
SENATE COMMITTEE ON GOVERNANCE AND FINANCE

Senator Mike McGuire, Chair
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Author: Dodd
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LOCAL AGENCY SERVICES: CONTRACTS: COUNTIES OF NAPA AND SAN BERNARDINO

Reauthorizes the Napa and San Bernardino LAFCO pilot program to approve extensions of service outside of a local agency's sphere of influence, and expands the program to allow Napa LAFCO to approve specified service extensions, until January 1, 2026.

Background

Under the Planning and Zoning Law, every city and county must adopt a general plan that sets out planned uses for all territories within a city's or county's boundaries. Cities' and counties' major land use decisions—including development permitting—must be consistent with their general plans. Local agencies may also adopt specific plans that provide details regarding the implementation of a general plan.

LAFCOs. The Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 (AB 2838, Hertzberg) (The Act) delegates the Legislature's power to control the boundaries of cities and special districts to local agency formation commissions (LAFCOs). Each county has a LAFCO, which is governed by a board of elected officials—including city council members and county supervisors—and at least one member of the public appointed by the other members. About half of LAFCO boards have representatives from special districts.

Controlling boundaries means LAFCOs control the timing and location of development, because they determine the type of services that are available to support development—and those that aren't. The Legislature created LAFCOs to discourage urban sprawl, preserve open space and prime agricultural lands, encourage the orderly formation and development of local agencies, and to ensure the efficient delivery of government services.

LAFCOs must adopt written policies to further these goals. LAFCOs implement these goals by determining a "sphere of influence" for each local agency in its county. A sphere of influence designates an agency's probable future physical boundary and service area. It is territory that a city or special district is expected to annex, build facilities, and deliver services sometime in the future. Importantly, an agency's sphere must be contiguous with its current boundaries, and LAFCOs may recommend boundary changes based on spheres of influence. LAFCOs must consider these factors when determining spheres of influence:

- Present and planned land uses;
- Present and probable need for public facilities and services;
- Present and probable future capacity of public facilities and services; and

- Existence of any social or economic communities of interest, if relevant.

Before a commission revises cities and special districts' spheres of influence, it must prepare a municipal service review (MSR). In conducting an MSR, LAFCOs must review all of the agencies that provide the public services within the study area. LAFCOs must also revise the MSRs every five years – sometime before revising a sphere of influence.

The Act also requires cities and districts to get a LAFCO's written approval before they can serve territory outside their boundaries. When a city or special district requests to extend services outside of its boundaries, the LAFCO must follow certain procedures and deadlines to determine whether the application is complete and then approve, disapprove, or conditionally approve the extension of service.

A LAFCO can authorize a local government to extend services outside of its territory in a few specific cases:

- Within its sphere of influence, in anticipation of a later change in organization; or
- Outside its sphere to address a major threat to public health or safety, if the extension is consistent with LAFCO's policies.

Napa and San Bernardino Pilot Program. In 2015, the Legislature enacted AB 402 (Dodd) to establish a pilot program that allowed Napa and San Bernardino LAFCOs to authorize local agencies to extend municipal services to areas outside their jurisdictions and spheres of influence, for reasons other than public health or safety. AB 402 limited the extensions of services to support existing or planned uses, which was defined as any project that was included in an approved specific plan as of July 1, 2015. In addition, in order to approve an extension of service to an area outside of a local agency's jurisdiction or sphere of influence, the LAFCO must find that:

- A municipal service review has identified and evaluated a service deficiency or the proposed extension of service;
- The extension of service will not result in adverse impacts on open space or agricultural lands or have growth inducing impacts; and
- A later change of organization involving the subject territory and its affected agency is not feasible under this division or desirable based on the adopted policies of the commission.

AB 402 also required Napa and San Bernardino LAFCOs to submit a report to the Legislature on the number of requests for extensions of service and approved service extensions by January 1, 2020. Napa and San Bernardino LAFCOs both submitted the required reports.

Using the authority provided by AB 402, Napa LAFCO approved one service extension outside of its jurisdiction and sphere of influence, specifically to authorize the City of Napa to provide water to the Carneros Inn Mutual Water Company (CMWC). The CMWC serves the Carneros Inn and several nearby properties. In December 2017, Napa LAFCO conducted an MSR identifying the need for a public water service extension to the area served by CMWC because it relied on trucked water, and determined that a sphere of influence change would not be possible. Accordingly, the City of Napa entered into a water agreement where the city would construct an underground waterline to extend water from an existing pipeline to CMWC's system. On

October 7, 2019, Napa LAFCO approved the extension of service from the City to CMWC, finding that such an approval would not have growth inducing impacts or adverse impacts on open space or agricultural lands.

