



**Local Agency
Formation Commission
of Santa Clara County**

777 North First Street
Suite 410
San Jose, CA 95112

SantaClaraLAFCO.org

Commissioners

Rich Constantine
Susan Ellenberg
Sequoia Hall
Sergio Jimenez
Linda J. LeZotte
Mike Wasserman
Susan Vicklund Wilson

Alternate Commissioners

Cindy Chavez
Maya Esparza
Yoriko Kishimoto
Russ Melton
Terry Trumbull
Executive Officer
Neelima Palacherla

**REGULAR MEETING
JUNE 3, 2020 ▪ 1:15 PM
AGENDA**

Chairperson: Sergio Jimenez ▪ Vice-Chairperson: TBD

***** BY VIRTUAL TELECONFERENCE ONLY *****

Pursuant to the provisions of California Governor's Executive Order N-29-20, issued on March 17, 2020, this meeting will be held by teleconference only. No physical location will be available for this meeting. However, members of the public will be able to access and participate in the meeting.

PUBLIC ACCESS AND PUBLIC COMMENT INSTRUCTIONS

PUBLIC ACCESS

Members of the public may access and watch a live stream of the meeting on Zoom at <https://sccgov-org.zoom.us/j/96023566949>. Alternately, the public may listen in to the meeting by dialing (408) 638-0968 and entering **Meeting ID 96023566949#** when prompted.

WRITTEN PUBLIC COMMENTS may be submitted by email to LAFCO@ceo.sccgov.org. Written comments will be distributed to the Commission as quickly as possible. Please note that documents may take up to 24 hours to be posted to the agenda on the LAFCO website.

SPOKEN PUBLIC COMMENTS will be accepted through the teleconference meeting. To address the Commission, click on the link <https://sccgov-org.zoom.us/j/96023566949> to access the Zoom-based meeting.

1. You will be asked to enter an email address and name. We request that you identify yourself by name as this will be visible online and will be used to notify you that it is your turn to speak.
2. When the Chairperson calls for the item on which you wish to speak, click on "raise hand" icon. The Clerk will activate and unmute speakers in turn. Speakers will be notified shortly before they are called to speak.
3. When called, please limit your remarks to the time limit allotted (3 minutes).

NOTICE TO THE PUBLIC

1. Pursuant to Government Code §84308, no LAFCO commissioner shall accept, solicit, or direct a contribution of more than \$250 from any party, or his/her agent; or any participant or his /or her agent, while a LAFCO proceeding is pending, and for three months following the date a final decision is rendered by LAFCO. Prior to rendering a decision on a LAFCO proceeding, any LAFCO commissioner who received a contribution of more than \$250 within the preceding 12 months from a party or participant shall disclose that fact on the record of the proceeding. If a commissioner receives a contribution which would otherwise require disqualification returns the contribution within 30 days of knowing about the contribution and the proceeding, the commissioner shall be permitted to participate in the proceeding. A party to a LAFCO proceeding shall disclose on the record of the proceeding any contribution of more than \$250 within the preceding 12 months by the party, or his or her agent, to a LAFCO commissioner. For forms, visit the LAFCO website at www.santaclaralafco.org. No party, or his or her agent and no participant, or his or her agent, shall make a contribution of more than \$250 to any LAFCO commissioner during the proceeding or for 3 months following the date a final decision is rendered by LAFCO.
2. Pursuant to Government Code Sections 56100.1, 56300, 56700.1, 57009 and 81000 et seq., any person or combination of persons who directly or indirectly contribute(s) a total of \$1,000 or more or expend(s) a total of \$1,000 or more in support of or in opposition to specified LAFCO proposals or proceedings, which generally include proposed reorganizations or changes of organization, may be required to comply with the disclosure requirements of the Political Reform Act (See also, Section 84250 et seq.). These requirements contain provisions for making disclosures of contributions and expenditures at specified intervals. More information on the scope of the required disclosures is available at the web site of the FPPC: www.fppc.ca.gov. Questions regarding FPPC material, including FPPC forms, should be directed to the FPPC's advice line at 1-866-ASK-FPPC (1-866-275-3772).
3. Pursuant to Government Code §56300(c), LAFCO adopted lobbying disclosure requirements which require that any person or entity lobbying the Commission or Executive Officer in regard to an application before LAFCO must file a declaration prior to the hearing on the LAFCO application or at the time of the hearing if that is the initial contact. In addition to submitting a declaration, any lobbyist speaking at the LAFCO hearing must so identify themselves as lobbyists and identify on the record the name of the person or entity making payment to them. Additionally, every applicant shall file a declaration under penalty of perjury listing all lobbyists that they have hired to influence the action taken by LAFCO on their application. For forms, visit the LAFCO website at www.santaclaralafco.org.
4. Any disclosable public records related to an open session item on the agenda and distributed to all or a majority of the Commissioners less than 72 hours prior to that meeting are available for public inspection at the LAFCO Office, 777 North First Street, Suite 410, San Jose, California, during normal business hours. (Government Code §54957.5.)
5. In compliance with the Americans with Disabilities Act, those requiring accommodation for this meeting should notify the LAFCO Clerk 24 hours prior to the meeting at (408) 993-4705.

1. **ROLL CALL**
2. **WELCOME NEW COMMISSIONER**
3. **PUBLIC COMMENTS**

This portion of the meeting provides an opportunity for members of the public to address the Commission on matters not on the agenda, provided that the subject matter is within the jurisdiction of the Commission. No action may be taken on off-agenda items unless authorized by law. Speakers are limited to THREE minutes. All statements that require a response will be referred to staff for reply in writing.

4. **APPROVE MINUTES OF APRIL 8, 2020 LAFCO MEETING**

PUBLIC HEARING

5. **FY 2021 FINAL BUDGET**

Recommended Action

1. Adopt the Final Budget for Fiscal Year 2020-2021.
2. Find that the Final Budget for Fiscal Year 2021 is expected to be adequate to allow the Commission to fulfill its statutory responsibilities.
3. Authorize staff to transmit the Final Budget adopted by the Commission including the estimated agency costs to the cities, the special districts, the County, the Cities Association and the Special Districts Association.
4. Direct the County Auditor-Controller to apportion LAFCO costs to the cities; to the special districts; and to the County; and to collect payment pursuant to Government Code §56381.

ITEMS FOR ACTION / INFORMATION

6. **APPOINTMENT OF 2020 LAFCO VICE-CHAIRPERSON**

Recommended Action

Appoint a commissioner to serve as Vice-Chairperson for the remaining portion of 2020.

7. **EXECUTIVE OFFICER'S REPORT**

- 7.1 **Comment Letter on County's Proposed Agricultural Employee Housing Zoning Ordinance Amendments**

For information only.

- 7.2 **Update on Mountain Winery Annexation Project**

For information only.

- 7.3 Coordination with Los Altos Hills and Midpeninsula Regional Open Space District on Island Annexation**
For information only.
- 7.4 Interview with Cal Poly Students on San Martin Strategic Development Plan**
For information only.
- 7.5 County Sustainability Working Group Meeting**
For information only.
- 7.6 Santa Clara County Association of Planning Officials Meeting**
For information only.
- 7.7 National Planning Conference – American Planning Association**
For information only.
- 7.8 CALAFCO Weekly Meetings for Executive Officers and Clerks**
For information only.
- 7.9 LAFCO Office Operations During Covid-19**
For information only.

8. PENDING APPLICATIONS / UPCOMING PROJECTS

9. COMMISSIONER REPORTS

10. NEWSPAPER ARTICLES / NEWSLETTERS

11. WRITTEN CORRESPONDENCE

12. ADJOURN

Adjourn to the regular LAFCO meeting on August 5, 2020 at 1:15 PM in the Board of Supervisors' Chambers, 70 West Hedding Street, San Jose.



