) Ralph M. Brown Act: closed sessions.**

As introduced on 2/14/2024, would make minor grammatical changes to the Brown Act. Monitoring.

This bill has been referred to the Assembly Local Government Committee, but no hearing date has yet been scheduled.

***Recommendation: Watch.***

**G. SB 537 (Becker) Open meetings: multijurisdictional, cross-county agencies: teleconferences. – BROWN ACT**

This bill is sponsored by Peninsula Clean Energy, and seeks to add teleconferencing provisions allowing legislative bodies of multijurisdictional agencies to meet remotely. Multijurisdictional agencies are defined as boards, commissions, or advisory bodies of a multijurisdictional, cross

county agency, which is composed of appointed representatives from more than one county, city, city and county, special district, or a joint powers entity. Peninsula Clean Energy is a community choice aggregator with a board comprised of local elected officials from the County of San Mateo and its 20 cities, as well as the City of Los Banos.

The bill passed out of the Assembly Local Government Committee on July 12, 2023. It was then amended on August 14, 2023, to require eligible legislative bodies that receive compensation to participate from a physical location that is open to the public.

On September 14, 2023, the bill was moved into the inactive file where it remains.

***CURRENT POSITION: Watch***

15. **LEGISLATIVE MATTERS**

A. **Process**

Under ideal circumstances, newly introduced or identified legislation that may directly or indirectly impact Marin LAFCo is to be designated by Executive Officer for further review. Such applicable legislation shall then be presented to and reviewed by the Legislative Committee. Finally, the Legislative Committee shall then offer recommendations to the full Commission for approval. This ideal process may be altered or modified if the legislation is time sensitive situation (3.15 D).

B. **Formal Position on Legislation**

LAFCo shall take one of the following positions:

- i. **Sponsor** – A position given to bills that the Commission help draft and believes are consistent with or would further Marin LAFCo policy positions or implementation of the Cortese-Knox-Hertzberg Act, would benefit Marin LAFCo, or reflects good governance principles as public policy.
- ii. **Support** - A position given to bills that the Commission believes are consistent with or would further Marin LAFCo policy positions or implementation of the Cortese-Knox-Hertzberg Act, would benefit Marin LAFCo, or reflects good governance principles as public policy.
- iii. **Neutral** - A position given to bills that have no direct impact upon Marin LAFCo or have been sufficiently amended to remove Marin LAFCo support or opposition, but for which the sponsor and/or legislative author requests a position from Marin LAFCo.
- iv. **Watch** - A position given to bills that are of interest to Marin LAFCo but do not directly affect Marin LAFCo at that time, including spot bills or two-year bills where the author has indicated that the bill will be amended or the subject area may change to impact Marin LAFCo (also known as gut and amend bills). These bills will be tracked but do not warrant taking a position at that time.
- v. **Oppose** - A position given to bills or propositions that the Commission believes would be detrimental to the policy position or implementation of the Cortese-Knox-Hertzberg Act, or Marin LAFCo, or to good governance principles as public policy.
- vi. **Support/Oppose Unless Amended** - A position given to bills for which a support or oppose position could be taken if amendments were made to address identified concerns of the Commission. This may include changing a previously stated Marin LAFCo position. This position can be changed by the Executive Director if identified amendments are presented and accepted by the legislator. Timeliness is usually important in responding to requests on these types of bills.
- vii. **No Position** - A position given to bills that either are of interest to or have an impact on Marin LAFCo and for which no adopted position is possible and for which there is a clear lack of consensus amongst the Commission on the appropriate position. This may include situations in which a

substantive number of Commissioners have divergent positions or policy issues of concern with proposed legislation and no final consensus position is possible.

viii. **Alignment with CALAFCO** - A position for bills that have little to no impact on Marin LAFCo but where CALAFCO has taken a position and Marin LAFCo wishes to be supportive of other LAFCOs across the state. As the legislative process moves forward, the Executive Officer shall send in letters in support of the CALAFCO position as requested by CALAFCO. Should CALAFCO change positions, then Marin LAFCo shall automatically change position to mirror. In cases where CALAFCO is the "Sponsor" of a bill but Marin LAFCo did not help draft then Marin LAFCo position shall be of "Support".

