

2009

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7 May 2009

Assembly Member Juan Arambula
Honorable Anna Caballero, Chair
Assembly Local Government Committee
P.O. Box 942849
Sacramento, CA 94249-0028

RE: AB 853 Letter of Concern

Dear Assembly Member Arambula:

Thank you for the opportunity to work with you and the sponsors to improve the language in your legislation, Assembly Bill 853. We appreciate the efforts reflected in the 4 May amendments. We look forward to continue working with you and all involved to address issues which additional attention before we believe the intent of this legislation could be properly implement by local agency formation commissions.

There remains five key areas of concern for CALAFCO that we would like to continue working with you to resolve:

- 1. Definitions.** The amended language eliminates the definition of islands; however it contains a different definition of “unincorporated fringe community” from SB 194. In 853 it is identified as an inhabited unincorporated area that is within 1.5 miles of a city or within or adjacent to a city’s SOI. CALAFCO is concerned that this will contribute to leapfrog development and sprawl by allowing cities to extend services through uninhabited territories; increasing the likelihood that other development will occur in agricultural or open spaces. In addition, this compromises the LAFCo SOI process by allowing annexations outside of the sphere of influence. The language here should be consistent with SB 194.
- 2. LAFCo Discretion.** AB 853 requires a LAFCo to approve the annexation unless it finds, based on a preponderance of evidence that the change of reorganization will not result in a net benefit to the public health of the communities. It specifically excludes financial impact as a consideration. Financial considerations are just one of the 15 factors a LAFCo must consider in evaluating an application (GC §56668). There may be other significant issues – including the financial ability of the annexing city to provide services – that a LAFCo should consider, and should have the discretion to deny the application if the annexation would significantly affect the delivery of local services or conflict with other legislative mandates in the Cortese-Knox-Hertzberg Local Government Reorganization Act.
- 3. Prezoning.** AB 853 requires the city to amend its general plan after LAFCo approval, rather than the current requirements of prezoning prior to a LAFCo consideration of an application. As in any annexation application, prezoning should be a requirement.

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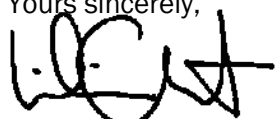
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4. **Affect on Special Districts.** The bill is silent about affected special districts. It is unclear what happens to districts that may be currently providing services that would be provided in the future by the city. Under the current language there is no opportunity for LAFCo to deny an application if the city does not have the capacity to provide water, sewer or other municipal service. In fact the bill does not address the preparation of a plan for services (i.e. what services would be provided by the city; whether a special district will remain to provide certain services, etc.). Typically that is a requirement of the application. In addition there is no opportunity to address the remaining special districts' ability to provide services to their territory that was not detached in the annexation. LAFCo should retain the discretion to deny an annexation if a plan for services has not been prepared which adequately assesses and addresses the ability of all affected local agencies to continue to provide efficient municipal services.
5. **No Protest Process.** The legislation refers to GC §57080(a) with the intent that the annexation would occur without protest. Therefore this bill essentially requires the annexation of inhabited territory based only on a petition of 25% of the registered voters. The majority of the residents never have an opportunity to be engaged in the decision. In addition, as currently written both the board of supervisors and LAFCo have very limited discretion in the decision. Perhaps there is a way to balance LAFCo discretion with a modified protest process. This is an important area for continued discussion.

Again, we appreciate your willingness to engage CALAFCO in the process and work to address our concerns. This will contribute to a law that conforms to existing law in Cortese-Knox-Hertzberg and contributes to streamlining the annexations that are the intent of your legislation. We look forward to continue working with you and the sponsors on the language.

Yours sincerely,



William Chiat

- c: Members, Assembly Local Government Committee
Debbie Michael, Consultant, Assembly Local Government Committee
William Weber, Assembly Republican Caucus