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ITEM # 2

Alternate Commissioners

Cindy Chavez
Maya Esparza
Yoriko Kishimoto
Russ Melton
Terry Trumbull

Executive Officer

Neelima Palacherla

LAFCO MEETING: June 3, 2020

TO: LAFCO

**FROM: Neelima Palacherla, Executive Officer
Dunia Noel, Asst. Executive Officer
Lakshmi Rajagopalan, Analyst**

SUBJECT: WELCOME NEW COMMISSIONER

FOR INFORMATION ONLY

On May 14, 2020, the City Selection Committee of Santa Clara County appointed Rich Constantine (Mayor, City of Morgan Hill) as Commissioner and reappointed Russ Melton (Vice Mayor, City of Sunnyvale) as Alternate Commissioner on LAFCO. Commissioner Constantine replaces Commissioner Rob Rennie, whose term on LAFCO ends on May 31, 2020. Commissioners Constantine and Melton are each appointed to 4-year terms that will expire on May 31, 2024.



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ITEM # 4

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Maya Esparza
Yoriko Kishimoto
Russ Melton
Terry Trumbull
Executive Officer
Neelima Palacherla

LAFCO MEETING MINUTES WEDNESDAY, APRIL 8, 2020

CALL TO ORDER

The meeting was called to order at 1:15 p.m.

Pursuant to the provisions of California Governor’s Executive Order N-29-20, issued on March 17, 2020, this meeting was held by teleconference only.

1. ROLL CALL

The following commissioners were present:

- Chairperson Sergio Jimenez
- Vice Chairperson Rob Rennie
- Commissioner Susan Ellenberg
- Commissioner Sequoia Hall
- Commissioner Linda J. LeZotte
- Commissioner Mike Wasserman
- Commissioner Susan Vicklund Wilson
- Alternate Commissioner Yoriko Kishimoto
- Alternate Commissioner Russ Melton
- Alternate Commissioner Terry Trumbull

The following commissioners were absent:

- Alternate Commissioner Cindy Chavez
- Alternate Commissioner Maya Esparza

The following staff members were present:

- LAFCO Executive Officer Neelima Palacherla
- LAFCO Assistant Executive Officer Dunia Noel
- LAFCO Analyst Lakshmi Rajagopalan
- LAFCO Clerk Emmanuel Abello
- LAFCO Counsel Mala Subramanian

2. PUBLIC COMMENTS

There were none.

3. APPROVE MINUTES OF FEBRUARY 5, 2020 LAFCO MEETING

Chairperson Jimenez stated that Commissioner Wilson has requested a correction to Item 11.2 in the draft minutes to note that she did not make the motion as she recused herself. He further indicated that the Commission did not take any action on the item and therefore no motion was made, and he requested that the minutes be corrected to reflect this.

The Commission approved the minutes of February 5, 2020 meeting as corrected.

Motion: Vicklund Wilson

Second: Wasserman

AYES: Ellenberg, Hall, Jimenez, LeZotte, Rennie, Wasserman, Vicklund Wilson

NOES: None

ABSTAIN: None

ABSENT: None

MOTION PASSED

4. COMPREHENSIVE ORGANIZATIONAL ASSESSMENT STUDY: REVISED COMPARATOR AGENCY ANALYSIS

Ms. Palacherla presented the staff report and acknowledged the review and guidance provided by the Finance Committee on the project. She then invited LAFCO's consultant for the project, Katie Kaneko, Principal at Koff & Associates, to walk the Commission through the comparator agency analysis.

Ms. Kaneko provided a PowerPoint presentation on the revised comparator agency analysis.

The Commission approved the list of comparator agencies as recommended by Koff & Associates, and directed Koff & Associates to continue LAFCO's Comprehensive Organizational Assessment Study utilizing the list.

In response to Commissioner Wasserman, **Chairperson Jimenez** informed that the motion included San Diego LAFCO on the list of comparator agencies.

Motion: Wasserman

Second: Rennie

AYES: Ellenberg, Hall, Jimenez, LeZotte, Rennie, Wasserman, Vicklund Wilson

NOES: None

ABSTAIN: None

ABSENT: None

MOTION PASSED

5. PROPOSED WORK PLAN AND BUDGET FOR FY 2021

Ms. Palacherla presented the staff report and expressed appreciation to the members of the Finance Committee for their guidance in developing the proposed budget and work plan. She reported that the proposed FY 2021 operating expense is approximately 2.6 percent lower than that of FY 2020.

Alternate Commissioner Melton, Finance Committee Chair, provided a summary of the current year budget and highlighted key items in the proposed budget. He noted that any available revised figures will be presented at the June meeting.

Chairperson Jimenez opened the public hearing, determined that there are no speakers from the public and closed the public hearing.

Chairperson Jimenez noted that the City of San Jose may have a \$45 million budget shortfall due to the current economic situation and inquired if the LAFCO budget is susceptible to similar concerns. **Commissioner Wasserman** explained that the payroll costs have increased because the County has recently entered into new multi-year contracts with the Service Employees International Union (SEIU) Local 521 and the County Management Employees Association (CEMA) which include annual salary increases and reduction in the PERS contributions by CEMA employees. **Alternate Commissioner Melton** indicated that many LAFCO costs such as payroll and overhead come from the County and noted that there may be a reduction in intra-County professional cost due to a potential decrease in the number of applications as a result of the economic uncertainty. Ms. Palacherla advised that more accurate information will be available before the June meeting and in time for the final budget. **Commissioner Rennie** noted that staff did substantial work on the annexation of 28 Los Gatos islands and inquired how the budget reflects that cost. In response, Ms. Palacherla informed that staff worked on the project as part of their regular workload and that the costs for preparing the annexation maps and reports were borne not by LAFCO but the County which has established a special fund to incentivize island annexations. **Commissioner Hall** cautioned against considering budget reduction as there could be applications or other projects in the coming year.

The Commission:

1. Adopted the Proposed Work Plan and Budget for Fiscal Year 2020-2021.
2. Found that the Proposed Budget for Fiscal Year 2021 is expected to be adequate to allow the Commission to fulfill its statutory responsibilities.
3. Authorized staff to transmit the Proposed Budget adopted by the Commission including the estimated agency costs as well as the LAFCO public hearing notice for the adoption of the Fiscal Year 2021 Final Budget to the cities, the special districts, the County, the Cities Association and the Special Districts Association

Motion: Ellenberg

Second: Vicklund Wilson

AYES: Ellenberg, Hall, Jimenez, LeZotte, Rennie, Wasserman, Vicklund Wilson

NOES: None

ABSTAIN: None

ABSENT: None

MOTION PASSED

6. EXECUTIVE OFFICER'S REPORT

6.1 Update on Rancho Rinconada Recreation and Park District Special Study

6.2 Comment Letter on the Final Environmental Impact Report for Mountain View Winery Annexation Project

In response to an inquiry from **Commissioner LeZotte**, Ms. Noel informed that the March 18 Saratoga City Council public hearing was cancelled and that no new date was set. She stated that staff is monitoring this project particularly regarding the level of analysis included in the document for Cupertino Sanitary District to provide wastewater services. In response to **Commissioner Rennie**, Ms. Palacherla informed that the issue of high fire hazard zone is also a big concern for LAFCO and that the issue was raised in previous letters that LAFCO sent to the City. She noted that this is LAFCO's third letter on the project. Ms. Noel added that the 300-room hotel is part of the project description and the proposed increased development is the reason why LAFCO raised concerns related to fire, emergency and wastewater services.

6.3 Comment Letter on City of Gilroy's Draft Supplemental Environmental Impact Report (EIR) for Gilroy Sports Park Master Plan Phase III Amendments

In response to an inquiry from **Commissioner Hall**, Ms. Palacherla informed that staff submitted comments because LAFCO could potentially be a responsible agency. Ms. Noel advised that staff is waiting to see if Gilroy's Final Supplemental EIR will address LAFCO's comments. With regard to Item 6.4, she reported that Gilroy is in the early stage for preparing environmental documents for its 2040 General Plan and LAFCO submitted a comment letter conveying several questions, including what the Plan will look like and how the environmental documents will be used for projects that will require LAFCO approval in the future.

