



Lou Ann Teixeira  
 Executive Officer

**MEMBERS**

- |   |  |
|---|--|
| <b>Candace Andersen</b><br><i>County Member</i>           | <b>Federal Glover</b><br><i>County Member</i>              |
| <b>Donald A. Blubaugh</b><br><i>Public Member</i>         | <b>Michael R. McGill</b><br><i>Special District Member</i> |
| <b>Gabriel Quinto</b><br><i>City Member</i>               | <b>Scott Perkins</b><br><i>City Member</i>                 |
| <b>Patricia Bristow</b><br><i>Special District Member</i> |  |

**ALTERNATE MEMBERS**

- |   |
|---|
| <b>Diane Burgis</b><br><i>County Member</i>           |
| <b>Scott Pastor</b><br><i>Special District Member</i> |
| <b>Charles R. Lewis, IV</b><br><i>Public Member</i>   |
| <b>Edi Birsan</b><br><i>City Member</i>               |

March 13, 2024

**March 13, 2024  
 Agenda Item 7**

Contra Costa Local Agency Formation  
 40 Muir Road, 1<sup>st</sup> Floor  
 Martinez, CA 94553

**Legislative Report – Update and Position Letters**

Dear Members of the Commission:

The 2024 California legislative session is currently underway. Important upcoming dates include the following:

- ✚ February 16 – last day for bills to be introduced
- ✚ April 26 – last day for policy committees to hear and report to fiscal committees **fiscal bills** introduced in their house
- ✚ May 3 - last day for policy committees to hear and report to the floor **non-fiscal** bills introduced in their house
- ✚ May 24 – last day for each house to pass bills introduced in that house
- ✚ August 31 - last day for **each house to pass bills**
- ✚ September 30 - last day for the Governor to sign or veto bills passed by the Legislature

CALAFCO is currently tracking 13 bills and sponsoring two bills including the annual omnibus bill - **AB 3277** (ad valorem taxes) and **SB 1209** (indemnification proposal). **AB 3277** would add additional language to qualify that the determination of property tax revenue by a LAFCO is only required for applications involving formation of a special district when a share of the ad valorem property tax is sought. No such determination would be needed in instances when a tax share is not desired.

Regarding **SB 1209**, this bill adds a new section to the GC 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** provides 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 with a specified ratio from the county, cities, and special districts within a county - the cost to defend litigation is absorbed by all of LAFCO’s funding agencies.

**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.

CALAFCO began its efforts regarding this bill in 2023. The proposal came in the wake of a 2022 appellate court decision which invalidated the indemnification provisions used in an annexation application. The court opined that *LAFCO's function within the bands of their express authorizations on behalf of the legislature and were not authorized to enter into indemnification agreements*. This bill will likely be scheduled after March 15<sup>th</sup>.

On February 29<sup>th</sup>, CALAFCO called for support letters (see attached) for these two bills.

**RECOMMENDATION** – Receive legislative update and provide direction to staff.

Sincerely,

LOU ANN TEXEIRA  
EXECUTIVE OFFICER

Attachment 1 – Letter of Support – AB 3277

Attachment 3 – Letter of Support – AB 1209



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March 13, 2024

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

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

Dear Senator Carillo,

The Contra Costa Local Agency Formation Commission (LAFCo) is pleased to support **Assembly Bill (AB) 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 statute, 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 local 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 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 to only those applications that require it.

For the reasons noted above, Contra Costa LAFCo supports **AB 3277**. If you have any questions, please contact us. Thank you for your consideration.

Yours sincerely,

Donald A. Blubaugh  
Chair, Contra Costa LAFCo

cc: Members and Consultants, Assembly Local Government Committee  
William Weber, Consultant, Assembly Republican Caucus  
René LaRoche, Executive Director, CALAFCO



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March 13, 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 Contra Costa Local Agency Formation Commission (LAFCO) is pleased to support Senate Bill (SB) 1209, sponsored by the California Association of Local Agency Formation Commissions (CALAFCO). SB 1209 would add a new section into the Government Code authorizing LAFCOs to require that an applicant enter into an indemnification agreement with a LAFCO as a condition for processing a LAFCO action or determination. 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 Appeal, which held that existing State law does not provide explicit authority for LAFCOs to require indemnification agreements as a condition for processing a LAFCO action or determination. Without authority to require indemnification from applicants - and because LAFCO funding is statutorily required with 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, Contra Costa LAFCO wholly supports **SB 1209**.

Sincerely,

Donald A. Blubaugh, Chair  
 Contra Costa 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  
 René LaRoche, Executive Director, California Association of Local Agency Formation Commissions