C. **Resource Priorities**

Given the limited resources of Marin LAFCo, any bill that the Commission takes action on shall be given one of the following priorities:

- i. **Priority 1** - Bills that have highest importance and a direct impact on Marin LAFCo. These bills receive primary attention and comprehensive advocacy by the Executive Officer and Commissioners. Such advocacy may include letters of position, testimony in policy committees, contact with legislators, and grassroots mobilization to members of the legislator. This level requires the greatest resource commitment.
- ii. **Priority 2** - Bills that have a significant impact on or are of interest to Marin LAFCo, may set a policy precedent or have impact relevant to the mission of Marin LAFCo, or have a major importance to a CALAFCO member or group of members or constituents. These bills receive position letters and testimony to policy committees as time permits or upon request of the author or sponsor.
- iii. **Priority 3** - Bills that have an interest to Marin LAFCo (or CALAFCO) but are deemed to be of a lower priority as to time and effort resources for advocacy. If requested by a member or stakeholder, Marin LAFCo will send a position letter but will not testify unless unusual circumstances arise and if time allows. All bills where the Commission has taken an alignment with CALAFCO position, shall by default be a Priority 3 bill unless another priority level is designated.



## AB-3277 Local agency formation commission: districts: property tax. (2023-2024)

SHARE THIS:



Date Published: 02/27/2024 09:00 PM

CALIFORNIA LEGISLATURE— 2023–2024 REGULAR SESSION

### ASSEMBLY BILL

**NO. 3277**

**Introduced by Committee on Local Government**

**February 27, 2024**

An act to amend Section 56810 of the Government Code, relating to local government.

### LEGISLATIVE COUNSEL'S DIGEST

AB 3277, as introduced, Committee on Local Government. Local agency formation commission: districts: property tax.

Existing law, the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000, establishes the sole and exclusive authority and procedures for the initiation, conduct, and completion of changes of organization and reorganization for cities and districts. Existing law requires proceedings for the formation of a district to be conducted as authorized by the principal act of the proposed district, and authorizes the local agency formation commission in each county to serve as the conducting authority, as specified. Existing law requires a commission to determine the amount of property tax revenue to be exchanged by an affected local agency, as specified, if the proposal includes the formation of a district, as defined.

This bill would, instead, require a commission to determine the amount of property tax revenue to be exchanged by an affected local agency if the proposal includes the formation of a district and the applicant is seeking a share of the 1% ad valorem property taxes. By adding to the duties of a local agency formation commission, the bill would impose a state-mandated local program.

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.

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

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

**SECTION 1.** Section 56810 of the Government Code is amended to read:

**56810.** (a) (1) If the proposal includes the incorporation of a city, as defined in Section 56043, the commission shall determine the amount of property tax revenue to be exchanged by the affected local agency pursuant to this section and Section 56815.

(2) If the proposal includes the formation of a district, as defined in Section 2215 of the Revenue and Taxation Code, *and if the applicant is seeking a share of the 1 percent ad valorem property taxes*, the commission shall determine the amount of property tax to be exchanged by the affected local agency pursuant to this section.

(b) The commission shall notify the county auditor of the proposal and the services which the new jurisdiction proposes to assume within the area, and identify for the auditor the existing service providers within the area subject to the proposal.

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

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

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

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

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

(2) The commission shall determine, based on information submitted by each affected local agency, an amount equal to the total net cost to each affected local agency during the prior fiscal year of providing those services which the new jurisdiction will assume within the area subject to the proposal. For purposes of this paragraph, "total net cost" means the total direct and indirect costs that were funded by general purpose revenues of the affected local agency and excludes any portion of the total cost that was funded by any revenues of that agency that are specified in subparagraphs (A), (B), and (C) of paragraph (1).

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

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

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

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

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

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

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

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

(f) The amendments to this section enacted during the 1985–86 Regular Session of the Legislature shall apply to any proposal described in subdivision (a) for which a certificate of completion is recorded with the county recorder on or after January 1, 1987.

(g) For purposes of this section, "prior fiscal year" means the most recent fiscal year for which data on actual direct and indirect costs and revenues needed to perform the calculations required by this section are available preceding the issuance of the certificate of filing.

(h) An action brought by a city or district to contest any determinations of the county auditor or the commission with regard to the amount of property tax revenue to be exchanged by the affected local agency pursuant to this section shall be commenced within three years of the effective date of the city's incorporation or the district's formation. These actions may be brought by any city that incorporated or by any district that formed on or after January 1, 1986.

(i) This section applies to any city that incorporated or district that formed on or after January 1, 1986.

(j) The calculations and procedures specified in this section shall be made prior to and shall be incorporated into the calculations specified in Section 56815.

**SEC. 2.** 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.





## SB-1209 Local agency formation commission: indemnification. (2023-2024)

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CALIFORNIA LEGISLATURE— 2023–2024 REGULAR SESSION

### SENATE BILL

**NO. 1209**

Introduced by Senator Cortese

February 15, 2024

An act to add Section 56383.5 to the Government Code, relating to local government.

### LEGISLATIVE COUNSEL'S DIGEST

SB 1209, as introduced, Cortese. Local agency formation commission: indemnification.