In response to **Commissioner Hall**, Ms. Subramanian explained why LAFCO, as a Responsible Agency must take an active role in commenting on EIRs and why LAFCO must follow up to see if responses to LAFCO's comments are provided. In response to his follow-up inquiry, Ms. Subramanian advised that LAFCO could challenge the EIR within a certain period and that LAFCO has done that in the past to make sure the document is adequate for LAFCO's use. She noted that if the document is not challenged within a certain period, LAFCO must utilize it. **Commissioner Hall** requested that staff monitor this issue especially under the current special circumstances, and bring any concerns to the Commission's attention as needed.

6.4 Comment Letter on City of Gilroy's Revised Notice of Preparation of a Draft Environmental Impact Report for the Gilroy 2040 General Plan

Chairperson Jimenez requested staff to track and provide updates to the Commission on the projects in Gilroy and Saratoga.

6.5 LAFCO Training Session for the County Planning Office

The Commission noted the report.

6.6 Santa Clara County Special Districts Association Meeting and LAFCO Presentation

The Commission noted the report.

6.7 2020 CALAFCO Staff Workshop Rescheduled to March 2021

The Commission noted the report.

6.8 Joint Venture Silicon Valley's 2020 State of the Valley Conference

The Commission noted the report.

6.9 Bay Area LAFCO Meeting

The Commission noted the report.

6.10 Santa Clara County Association of Planning Officials Meeting

The Commission noted the report.

6.11 Inter-Jurisdictional GIS Working Group Meeting

The Commission noted the report.

7. PENDING APPLICATIONS / UPCOMING PROJECTS

There were none.

8. COMMISSIONER REPORTS

Alternate Commissioner Kishimoto announced that Midpeninsula Regional Open Space District trails are open to the public with social distancing observed.

Chairperson Jimenez acknowledged the work being done to keep the trails and open spaces available as the public appreciate them more under the current situation. **Commissioner Hall** stated that the more accessible urban open spaces are beneficial for mental and physical health in these times.

Chairperson Jimenez acknowledged Commissioners Ellenberg and Wasserman for their work as members of the County Board of Supervisors to keep Santa Clara County residents safe. **Commissioner Wasserman** expressed appreciation to LAFCO members for leading by example during the Shelter-in-Place order, and he stated that many of the emails he received appreciate County services like libraries and parks. He discussed ways to minimize the spread of the infection and expressed hope that there will be positive changes in human behavior as a result of this situation such as the reduction of traffic when people stay home and teleconference, and reduction in flu deaths with the practice of social distancing.

Commissioner Ellenberg expressed appreciation for Commissioner Wasserman's public service announcement and his work during this emergency. She wished those who were celebrating a safe and healthy Passover

9. NEWSPAPER ARTICLES / NEWSLETTERS

There were none.

10. WRITTEN CORRESPONDENCE

There was none.

11. ADJOURN

The Commission adjourned at 2:08 p.m., to the next regular LAFCO meeting on June 3, 2020 at 1:15 p.m., in the Board Meeting Chambers, 70 West Hedding Street, San Jose.

Approved on June 3, 2020.

Sergio Jimenez, Chairperson
Local Agency Formation Commission of Santa Clara County

By: _____
Emmanuel Abello, LAFCO Clerk



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ITEM # 5

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Terry Trumbull
Executive Officer
Neelima Palacherla

LAFCO MEETING: June 3, 2020
TO: LAFCO
FROM: Neelima Palacherla, Executive Officer
SUBJECT: FY 2021 FINAL BUDGET

FINANCE COMMITTEE / STAFF RECOMMENDATION

1. Adopt the Final Budget for Fiscal Year 2020-2021.
2. Find that the Final Budget for Fiscal Year 2021 is expected to be adequate to allow the Commission to fulfill its statutory responsibilities.
3. Authorize staff to transmit the Final Budget adopted by the Commission including the estimated agency costs to the cities, the special districts, the County, the Cities Association and the Special Districts Association.
4. Direct the County Auditor-Controller to apportion LAFCO costs to the cities; to the special districts; and to the County; and to collect payment pursuant to Government Code §56381.

REVISIONS TO THE DRAFT/PRELIMINARY BUDGET

On April 8, 2020, the Commission adopted its preliminary budget for Fiscal Year 2020-2021. The preliminary budget was prepared using the best information available at that time. Since then, new information has become available for two line items which require adjustment in the LAFCO budget. Presented below are the proposed line item revisions:

5281600 Overhead Reduced from \$167,019 to \$30,917

This item is LAFCO’s share of the County’s FY 2021 Cost Allocation Plan. As discussed in the preliminary budget, working in cooperation with staff, the County has reviewed and reconsidered its Cost Plan to exclude those programs and allocations (totaling \$68,051) that do not provide a benefit to LAFCO. Furthermore, the County has accordingly adjusted the Roll Forward amount which is part of its Cost Plan and is calculated by comparing FY 2019 Cost Plan estimates with FY 2019 actuals. Because the FY 2019 cost estimates were higher than the actuals by \$4,649, this amount is reduced from LAFCO’s FY 21 allocations. Together, these adjustments have resulted in a total reduction of \$136,102 for this line item and therefore, the County’s net billing to LAFCO in FY 21 is reduced to \$30,917.

5220200 Insurance Increased from \$6,000 to \$10,452

This item is for purchasing general liability insurance for LAFCO and workers' compensation coverage for LAFCO commissioners from the Special District Risk Management Authority (SDRMA). As reported in the preliminary budget, SDRMA in mid-March 2020, notified LAFCO that it is in the process of negotiating rates on behalf of its program membership and that the 2021 renewal rates for the SDRMA property / liability program are expected to increase significantly for all members due to the increased reinsurer costs. LAFCO recently received the rate letter from SDRMA which confirmed an 85% rate increase for the property/liability program. The workers' compensation program rates remain flat, with no change for the 2020-2021 program year. The proposed Final Budget therefore includes \$9,470 for the property/liability coverage and \$981 for the workers compensation program.

Reduction in LAFCO's FY 2021 Expenditures and Operating Expenses

The proposed FY 2021 Final Budget (Attachment A) includes the above listed modifications and indicates a 7% reduction in FY 2021 overall expenditures and a 14% reduction in net operating expenses compared to the current year budget. This in turn results in a corresponding reduction in costs to LAFCO's funding agencies – the 15 cities, 17 independent special districts and the County.

LAFCO BUDGET PROCESS REQUIREMENTS

The Cortese Knox Hertzberg Local Government Reorganization Act of 2000 (CKH Act) which became effective on January 1, 2001, requires LAFCO, as an independent agency, to annually adopt a draft budget by May 1 and a final budget by June 15 at noticed public hearings. Both the draft and the final budgets are required to be transmitted to the cities, the special districts and the County. Government Code §56381(a) establishes that at a minimum, the budget must be equal to that of the previous year unless the Commission finds that reduced staffing or program costs will nevertheless allow it to fulfill its statutory responsibilities. Any unspent funds at the end of the year may be rolled over into the next fiscal year budget. After adoption of the final budget by LAFCO, the County Auditor is required to apportion the net operating expenses of the Commission to the agencies represented on LAFCO.

LAFCO and the County of Santa Clara entered into a Memorandum of Understanding (MOU) (effective since July 2001), under the terms of which, the County provides staffing, facilities, and services to LAFCO. The associated costs are reflected in the LAFCO budget. LAFCO is a stand-alone, separate fund within the County's accounting and budget system and the LAFCO budget information is formatted using the County's account descriptions/codes.

COST APPORTIONMENT TO CITIES, DISTRICTS AND COUNTY

The CKH Act requires LAFCO costs to be split in proportion to the percentage of an agency's representation (excluding the public member) on the Commission. Santa

Clara LAFCO is composed of a public member, two County board members, two city council members, and since January 2013 – two special district members. Government Code §56381(b)(1)(A) provides that when independent special districts are seated on LAFCO, the county, cities and districts must each provide a one-third share of LAFCO’s operational budget.