The San Bernardino LAFCO approved a total of three projects under AB 402 and has two pending proposals. Specifically:

- On October 23, 2017, San Bernardino LAFCO authorized the City of Colton to provide water service to a parcel within the City of Grand Terrace, which is outside the City of Colton's boundary and sphere of influence. This parcel has an existing auto body repair shop and was previously served by the Riverside Highland Water Company. However, this parcel is close to an intertie to the City of Colton's water system, and due to recent freeway construction, the City was better positioned to service this parcel.
- On October 16, 2019, San Bernardino LAFCO authorized the City of Big Bear Lake to continue to provide water service to areas within Fawnskin, Big Bear City, Erwin Lake, Lake Williams and other areas outside the City of Big Bear Lake's boundary and sphere of influence.
- On November 20, 2019, San Bernardino LAFCO authorized the Inland Empire Utilities Agency (IEUA) to continue to provide wastewater treatment service to the portions of the City of Fontana that are outside IEUA's boundary and sphere of influence.

According to the commission's report, each proposal was reviewed by the LAFCO in an MSR before approval and met the conditions required under SB 402. AB 402 contained a January 1, 2021 sunset.

City of St. Helena and Vineland Vista. The Vineland Vista Mobile Home Park dates back to 1961. According to a St. Helena Star article dated June 27, 2018, tenants were told to vacate the property in 2009 so that it could be renovated when new owners purchased the development, and since then the owners have completely cleared out the plot and have stalled redevelopment efforts. Since 2003, there has also been a winery named Hall Napa Valley adjacent to what once was the mobile home park at 401 Saint Helena Highway. On January 15, 2019, Hall Vineland, LLC and Hall Vista LLC filed a complaint against the City of St. Helena and their public works director. The complaint asserted that the city wrongfully rescinded a December 2016 "will serve" letter for a proposal to redevelop the former Vineland Vista Mobile Home Park at 341 St. Helena Highway South. The property owners claim that the redevelopment is to be considered an existing use and will continue to operate within its zoned purpose of residential use, and therefore cannot legally be denied water service that had previously been provided to the park. However, according to another St. Helena Star article dated January 29, 2019, the property owner is quoted saying, "overnight stays are absolutely in the mix... No matter whether people can stay there on a nightly basis, it is still a mobile home park." Furthermore, the article claims the property owners submitted development documents that mention the project on multiple pages as a "hotel," and that the City of St. Helena adopted a resolution expressing significant concerns with the redevelopment project claiming, "the intended use is for a hotel and not for residential use in a mobile home park." Finally, those articles note that the application is accompanied by plans to dedicate a 2-acre parcel for farmworker housing. Accordingly, there is dispute about the proposed use of this project and whether the redevelopment of the mobile home park site could be considered as an existing or new use, and therefore it is unclear whether Napa LAFCO could authorize the city to extend water and sewer services to this project under current LAFCO law, including this pilot program.

The author wants to reauthorize the Napa and San Bernardino LAFCO pilot program, and to expand the Napa pilot program to allow Napa LAFCO to authorize extensions of service to the former mobile home park, as well as the Hall Winery and a potential farmworker housing development.

Proposed Law

SB 13 reestablishes the pilot program enacted by AB 402, until January 1, 2026. SB 13 allows the Napa LAFCO to authorize the City of St. Helena to provide new or extended services outside its jurisdictional boundary and outside its sphere of influence to two street addresses, and their respective parcel numbers, where there are pending development projects. SB 13 provides that in order to approve an extension of service to these addresses, Napa LAFCO must find that the extension of service or services will:

- Result in specific environmental benefits, including transitioning septic systems to a treated sewer system; and
- Serve an agricultural employee housing development, as defined in existing law, of no less than 6 units and no more than 12 units; or
- Serve a mobile home park reuse or mobile home park redevelopment of no more than 25 units.

SB 13 requires that Napa and San Bernardino LAFCOs to submit a report containing all of the received requests and commission decisions, including any approved extensions related to the City of St. Helena, to the Legislature by January 1, 2025. SB 13 also contains findings and declarations to support its purposes.

State Revenue Impact

No estimate.

Comments

1. Purpose of the bill. According to the author, “SB 13 will extend the provisions of AB 402 until January 1, 2026, continuing a pilot program in Napa and San Bernardino counties that allows Local Agency Formation Commissions (LAFCOs) to authorize city or district services to existing uses outside urban boundaries as long as open space or agriculture are not adversely affected, ultimately reducing sprawl from expanded municipal footprints.

As the Napa and San Bernardino LAFCOs reports to the Legislature show, the pilot program was a success in both counties. Given the public benefits afforded by the pilot program in both Napa and San Bernardino counties and the likelihood that these counties will again require the flexibility afforded by the pilot program, it is appropriate to extend the provision of AB 402, originally set to expire Jan. 1, 2021, until January 1, 2026.

