

SENATE THIRD READING
SB 13 (Dodd)
As Amended June 28, 2021
2/3 vote. Urgency

SUMMARY

Reestablishes a pilot program for the Napa and San Bernardino Local Agency Formation Commissions (LAFCOs), and authorizes the Napa LAFCO to approve specified service extensions.

Major Provisions

- 1) Provides that a pilot program is hereby established for the Napa and San Bernardino LAFCOs.
- 2) Specifies that if consistent with adopted policy, the Napa and San Bernardino LAFCOs may authorize a city or district to provide new or extended services outside its jurisdictional boundary and outside its sphere of influence to support existing or planned uses involving public or private properties, subject to approval at a noticed public hearing in which the LAFCO makes all of the following determinations:
 - a) The extension of service or services deficiency was identified and evaluated in a review of municipal services prepared pursuant to existing law.
 - b) The LAFCO determines both of the following:
 - i) The extension of service will not result in adverse impacts on open space or agricultural lands.
 - ii) The extension of service will not result in growth-inducing impacts.
 - c) A sphere of influence change involving the affected territory and its affected agency is not feasible or desirable based on the adopted policies of the commission.
- 3) Defines, for the purposes of this bill, "planned use" as any project that is included in an approved specific plan as of July 1, 2015.
- 4) Provides that as part of the pilot program established by this bill, the Napa LAFCO may authorize the City of St. Helena to provide new or extended services outside its jurisdictional boundary and outside its sphere of influence to 341 Saint Helena Hwy S, St. Helena, Napa County, Assessor's Parcel numbers 027-130-006 and 027-130-005, and to 401 Saint Helena Hwy S, St. Helena, Napa County, Assessor's Parcel Numbers 027-120-052, 027-120-061, and 027-120-062, subject to approval at a noticed public hearing in which the Napa LAFCO makes all of the following determinations:
 - a) The extension of service or services will result in specific environmental benefits, including transitioning septic systems to a treated sewer system, and either of the following:

- i) The extension of services will serve an agricultural employee housing development, as specified, of no less than 6 units and no more than 12 units.
 - ii) The extension of services will serve a mobilehome park reuse or mobilehome park redevelopment of no more than 25 units.
 - b) The extension of service or service deficiency was identified and evaluated in a review of municipal services, as specified.
 - c) The LAFCO makes specific determinations both of the following:
 - d) A sphere of influence change involving the affected territory and its affected agency is not feasible or desirable based upon the adopted policies of the LAFCO.
- 5) Contains a sunset date of January 1, 2026.
- 6) Contains an urgency clause.

COMMENTS

LAFCO. The Cortese-Knox-Hertzberg Act of 2000 controls the manner in which local officials change the boundaries of cities and special districts, and designates a LAFCO in each county to oversee boundary changes. Besides the more common annexations to cities and special districts, LAFCOs also control district formations, consolidations, and dissolutions, as well as city incorporations, consolidations, and disincorporations.

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 in, and deliver services to 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:

- 1) Present and planned land uses.
- 2) Present and probable need for public facilities and services.
- 3) Present and probable future capacity of public facilities and services
- 4) Existence of any social or economic communities of interest, if relevant.

City of St. Helena and Vineland Vista. According to a St. Helena Star article dated January 29, 2019, "The Vineland Vista Mobile Home Park dates back to 1961. Tenants were told to vacate the property in 2009 so that it could be renovated. Since then the owners have been planning to improve the park. They also propose to donate a 2-acre parcel behind Dean & DeLuca for

farmworker housing." The same article reported, "The controversy over whether a former mobile home park outside the St. Helena city limits should have access to city water has now landed in court. Hall Vineland LLC and Hall Vista LLC sued the city of St. Helena and Public Works Director Erica Ahmann Smithies in Napa Superior Court on Jan. 15. The lawsuit seeks at least \$7.1 million in damages and a court order compelling the city to issue a 'will-serve' letter and supply water to the property, which is being renovated. The city has contended that it has no obligation to provide water for what it considers a new use. However, the lawsuit claims the owners have continued to pay city water bills for the property, and thus the city must continue to provide water as the project moves ahead."