Since the City of San Jose has permanent membership on LAFCO, as required by Government Code §56381.6(b), the City of San Jose’s share of LAFCO costs must be in the same proportion as its member bears to the total membership on the commission, excluding the public member. Therefore in Santa Clara County, the City of San Jose pays one sixth and the remaining cities pay one sixth of LAFCO’s operational costs. Per the CKH Act, the remaining cities’ share must be apportioned in proportion to each city’s total revenue, as reported in the most recent edition of the Cities Annual Report published by the Controller, as a percentage of the combined city revenues within a county. Each city’s share is therefore based on the 2017/2018 Report – which is the most recent edition available.

Government Code Section 56381 provides that the independent special districts’ share shall be apportioned in proportion to each district’s total revenues as a percentage of the combined total district revenues within a county. The Santa Clara County Special Districts Association (SDA), at its August 13, 2012 meeting, adopted an alternative formula for distributing the independent special districts’ share to individual districts. The SDA’s agreement requires each district’s cost to be based on a fixed percentage of the total independent special districts’ share.

The estimated apportionment of LAFCO’s FY 2021 costs to the individual cities and districts is included as Attachment B. The final costs will be calculated and invoiced to the individual agencies by the County Controller’s Office after LAFCO adopts the final budget.

ATTACHMENTS

- Attachment A: Final LAFCO Budget for Fiscal Year 2021
- Attachment B: Costs to Agencies Based on the Final Budget

**FINAL LAFCO BUDGET
FISCAL YEAR 2020- 2021**

**ITEM #5
Attachment A**

ITEM # TITLE	APPROVED FY 2020 BUDGET	ACTUALS Year to Date 3/10/2020	PROJECTIONS Year End 2020	FINAL FY 2021 BUDGET
EXPENDITURES				
Object 1: Salary and Benefits	\$772,591	\$475,304	\$732,000	\$806,845
Object 2: Services and Supplies				
5255100 Intra-County Professional	\$45,000	\$346	\$5,000	\$45,000
5255800 Legal Counsel	\$72,240	\$35,235	\$70,000	\$74,622
5255500 Consultant Services	\$110,000	\$89,922	\$110,000	\$110,000
5285700 Meal Claims	\$750	\$166	\$400	\$750
5220100 Insurance	\$6,000	\$5,893	\$6,000	\$10,452
5250100 Office Expenses	\$10,000	\$1,481	\$5,000	\$10,000
5270100 Rent & Lease	\$44,478	\$33,138	\$44,478	\$46,254
5255650 Data Processing Services	\$14,825	\$10,355	\$14,825	\$20,267
5225500 Commissioners' Fee	\$10,000	\$3,000	\$7,000	\$10,000
5260100 Publications and Legal Notices	\$2,500	\$0	\$200	\$2,500
5245100 Membership Dues	\$11,836	\$11,822	\$11,822	\$12,000
5250750 Printing and Reproduction	\$1,500	\$799	\$1,000	\$1,500
5285800 Business Travel	\$16,650	\$7,910	\$10,000	\$12,000
5285300 Private Automobile Mileage	\$2,000	\$637	\$1,000	\$2,000
5285200 Transportation&Travel (County Car Usage)	\$605	\$256	\$500	\$605
5281600 Overhead	\$61,183	\$30,591	\$61,183	\$30,917
5275200 Computer Hardware	\$3,000	\$0	\$1,000	\$3,000
5250800 Computer Software	\$5,000	\$0	\$2,000	\$5,000
5250250 Postage	\$2,000	\$71	\$500	\$2,000
5252100 Staff/Commissioner Training Programs	\$2,000	\$525	\$1,000	\$2,000
5701000 Reserves	\$100,000	\$0	\$0	\$0
TOTAL EXPENDITURES	\$1,294,158	\$707,451	\$1,084,908	\$1,207,712
REVENUES				
4103400 Application Fees	\$35,000	\$7,585	\$15,000	\$30,000
4301100 Interest: Deposits and Investments	\$6,000	\$9,203	\$10,000	\$6,000
TOTAL REVENUE	\$41,000	\$16,788	\$25,000	\$36,000
3400150 FUND BALANCE FROM PREVIOUS FY	\$107,446	\$202,123	\$202,123	\$187,927
NET LAFCO OPERATING EXPENSES	\$1,145,712	\$488,540	\$857,785	\$983,785
3400800 RESERVES Available	\$150,000	\$250,000	\$250,000	\$250,000
COSTS TO AGENCIES				
5440200 County	\$381,904	\$381,904	\$381,904	\$327,928
4600100 Cities (San Jose 50% + Other Cities 50%)	\$381,904	\$381,904	\$381,904	\$327,928
4600100 Special Districts	\$381,904	\$381,904	\$381,904	\$327,928

LAFCO COST APPORTIONMENT: COUNTY, CITIES, SPECIAL DISTRICTS
Estimated Costs to Agencies Based on the FY 2021 Final LAFCO Budget

Proposed Net Operating Expenses for FY 2021				\$983,785
JURISDICTION	REVENUE PER 2017/2018 REPORT	PERCENTAGE OF TOTAL REVENUE	ALLOCATION PERCENTAGES	ALLOCATED COSTS
County	N/A	N/A	33.33333333%	\$327,928.33
Cities Total Share			33.33333333%	\$327,928.33
San Jose	N/A	N/A	50.00000000%	\$163,964.17
Other cities share			50.00000000%	\$163,964.16
Campbell	\$62,469,004	1.9027943%		\$3,119.90
Cupertino	\$104,218,557	3.1744779%		\$5,205.01
Gilroy	\$122,687,359	3.7370342%		\$6,127.40
Los Altos	\$53,411,743	1.6269118%		\$2,667.55
Los Altos Hills	\$15,986,557	0.4869476%		\$798.42
Los Gatos	\$49,799,685	1.5168892%		\$2,487.15
Milpitas	\$189,377,374	5.7683997%		\$9,458.11
Monte Sereno	\$3,510,862	0.1069402%		\$175.34
Morgan Hill	\$98,311,510	2.9945503%		\$4,909.99
Mountain View	\$374,877,705	11.4187053%		\$18,722.58
Palo Alto	\$642,327,689	19.5651822%		\$32,079.89
Santa Clara	\$961,395,788	29.2839373%		\$48,015.17
Saratoga	\$29,306,193	0.8926612%		\$1,463.64
Sunnyvale	\$575,334,067	17.5245689%		\$28,734.01
Total Cities (excluding San Jose)	\$3,283,014,093	100.0000000%		\$163,964.16
Total Cities (including San Jose)				\$327,928.33
Special Districts Total Share		(Fixed %)	33.33333333%	\$327,928.34
Aldercroft Heights County Water District		0.06233%		\$204.40
Burbank Sanitary District		0.15593%		\$511.34
Cupertino Sanitary District		2.64110%		\$8,660.92
El Camino Healthcare District		4.90738%		\$16,092.69
Guadalupe Coyote Resource Conservation District		0.04860%		\$159.37
Lake Canyon Community Services District		0.02206%		\$72.34
Lion's Gate Community Services District		0.22053%		\$723.18
Loma Prieta Resource Conservation District		0.02020%		\$66.24
Midpeninsula Regional Open Space District		5.76378%		\$18,901.07
Purissima Hills Water District		1.35427%		\$4,441.04
Rancho Rinconada Recreation and Park District		0.15988%		\$524.29
San Martin County Water District		0.04431%		\$145.31
Santa Clara Valley Open Space Authority		1.27051%		\$4,166.36
Santa Clara Valley Water District		81.44126%		\$267,068.96
Saratoga Cemetery District		0.32078%		\$1,051.93
Saratoga Fire Protection District		1.52956%		\$5,015.86
South Santa Clara Valley Memorial District		0.03752%		\$123.04
Total Special Districts		100.00000%		\$327,928.34
Total Allocated Costs				\$983,785.00



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Commissioners
Rich Constantine
Susan Ellenberg
Sequoia Hall
Sergio Jimenez
Linda J. LeZotte
Mike Wasserman
Susan Vicklund Wilson

ITEM # 6

Alternate Commissioners
Cindy Chavez
Maya Esparza
Yoriko Kishimoto
Russ Melton
Terry Trumbull
Executive Officer
Neelima Palacherla

LAFCO MEETING: June 3, 2020

TO: LAFCO

**FROM: Neelima Palacherla, Executive Officer
Dunia Noel, Asst. Executive Officer
Lakshmi Rajagopalan, Analyst**

SUBJECT: APPOINTMENT OF 2020 LAFCO VICE-CHAIRPERSON

STAFF RECOMMENDATION

Appoint a commissioner to serve as Vice-Chairperson for the remaining portion of 2020.

