



AGENDA ITEM 5C

MEETING: March 20, 2024
TO: Humboldt LAFCo Commissioners
FROM: Colette Santsche, Executive Officer
SUBJECT: Letter of Support Senate Bill 1209
The Commission will receive a report regarding SB 1209 which is currently being considered by the state legislature. This bill, if enacted, would authorize LAFCo to require an indemnification agreement as part of an application for reorganization or change in service.

The State Legislature reconvened from the winter recess on January 3, 2024. Approximately 2,100 bills were introduced during the 2024 legislative session, which included an estimated 1,500 bills in the Assembly and 600 in the Senate. The deadline to introduce a bill was February 17. All bills must pass out of their house of origin (Assembly or Senate) no later than May 17. Afterwards, all bills must pass through both houses by August 31 with a 30-day period for the Governor to either sign or veto passed bills. More information is available on <http://leginfo.legislature.ca.gov/>.

BACKGROUND

LAFCo staff, through participation on the California Association of LAFCOs (CALAFCO) Legislative Committee, monitors proposed LAFCo-related legislation. During the January 12th and February 16th Committee Meetings, CALAFCO provided an update on bills continued from the 2023 legislative session and this year's Omnibus Bill. Of note, is Senate Bill 1209 relating to indemnification.

DISCUSSION

The Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 continues the existence of a local agency formation commission (LAFCo) in each county that consists of members appointed, as specified, that oversee changes of organization and reorganization. The act authorizes a LAFC 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. SB 1209 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.

Since LAFcos rely on member contributions to fund the daily operations of the commission and conduct municipal services reviews, annual budgets typically do not include contingencies for substantial legal fees, and reserves can be limited. In the event of a major claim, action, or other proceeding against the commission, the associated legal fees could quickly deplete Commission resources. Indemnification would help protect LAFcos from these types of major legal fees.

RECOMMENDATION

Staff recommends the Commission discuss this item and consider action on recommendation to support SB 1209 and direct the Executive Officer to submit a letter of support for all stages of the legislative process.

"I move that the Humboldt LAFCo support SB 1209 and direct the Executive Officer to submit a letter of support, on behalf of the Commission, for all stages of the legislative process up to and including signature by the Governor."

Attachments

Attachment A – SB 1209 (Indemnification)

Attachment B – AB 3277 Letter of Support

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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.



March 20, 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 Humboldt 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 LAFCO's 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, Humboldt LAFCO is in strong *support of SB 1209*.

Sincerely,

Colette Santsche, AICP
Executive Officer
Humboldt LAFCO

cc: The Honorable Maria Elena Durazo, Chair, and Members, Senate Local Government Committee
Anton Favorini-Csorba, Chief Consultant, Senate Local Government Committee
Ryan Eisberg, Consultant, Senate Republican Caucus
Rene' LaRoche, Executive Director, California Association of Local Agency Formation Commissions
Michelle Bushnell, 2nd District Supervisor and Humboldt LAFCO Chair