This lawsuit was later withdrawn by the owners of the former mobile home park. Accordingly, there is still a dispute about the "will serve" letter, and whether the development of these sites could be considered as an existing or new use.

According to the Author

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."

Arguments in Support

According to the Napa LAFCO, "The reestablishment of the pilot program would remove many of the barriers to a balanced approach for service delivery in the unique and unusual circumstances that exist in Napa County. Napa LAFCO has already utilized the pilot program once and anticipates additional uses in the future. We believe the reestablishment of this pilot program will provide a transparent process that solves unique issues that must be identified and evaluated in municipal service reviews approved by LAFCO prior to any approvals.

"In addition, amendments to this bill that were introduced on April 29, 2021 and May 11, 2021 would create a new pilot program codified as G.C. Section 56133.6 that is specific to Napa LAFCO and the City of St. Helena. Notably, G.C. Section 56133.6 would allow St. Helena to request LAFCO's approval to extend public sewer service to any of five properties located outside the City's jurisdictional boundary and sphere of influence that are specifically identified in the bill if LAFCO makes several determinations. This includes LAFCO determining the service extension will result in specific environmental benefits, will not result in growth-inducing impacts, and will serve either an agricultural employee housing development or a mobilehome park reuse or redevelopment. This pilot program can potentially contribute towards

Napa County's lower income housing needs without creating urban sprawl within the nation's first Agriculture Preserve.

"G.C. Section 56133.5 and G.C. Section 56133.6 would both expire on January 1, 2026 and Napa LAFCO would be required to submit a report to the Legislature detailing its participation in each pilot program by January 1, 2025. This will ensure accountability and transparency in the establishment and potential application of these pilot programs in Napa County."

Arguments in Opposition

The California Association of LAFCOs is opposed unless amended and argues that, "The bill originally sought to extend the sunset of the existing pilot program created in 2015 in AB 402. However, we find that Section 56133.6 does not align with the original intent of the pilot program and oppose the addition of Section 56133.6.

"AB 402 was carefully and narrowly crafted to create a pilot program for both Napa and San Bernardino local agency formation commissions (LAFCos) to allow service extensions outside spheres of influence and jurisdictional boundaries, beyond health and safety issues. (Something done with the intent for later annexation, the pilot program did not require that later annexation.) Under this pilot program, Napa and San Bernardino LAFCos were allowed to authorize, if consistent with their adopted policies, a city or district to extend services to support *existing or planned uses*. The bill explicitly defined planned use as '*any project that is included in an approved specific plan as of July 1, 2015*'.

"Local circumstances and conditions were carefully considered, and language carefully crafted to ensure that should either LAFCo even consider approval of such an extension, they would have to determine there are no adverse impacts on open space and agricultural lands, *and* there are no growth-inducing impacts. These align with part of LAFCos purpose to preserve agricultural and open space lands and to promote orderly growth and development....

"We believe that if any of the parcels specifically called out in Section 56133.6 are in fact included in an approved specific plan as of July 1, 2015, then Napa LAFCo can address applications for extension of service for those parcels within the existing language in Section 56133.5. We support the extension of the pilot program in its original form and intent, and respectfully request the removal of Section 56133.6 to preserve that intent and avoid setting a precedent for extending services without annexation that have growth-inducing effects and potentially aid in the development process of new uses outside a City's jurisdiction."

FISCAL COMMENTS

None.

VOTES

SENATE FLOOR: 38-0-2

YES: Allen, Archuleta, Atkins, Bates, Becker, Borgeas, Bradford, Caballero, Cortese, Dahle, Dodd, Durazo, Eggman, Glazer, Gonzalez, Grove, Hertzberg, Hueso, Hurtado, Jones, Kamlager, Laird, Leyva, McGuire, Melendez, Min, Newman, Nielsen, Ochoa Bogh, Pan, Portantino, Roth, Rubio, Skinner, Umberg, Wieckowski, Wiener, Wilk

ABS, ABST OR NV: Limón, Stern

ASM LOCAL GOVERNMENT: 8-0-0

YES: Aguiar-Curry, Lackey, Bloom, Boerner Horvath, Ramos, Luz Rivas, Robert Rivas, Voepel

UPDATED

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