BACKGROUND

Appointment of the LAFCO Chairperson and Vice-Chairperson is typically made on a calendar year basis, usually at the December LAFCO meeting. Pursuant to LAFCO bylaws, the rotation schedule is as follows unless otherwise determined by the Commission:

- Cities member
- County member
- San Jose member
- Special Districts member
- County member
- Public member
- Special Districts member

At the December 2019 meeting, Cities member, Commissioner Rob Rennie was appointed as LAFCO Vice-Chairperson for 2020. This appointment was made to address the fact that the Commission’s 2016/2017 rotation schedule skipped the Cities member and with the understanding that the appointments would return the chairperson rotation to its normal schedule. However, Commissioner Rennie’s term on LAFCO expires May 31, 2020 and on May 14, 2020, the City Selection Committee of Santa Clara County appointed Rich Constantine (Mayor, City of Morgan Hill) as LAFCO Commissioner in place of Commissioner Rennie.

Over the last few years, LAFCO has experienced frequent changes in its membership resulting in the need for deviation from the adopted chair rotation schedule in order

to allow new commissioners adequate time to gain knowledge and experience on LAFCO matters, before serving as LAFCO Chairperson.

During the 2016/2017 rotation schedule, the Commission skipped both the Cities member and San Jose member in order to allow both incoming appointees adequate time to become familiar with LAFCO.

In December 2016, LAFCO appointed the Special Districts member (Sequoia Hall) as Chair for 2017 and in February 2017, LAFCO appointed the County member (Ken Yeager) as Vice-Chair for 2017.

In December 2017, LAFCO appointed the County member (Ken Yeager) as Chair for 2018 and appointed the Public member (Susan Vicklund Wilson) as Vice-Chair for 2018.

In February 2019, LAFCO appointed the Public member (Susan Vicklund Wilson) as Chair for 2019 and appointed the San Jose member (Sergio Jimenez) as Vice-Chair for 2019.

In December 2019, LAFCO appointed the San Jose member (Sergio Jimenez) as Chair for 2020 and appointed the Cities member (Rob Rennie) as Vice-Chair for 2020.

It is recommended that the Commission consider a Special District member or a County member to fill the Vice-Chair position for the remainder of 2020.



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Mike Wasserman
Susan Vicklund Wilson

ITEM # 7

Alternate Commissioners
Cindy Chavez
Maya Esparza
Yoriko Kishimoto
Russ Melton
Terry Trumbull
Executive Officer
Neelima Palacherla

LAFCO MEETING: June 3, 2020
TO: LAFCO
**FROM: Neelima Palacherla, Executive Officer
Dunia Noel, Asst. Executive Officer
Lakshmi Rajagopalan, Analyst**
SUBJECT: EXECUTIVE OFFICER’S REPORT

**7.1 COMMENT LETTER ON COUNTY’S PROPOSED AGRICULTURAL
EMPLOYEE HOUSING ZONING ORDINANCE AMENDMENTS**

For Information Only.

On May 28, 2020, LAFCO submitted a comment letter on the County’s Proposed Agricultural Employee Housing Zoning Ordinance Amendments. LAFCO’s comment letter acknowledges LAFCO’s support for agricultural employee housing, and notes that the County must ensure that such housing will have a reliable long-term onsite source of water for potable and fire protection purposes and should incorporate determination of this matter early in its development review/permitting process. The letter also states that the best location for large-scale permanent agricultural employee housing is within cities where necessary services are readily available and more efficiently provided and where agricultural employees can have access to a full range of community services and amenities. Lastly, the letter references recent legislation allowing the State Water Resource Control Board to not permit new public water systems in the unincorporated area and instead to require connection to city water service, and the potential adverse impacts of this legislation on orderly growth and development. Please see comment letter (**Attachment A**) for further details.

7.2 UPDATE ON MOUNTAIN WINERY ANNEXATION PROJECT

For Information Only.

On May 20, 2020, the Saratoga City Council held a Public Hearing on the Mountain Winery Annexation Project to consider action on the Mountain Winery Annexation Project and potential next steps in the process.

The Council took extensive public testimony and voted 3-2 to terminate the Mountain Winery Annexation project. LAFCO submitted several CEQA comment letters to the City regarding the project; and staff met with concerned residents and

responded to multiple inquiries from the public, affected agencies, and interested parties concerning LAFCO's potential role in the project and consistency with relevant LAFCO policies.

7.3 COORDINATION WITH LOS ALTOS HILLS AND MIDPENINSULA REGIONAL OPEN SPACE DISTRICT ON ISLAND ANNEXATION

For Information Only.

On April 30, 2020, LAFCO staff met with staff from the Town of Los Altos Hills and MidPeninsula Regional Open Space District (MROSD) in order to coordinate on the Town-initiated annexation of the LAH04 (Ravensbury Ave) Island, which includes a parcel owned by the District that is located within the District's Rancho San Antonio Open Space Preserve. Staff from MROSD requested that the District's existing easement and public trail use be identified in the Town Council's resolution approving the island annexation in order to further document these existing uses. The Town has agreed to this request. LAFCO staff is coordinating the preparation of the island annexation maps and reports by the County Surveyor and the County Assessor's Office.

7.4 INTERVIEW WITH CAL POLY STUDENTS ON SAN MARTIN STRATEGIC DEVELOPMENT PLAN

For Information Only.

Students from City and Regional Planning Program at Cal Polytechnical State University are preparing a Strategic Development Plan for San Martin in coordination with County Planning Department. The Plan focuses on preserving working agricultural lands in San Martin. As part of the process to develop the Plan, a group of Cal Poly students interviewed EO Palacherla and Asst. EO Noel on May 8, 2020 in order to understand LAFCO's role in preserving agricultural lands in Santa Clara County and LAFCO's historical role in the San Martin community, including the 2007 incorporation effort. The students presented some of their initial findings to the San Martin Planning Advisory Committee on May 27, 2020. Additional presentations are anticipated as the students continue their work on the Plan.

7.5 COUNTY SUSTAINABILITY WORKING GROUP MEETING

For Information Only.

On April 2, 2020, Analyst Rajagopalan attended the Sustainability County Working Group Workshops focusing on Climate Defense and Natural Resources + Environment. She provided feedback on the County Sustainability Master Plan (SMP)'s vision and framework, and goals, strategies, and targets.

7.6 SANTA CLARA COUNTY ASSOCIATION OF PLANNING OFFICIALS MEETING

For Information Only.

Executive Officer Palacherla and Asst. EO Noel attended the May 6, 2020 virtual meeting of the Santa Clara County Association of Planning Officials (SCCAPO) which was hosted by Stanford University. The meeting focused on COVID-19 related operations in member agencies. Lastly, attendees provided updates on planning and development related issues in their individual jurisdictions.

7.7 NATIONAL PLANNING CONFERENCE – AMERICAN PLANNING ASSOCIATION

For Information Only.