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. The act continues in existence in each county a local agency formation commission (LAFCO) that consists of members appointed, as specified, and oversees those changes of organization and reorganization. The act authorizes a LAFCO to, among other things, review and approve with or without amendment, wholly, partially, or conditionally, or disapprove proposals for changes of organization or reorganization, as specified.

This bill would authorize a LAFCO to require, as a condition for, among other things, processing a change of organization or reorganization, that the applicant agrees to defend, indemnify, and hold harmless the LAFCO, its agents, officers, and employees from and against any claim, action, or proceeding, as specified, arising from or relating to the action or determination by the LAFCO.

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

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

**SECTION 1.** Section 56383.5 is added to the Government Code, to read:

**56383.5.** The commission may require, as a condition for processing a change of organization or reorganization, a sphere amendment or a sphere update, or any other action or determination requested from the commission, that the applicant agrees to defend, indemnify, and hold harmless the commission, its agents, officers, and employees from any claim, action, or proceeding against the commission, its agents, officers, or employees arising from or relating to the action or determination by the commission.





# Marin Local Agency Formation Commission

Regional Service Planning | Subdivision of the State of California

April 12, 2024

Honorable David Cortese  
California State Senate  
1021 O Street, Suite 6630  
Sacramento, CA 95814

RE: **SB 1209 (Cortese): Local agency formation commission: indemnification – SUPPORT  
Awaiting hearing – Senate Local Government Committee**

Dear Senator Cortese:

The Marin Local Agency Formation Commission (LAFCo) is pleased to support Senate Bill 1209, sponsored by the California Association of Local Agency Formation Commissions (CALAFCO). SB 1209 would add a new section into Government Code authorizing LAFCos to enter into an indemnification agreement with an applicant. Counties and cities are already empowered to require indemnification, and routinely do so with respect to discretionary land-use approvals. SB 1209 would merely provide LAFCos with the same authority.

This bill addresses a 2022 decision of the Second District Court of Appeals, which found that existing State law does not provide explicit authority to require indemnification. Absent indemnification authority - and because LAFCO funding is statutorily required in a specified ratio from the county, cities, and special districts within a county - the costs to defend litigation must be absorbed by all of LAFCos funding agencies.

Consequently, **SB 1209** will:

- Provide LAFCos with the ability to use a tool already in use by counties and cities;
- Prevent costs to defend litigation from being shifted to a county, its cities, and its special districts; and
- Remove the possibility that an applicant threatens litigation to coerce a desirable LAFCO determination.

Thus, for the above reasons, Marin LAFCo is in strong **support of SB 1209**

Sincerely,

Jason Fried  
Executive Officer  
Marin Local Agency Formation Commission

**Administrative Office**  
Jason Fried, Executive Officer  
1401 Los Gatos Drive, Suite 220  
San Rafael, California 94903  
T: 415-448-5877 E: staff@marinlafco.org  
www.marinlafco.org

**Dennis Rodoni, Vice-Chair**  
County of Marin  
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County of Marin

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Town of Fairfax  
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**Craig Murray, Regular**  
Las Gallinas Valley Sanitary District  
**Cathryn Hilliard, Alternate**  
Southern Marin Fire Protection District

**Larry Chu, Regular**  
Public Member  
**Roger Smith, Alternate**  
Public Member



# Marin Local Agency Formation Commission

Regional Service Planning | Subdivision of the State of California

April 12, 2024

Honorable Juan Carrillo, Chair  
Assembly Local Government Committee  
1020 N St.  
Rm. 157  
Sacramento, CA 95814

RE: **SUPPORT of AB 3277, Local agency formation commission: districts: property tax**

Dear Senator Carillo,

The Marin Local Agency Formation Commission (LAFCo) is pleased to **Support Assembly Bill 3277**, sponsored by the California Association of Local Agency Formation Commissions (CALAFCO), which makes a clarifying change to the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 (the Act).

Under existing statutes, a commission must perform a financial analysis of ad valorem property taxes when a proposal is received that includes the incorporation of a city and the formation of a district. The only purpose of the analysis is to determine how best to apportion the property taxes between the agencies. However, occasionally, an application is received in which the district waives any portion of the ad valorem taxes. In those situations, no analysis is needed for the process, yet it remains required by statute.

This bill will add language that clarifies that the performance of the financial analysis in that situation only needs to be performed in those instances where a portion of the ad valorem property taxes is being sought.

By making this minor change, **AB 3277** will apply this time-consuming process only to those applications that require it.

For the reasons noted above, Marin LAFCo **Supports AB 3277**.

Please do not hesitate to reach out with questions or concerns about our position.

Yours sincerely,

Jason Fried  
Executive Officer  
Marin Local Agency Formation Commission

**Administrative Office**  
Jason Fried, Executive Officer  
1401 Los Gamos Drive, Suite 220  
San Rafael, California 94903  
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