Finally, SB 13 adds a limited authorization for Napa LAFCO to consider the application of a sewer extension authorization by the city of St Helena, outside of the city’s jurisdictional boundary and outside of its sphere of influence, with the purpose of bringing important environmental and housing benefits, including serving farmworker housing.”

2. One step too far? Pursuant to AB 402, the LAFCO pilot program was originally intended to allow extensions of service to existing or planned uses included in a general or specific plan as late as July 1, 2015. The pilot program also maintained that in order for an extension of service to be approved, it must not result in either adverse impacts on open space or agricultural lands, or growth-inducing impacts. These provisions aligned with general LAFCO law and their original purpose to preserve agricultural land and promote orderly development. SB 13 goes a step further by allowing Napa LAFCO to authorize the City of St. Helena to extend services outside of the city's boundary and sphere of influence to developments that may be new uses, including farmworker housing and redevelopment of a mobile home park that could include some short-term rentals. Specifically, it is unclear whether the developments in the City of St. Helena are considered new or existing uses, as the sites that have been identified for potential uses have not yet been developed. Therefore, SB 13 could allow extensions of service that have growth-inducing effects or that aid in the development process of new uses outside the city's jurisdiction and sphere of influence. Such an extension would be inconsistent with the principles of the Cortese-Knox-Hertzberg Act and could set a precedent for other similar extensions of service. The Committee may wish to consider whether it would like to allow LAFCOs to approve extensions of services that could have growth-inducing effects and set a precedent of disorderly development.

3. Alternatives. Current law establishes various ways for cities and special districts to provide services to new areas that are outside their boundaries and spheres of influence. The most straightforward and preferred way of doing so is for the local agency to ask LAFCO to expand its boundaries to cover new territory through an annexation. This ensures that any residents of the territory get a say in how their services are provided because by including them in the formal boundaries of the city or special district, they get to vote for the elected representatives in charge of overseeing service provision. A city can also apply to their LAFCO for a sphere of influence amendment to include the territory of interest in the city's sphere. Finally, local agencies can ask LAFCO to authorize an extension of service outside their sphere in a few limited cases: where there's a health or safety threat, or, until the pilot program expired, in Napa and San Bernardino counties, so long as the extension wasn't growth inducing and served existing or long-planned uses. SB 13 establishes a new way around the annexation and sphere amendment process for several potentially new uses: redevelopment of a mobile home park and farmworker housing. The farmworker housing contemplated by SB 13 likely provides public benefits to the county overall. Specifically, SB 13 points to existing laws for farmworker housing that requires a project to be affordable to farmworkers for 55 years. Accordingly, streamlining the process for constructing this development may be worthwhile. However, the same may not be said for the redevelopment of the mobile home park. Although details are unclear, this project may include resort-type short-term rentals that provide private economic benefit. The Committee may wish to consider whether the characteristics of the proposed developments merit an exception to more traditional processes like sphere amendments and annexation. If not, the Committee may wish to consider amending SB 13 to make the authority in the bill contingent on developing farmworker housing and/or affordable housing units in equal number to any market-rate housing units or short-term rental units.

4. Let's be clear. SB 13 requires Napa LAFCO to make several findings prior to approving an extension of service for the intended St. Helena projects, but is unclear about exactly what conditions must be met. Additionally, both sections of SB 13, pertaining to the reauthorized pilot program as well as the expanded program applying to St. Helena, are unclear on whether extensions of service must both not have growth-inducing effects and not have adverse impacts

on open space. Lastly, SB 13 adds a reporting requirement that assumes approval of a project. The Committee may wish to consider the following amendments to clarify that:

- (1) The extension of service or services: ~~(A)~~ will result in specific environmental benefits, including transitioning septic systems to a treated sewer system, and ~~(B)~~ (A) will serve an agricultural employee housing development, as contemplated by Section 17021.8 of the Health and Safety Code, of no less than 6 units and no more than 12 units, or ~~(C)~~ (B) will serve a mobilehome park reuse or mobilehome park redevelopment of no more than 25 units.
- **The Local Agency Formation Commission must find that** the extension of service will not result in **both of the following**: (1) adverse impacts on open space or agricultural lands, ~~or~~ (2) growth inducing impacts.
- The Napa commission shall also include in the report on the pilot program information on its **decision to approve, deny, or approve with conditions any** authorization for the City of St. Helena to provide new or extended services outside its jurisdictional boundary and sphere of influence.

5. Urgent! As an urgency statute, SB 13 must be approved by a two-thirds vote of each house of the Legislature. Regular legislation takes effect on the January 1 following its passage, but urgency bills take effect as soon as they are passed, signed, and chaptered.

6. Special legislation. The California Constitution prohibits special legislation when a general law can apply (Article IV, §16). SB 13 contains findings and declarations stating that a general law cannot be made because of the unique circumstances in Napa County and San Bernardino County.

Support and Opposition (5/3/21)

Support: County of Napa

Opposition: None submitted

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