Staff attended the American Planning Association's first ever virtual 2020 National Planning Conference, between April 29 - May 1, 2020. Titled NPC20 @ Home, the digital conference was attended by more than 5,000 planning professionals from around the country. Keynote speeches focused on the critical role played by planners in the economic recovery of our communities. Conference sessions focused on the performance and success of local governments during a pandemic, the use of virtual tools for community engagement, the need for equitable disaster planning, the challenges of providing affordable housing, and collaborative approaches to build rural prosperity through agriculture and food systems.

7.8 CALAFCO WEEKLY MEETINGS FOR EXECUTIVE OFFICERS AND CLERKS

For Information Only.

EO Palacherla and LAFCO Clerk Abello attend weekly Zoom meetings hosted separately by CALAFCO for LAFCO Executive Officers and for LAFCO Clerks statewide. These calls provide updates on CALAFCO activities and how other LAFCOs are operating during the pandemic. Attendees share information on the resources and innovative tools that they are using to support LAFCO operations during the emergency. The meetings are also a forum to discuss issues of shared interest, such as potential legislation to streamline certain LAFCO processes to assist local agencies in their recovery, development of appropriate positive internal and external messaging about LAFCO during these challenging social, political and economic times, ideas for future CALAFCO University sessions, and alternative rules for holding public meetings consistent with the recent Executive Order on the Brown Act.

7.9 LAFCO OFFICE OPERATIONS DURING COVID-19

For Information Only.

In light of COVID-19 response measures from the Governor of the State of California and the County Public Health Department, LAFCO staff have been working remotely

from home since March 17, 2020. LAFCO staff continue to provide assistance to staff from other public agencies, respond to public inquiries, coordinate on LAFCO applications, and work on key LAFCO projects such as the comprehensive review and update of LAFCO policies, the comprehensive organizational assessment, website updates, and reviewing and providing comments on environmental documents and projects of relevance to LAFCO. LAFCO held its April 8, 2020 meeting by virtual teleconference using Zoom.

LAFCO staff has been able to continue to provide the same high level of service to affected agencies and the public during this time due to the various strategic investments that the Commission has made over the years in terms of the use of technology and infrastructure (e.g. remote access to files, electronic archiving of records, use of online meeting software, use of electronic signature software, timely updates of the LAFCO website, etc.). The pandemic has highlighted the need for LAFCO to continue to digitize its remaining records and to ensure that LAFCO remains current in its use of technology.

ATTACHMENT

Attachment A: LAFCO Comment Letter on County's Proposed Agricultural Employee Housing Zoning Ordinance Amendments (dated May 28, 2020)



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**ITEM #7
Attachment A**

Alternate Commissioners

Cindy Chavez
Maya Esparza
Yoriko Kishimoto
Russ Melton
Terry Trumbull

Executive Officer
Neelima Palacherla

May 28, 2020

VIA E-MAIL [michael.meehan@pln.sccgov.org]

Michael Meehan, Senior Planner
Department of Planning and Development
County of Santa Clara
70 West Hedding Street, East Wing, 7th Floor
San Jose, CA 95110

**RE: May 28, 2020, Agenda Item #8 – Proposed Agricultural Employee
Housing Zoning Ordinance Amendments**

Dear Mr. Meehan:

Thank you for providing the Local Agency Formation Commission (LAFCO) of Santa Clara County with an opportunity to review and provide comments on the proposed text amendments to County of Santa Clara Ordinance related to agricultural employee housing. Furthermore, thank you for meeting with LAFCO staff on May 26, 2020 to discuss this important project in greater detail. The following are our comments:

LAFCO has Mandate to Preserve Agricultural lands and Supports Farmworker Housing

LAFCO supports agricultural employee housing which is essential for agriculture to grow and thrive in Santa Clara County. We applaud the County’s efforts to support the agricultural community and enhance the viability of agriculture in Santa Clara County.

We understand that the intent of the proposed amendments is to “increase the available options and flexibility for agricultural employee housing and streamline the permitting process for such housing.”

We encourage the County to locate such housing development in a manner that is consistent with State law, County General Plan Policies, and LAFCO Policies.

County Must Ensure that Proposed Agricultural Employee Housing will have a Reliable Long-Term Onsite Source of Water for Potable and Fire Protection Purposes

LAFCO recognizes the need for certain types of agricultural employee housing to occur within the unincorporated area, particularly on lands with agricultural operations and on lands located in very close proximity to agricultural operations.

However, such development must be supported by onsite services (i.e. wells and wastewater treatment systems) that are sustainable in the long term. The Countywide Urban Development Policies and County General Plan Policies do not allow urban types and levels of services outside of cities' urban service areas from either public or private providers, and any development proposed in the unincorporated area is expected to rely on onsite services. Therefore, it is incumbent on the County to ensure a reliable onsite long-term source of water for potable uses, landscaping, and fire protection purposes.

County Must Incorporate Determination of Availability of a Long-term Water Source Early in its Development Review/Permitting Process

The proposed ordinance addresses a range of agricultural employee housing, including:

- Small-Scale Permanent
- Temporary Agricultural Residence
- Seasonal Agricultural Employee Housing
- Large-Scale Permanent

For each of these types of housing, the County should identify whether it will be the County Department of Environmental Health or the State Water Resource Control Board that is responsible for making a determination on the availability of a onsite long-term water source, and at what point in the County's development permitting process such review will occur.

For the sake of transparency and understanding, the County should clearly document the water availability review process and incorporate it as early as possible into its development review and permitting process.

Best Location for Large-Scale Permanent Agricultural Employee Housing is within Cities

LAFCO also recognizes the need for the development of large-scale permanent agricultural employee housing in the county and believes that the best location for such housing is within cities. The large-scale and permanent nature of such development requires public services and facilities that are readily available within cities and more efficiently provided by cities. Furthermore, locating such developments within cities facilitates the integration of agricultural employees into the broader community, increasing their access to the full range of community services and amenities. Therefore, we encourage the County to work with cities to ensure such housing occurs within cities.

This issue is even more critical given that the State Water Resource Control Board (SWRCB) has informed County staff and LAFCO staff that the agency will no longer permit new public water systems in the unincorporated area and instead will require connection to city water service. Please see **Attachment A** for more detailed information on recent legislation related to new public water systems and potential impacts on orderly growth and development.

We believe that SWRCB's position can have negative consequences, promoting undesirable extension of city services outside city limits resulting in undesirable sprawl. Furthermore, we believe that with more thorough forward planning and including additional checks and balances in the development permitting process, long-term sustainability of onsite services can be assured. However, discussions over the last year between LAFCO staff, County Planning and County Department of Environmental Health staff, and SWRCB have not yielded any solutions.

Conclusion

We respectfully request that the County consider the concerns presented in this letter. If you have any questions regarding these comments, please contact me at (408) 993-4713. Thank you again for providing us with the opportunity to comment on this important project.

Sincerely,



Neelima Palacherla

Cc: LAFCO Members

Enclosure:

Attachment A: Recent Legislation Related to New Public Water Systems and Potential Impacts on Orderly Growth and Development (dated December 4, 2019)



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Russ Melton
Terry Trumbull
Executive Officer
Neelima Palacherla

LAFCO MEETING: December 4, 2019

TO: LAFCO

**FROM: Neelima Palacherla, Executive Officer
Dunia Noel, Asst. Executive Officer**

**SUBJECT: RECENT LEGISLATION RELATED TO NEW PUBLIC
WATER SYSTEMS AND POTENTIAL IMPACTS ON
ORDERLY GROWTH AND DEVELOPMENT**

STAFF RECOMMENDATION

Accept report and provide direction, as necessary.

BACKGROUND

At the October 2, 2019 LAFCO meeting, LAFCO staff provided an initial report on water service extensions into the unincorporated area. At that meeting, the Commission requested more information on recent legislation concerning new public water systems (i.e. SB 1263 and SB 200) and the potential impact of these laws on land use planning and development in the county.

The purpose of this report is to provide the Commission with a brief summary of the provisions within SB 1263 and SB 200 that are most likely to pertain to LAFCO and land use planning and development. This report is a high-level overview of a complex and evolving issue and is not intended to address any proposed/pending development proposals or anticipated applications to LAFCO.

SB 1263 AND SB 200

SB 1263 (**Attachment A**) and SB 200 (**Attachment B**) were passed by the Legislature with the intent of preventing the establishment of new, unsustainable public water systems. The State Water Resource Control Board (SWRCB) is responsible for administering both laws.

A “public water system” is a system for the provision of water for human consumption through pipes or other constructed conveyance that has 15 or more service connections or regularly serves at least 25 individuals daily at least 60 days out of the year.

SB 1263, effective January 1, 2017, among other things, does the following:

- Prohibits a person from operating a public water system unless he or she first submits an application, including a technical report, to the SWRCB and receives a permit.
- Requires an applicant for such a permit to first submit a preliminary technical report to the SWRCB at least 6 months before initiating construction of any water-related improvement.
- Allows the SWRCB to direct the applicant to undertake additional discussion and negotiation with existing public water systems that the SWRCB determines have the technical, managerial, and financial (TMF) capability to provide adequate and reliable supply of domestic water to the service area of the proposed new public water system.
- Authorizes the SWRCB to deny the permit of a proposed new public water system if it determines that it is feasible for the service area of the public water system addressed to be serviced by one or more currently permitted public water systems and determines that it is reasonably foreseeable that the proposed new public water system will be unable to provide affordable, safe drinking water in the reasonably foreseeable future.

SB 200, effective July 24, 2019, among other things, does the following:

- Authorizes the SWRCB to deny the permit of a proposed new public water system if it determines that it is feasible for the service area of the public water system to be serviced by one or more currently permitted public water systems that are within 3 miles as measured through existing public rights of way of any boundary of the applicant's proposed public water systems service area.

Several key terms and standards in these laws are undefined, such as "feasible" and "reasonably foreseeable." SWRCB staff indicated that such terms are likely to remain undefined and that staff will administer these laws on a case-by-case manner.

Thus, the SWRCB in its implementation of SB 1263 and SB 200 could deny the permit for a new public water system and direct the applicant to instead seek extra territorial service extensions from nearby cities.

The Cortese-Knox-Hertzberg (CKH) Act and LAFCO policies discourage extra-territorial service extensions because city and special district boundaries indicate where a city or special district provides service, and such service extensions diminish the meaning or purpose for having boundaries. There is a direct link between land use planning and infrastructure planning within a jurisdiction, and boundaries allow a jurisdiction to rationally plan for services, knowing where services are to be provided, over what timeframe and for what type of land uses. Extra territorial service extensions create a disconnect between services and

boundaries and blur the lines of responsibility for land use planning, service provision, development and growth management in an area.

Implementation of SB 1263 and SB 200 could result in significant unintended consequences for land use and services planning /provision, and ultimately for orderly growth and development – particularly in Santa Clara County – where the County General Plan prohibits urban development and the provision of urban services in the unincorporated rural areas outside city Urban Service Areas, and limits development in those areas to uses that can only be supported by onsite services.

Extending urban services into unincorporated areas facilitates leapfrog development and urban sprawl, leading to land speculation and increased pressure on adjacent land to urbanize, and ultimately to the unnecessary conversion of agricultural and open space lands. Additionally, the ad hoc extension of services is inefficient and could have cost implications for cities and taxpayers.

However, there may be ways to work with SWRCB staff to implement these laws in a way that is consistent with LAFCO policies and County policies. Further understanding of this issue and discussions amongst affected local agencies, including LAFCO, SWRCB, County Planning Department and County Office of Environmental Health staff, Santa Clara Valley Water District staff, and cities staff are required in order to see if a mutually acceptable solution can be found.

ONGOING DISCUSSIONS ON NEW PUBLIC WATER SYSTEMS

November 14, 2019 Interagency Meeting

Since the October 2, 2019 LAFCO meeting, LAFCO staff, County Planning Department and County Environmental Health staff, and SWRCB staff have met and discussed implementation of SB 1263 and SB 200 and its potential adverse impacts on land use planning, development, and growth management efforts in the county.

The group discussed how to incorporate determination of availability of a long-term water source early in the County’s planning and development review process. The current process allows for this determination to be made as late as after the County conditionally approves a use permit. The group agreed that going forward, such a determination should be made as early as possible in the review process, well before the County issues any conditional approval/approval of a use permit.

The group discussed the need to map and gather information on current public water systems and to identify areas where there are known water quality issues. LAFCO, SWRCB and the County each have data that can assist in this mapping effort.

The group requested that SWRCB staff advise them on best practices for sustainable public water systems and provide examples of systems that have been particularly successful in the technical, managerial, and financial (TMF) capability of their system to deliver safe drinking water. Lastly, the group discussed additional ways in which the TMF capability of systems can be strengthened, such as:

- Identifying and requiring qualified operators for small water systems
- Requiring bonds or escrow type accounts to provide financial resources to address long-term maintenance and anticipated upgrading of the small water systems infrastructure
- Identifying feasible small water system consolidation opportunities that are consistent with County policies and LAFCO policies

SWRCB staff indicated that they do not want to risk permitting new public water systems in the unincorporated county that are likely to struggle or fail in the future, but also recognized that implementation of SB 1263 and SB 200 poses serious challenges for LAFCO and the County. **The group agreed that this is a very complex issue without a simple solution and that further research and interagency discussions should continue to occur in hopes of finding a mutually acceptable local solution.**

Until more is known, and specific local solutions are identified, revising or developing new LAFCO policies on this issue is premature.

CALAFCO Annual Conference Session

This issue is not unique to Santa Clara County. Several LAFCOs including Sonoma, Stanislaus, and Merced have reported their serious concerns. The recent CALAFCO Annual Conference provided a forum for LAFCOs to learn more about SB 1263 and SB 200 and to discuss local unintended adverse consequences. At the conference, LAFCO staff attended a session that included a presentation from SWRCB staff on these laws. Later that evening, staff met with SWRCB staff about our local concerns.

CALAFCO Legislative Committee Meeting

Chairperson Vicklund Wilson requested that the CALAFCO Legislative Committee’s Agenda for November 15, 2019 include a discussion on how the legislation (SB 1263 and SB 200) is impacting LAFCOs. Staff provided information on our experience with the implementation of this legislation in Santa Clara County. The Committee discussed the issue and agreed that in the future CALAFCO must be more proactive in raising concerns about proposed legislation that would undermine LAFCO’s mission and authority.

Staff will continue to update the Commission on this very important issue.

ATTACHMENTS

- Attachment A: SB 1263 (2016, Wieckowski)
- Attachment B: SB 200 (2019, Monning)

Senate Bill No. 1263

CHAPTER 843

An act to amend Section 116540 of, and to add Section 116527 to, the Health and Safety Code, and to add Section 106.4 to the Water Code, relating to drinking water.

[Approved by Governor September 29, 2016. Filed with
Secretary of State September 29, 2016.]

LEGISLATIVE COUNSEL'S DIGEST

SB 1263, Wieckowski. Public water system: permits.

(1) Existing law, the California Safe Drinking Water Act, imposes on the State Water Resources Control Board various responsibilities and duties relating to providing a dependable, safe supply of drinking water. The act prohibits a person from operating a public water system unless he or she first submits an application, including a technical report, to the state board and receives a permit, as specified. The act requires the state board, upon determination that the application is complete, to make a specified investigation, and allows the state board to impose permit conditions, requirements for system improvements, and time schedules as the state board deems necessary to ensure an affordable, reliable, and adequate supply of water at all times that is pure, wholesome, and potable. The act provides that a person who knowingly makes a false statement or representation in a report submitted, maintained, or used for purposes of compliance with the act may be punished as a misdemeanor.

This bill would require a person submitting an application for a permit for a proposed new public water system to first submit a preliminary technical report to the state board at least 6 months before initiating construction of any water-related improvement, as defined. Because a misstatement in the report could be a crime under the provision described above, this bill would impose a state-mandated local program by expanding the scope of a crime. The bill would allow the state board to direct the applicant to undertake additional discussion and negotiation with certain existing public water systems the state board determines have the technical, managerial, and financial capacity to provide an adequate and reliable supply of domestic water to the service area of the proposed new public water system, as specified, and would require an applicant to comply before submitting an application for a permit to operate a system and would prohibit the application from being deemed complete unless the applicant has complied. The bill would, if the state board determines that it is feasible for the service area of the public water system addressed by the application to be served by one or more currently permitted public water systems, authorize the state board to deny the permit of a proposed new public water system

if it determines that it is reasonably foreseeable that the proposed new public water system will be unable to provide affordable, safe drinking water in the reasonably foreseeable future, as prescribed.

(2) Existing law allows the state board to delegate primary responsibility for the administration and enforcement of the act within a county to a local health officer if certain criteria are met. Existing law requires that the local primacy agency be empowered with all of the authority granted to the state board over the specified public water systems.

This bill would prohibit a local primacy agency from issuing a permit to operate a public water system without the concurrence of the state board. The bill would require, for a proposed new public water system that would be regulated by a local primacy agency, the applicant to also submit a copy of the preliminary technical report to the state board.

(3) Existing law declares the established policy of the state that every human being has the right to safe, clean, affordable, and accessible water adequate for human consumption, cooking, and sanitary purposes. Existing law requires a city or county that determines a project, as defined, is subject to the California Environmental Quality Act to identify certain water systems that may supply water for the project and to request those public water systems to prepare and approve a specified water supply assessment. Under existing law, if no public water system is identified, the city or county is required to prepare and approve the water supply assessment. Existing law provides that if, as a result of its assessment, the public water system or city or county concludes that its water supplies are, or will be, insufficient, the public water system or city or county is required to provide its plans for acquiring additional water supplies, as prescribed.

This bill would prohibit a city, including a charter city, or a county from issuing a building permit for the construction of a new residential development where a source of the water supply is water transported by a water hauler, bottled water, a water-vending machine, or a retail water facility, as specified. By imposing new duties on a city or county in connection with the issuance of a building permit, the bill would impose a state-mandated local program.

(4) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for specified reasons.

The people of the State of California do enact as follows:

SECTION 1. The Legislature finds and declares all of the following:

(a) There are over 7,500 public water systems in California. The vast majority of these systems provide a reliable supply of safe drinking water. However, there are hundreds of smaller public water systems that consistently fail to provide a reliable supply of safe drinking water to their

customers. Many failing public water systems were created without the necessary technical, managerial, or financial capacity to be sustainable in the long term in view of water supply uncertainties. These uncertainties can be created by effects on water quality and quantity, global climate change, migration of groundwater contamination, the establishment of new drinking water standards, and other factors that are known to significantly erode a system's capacity.

(b) Failing public water systems disproportionately affect disadvantaged communities who are least able to afford to address the conditions that led to the failure.

(c) The proliferation of new, unsustainable public water systems also may undermine the state's human right to water policy.

(d) Therefore, it is the policy of the state to discourage the establishment of new, unsustainable public water systems when there is a feasible alternative.

SEC. 2. Section 116527 is added to the Health and Safety Code, to read:

116527. (a) As used in this section, "water-related improvement" includes, but is not limited to, a water pipe, a water pump, or drinking water infrastructure.

(b) (1) Before a person submits an application for a permit for a proposed new public water system, the person shall first submit a preliminary technical report to the state board at least six months before initiating construction of any water-related improvement.

(2) In order to assist in expediting the permitting process, a person that is considering submitting an application for a permit for a proposed new public water system is encouraged, but is not required, to submit the preliminary technical report no later than seven days after submission of an application to the city or county for a building permit for any water-related improvement.

(3) For a proposed new public water system that would be regulated by a local primacy agency, the applicant shall also submit a copy of the preliminary technical report to the state board.

(c) The preliminary technical report shall include all of the following:

(1) The name of each public water system for which any service area boundary is within three miles, as measured through existing public rights-of-way, of any boundary of the applicant's proposed public water system's service area.

(2) A discussion of the feasibility of each of the adjacent public water systems identified pursuant to paragraph (1) annexing, connecting, or otherwise supplying domestic water to the applicant's proposed new public water system's service area. The applicant shall consult with each adjacent public water system in preparing the report and shall include in the report any information provided by each adjacent public water system regarding the feasibility of annexing, connecting, or otherwise supplying domestic water to that service area.

(3) A discussion of all actions taken by the applicant to secure a supply of domestic water from an existing public water system for the proposed new public water system's service area.

(4) All sources of domestic water supply for the proposed new public water system.

(5) The estimated cost to construct, operate, and maintain the proposed new public water system, including long-term operation and maintenance costs and a potential rate structure.

(6) A comparison of the costs associated with the construction, operation and maintenance, and long-term sustainability of the proposed new public water system to the costs associated with providing water to the proposed new public water system's service area through annexation by, consolidation with, or connection to an existing public water system.

(7) A discussion of all actions taken by the applicant to pursue a contract for managerial or operational oversight from an existing public water system.

(8) An analysis of whether a proposed new public water system's total projected water supplies available during normal, single dry, or multiple dry water years during a 20-year projection will meet the projected water demand for the service area.

(9) Any information provided by the local agency formation commission. The applicant shall consult with the local agency formation commission if any adjacent public water system identified pursuant to paragraph (1) is a local agency as defined by Section 56054 of the Government Code.

(d) (1) If documents prepared to comply with Division 13 (commencing with Section 21000) of the Public Resources Code or any other application for public agency approval concerning providing drinking water to the proposed new public water system's service area include the information required by subdivision (c), including documentation of the consultation with each adjacent public water system and the local agency formation commission, the applicant may submit those documents to the state board in lieu of the preliminary technical report and the documents shall be considered the functional equivalent of the preliminary technical report.

(2) If documents prepared to comply with Division 13 (commencing with Section 21000) of the Public Resources Code or any other application for public agency approval concerning providing drinking water to the proposed new public water system's service area include some, but not all, of the information required by subdivision (c), including documentation of the consultation with an adjacent public water system and the local agency formation commission, the applicant shall submit those documents and the preliminary technical report to the state board and together those documents and the preliminary technical report shall be considered the functional equivalent of the preliminary technical report requirements of this section. A preliminary technical report submitted pursuant to this paragraph shall only be required to include information that is not otherwise addressed by the other submitted documents.

(e) Upon review of a preliminary technical report submitted pursuant to this section, the state board may do all of the following actions:

(1) If an existing public water system has not already sought annexation of the service area of a proposed new public water system from the local agency formation commission or the applicant has not already sought an extension of services agreement from an existing public water system, direct the applicant to undertake additional discussion and negotiation with the local agency formation commission and any existing public water system meeting the requirements of paragraph (1) of subdivision (c) that the state board determines has the technical, managerial, and financial capacity to provide an adequate and reliable supply of domestic water to the service area of the proposed new public water system. The state board shall not direct the applicant to undertake additional discussion and negotiation if documentation submitted to the state board demonstrates that additional discussion and negotiation is unlikely to be successful, including, but not limited to, documentation that the local agency formation commission has previously denied the application for an extension of service or annexation, or that the existing public water system has declined to apply to the local agency formation commission for approval of an extension of services to, or annexation of, the service area of the proposed new public water system.

(2) Direct the applicant to report on the results of discussion and negotiations conducted pursuant to paragraph (1) to the state board.

(3) Establish a time schedule for the applicant's performance of directives issued pursuant to this subdivision.

(f) (1) An applicant shall comply with the state board's directives as assigned in and consistent with subdivision (e) before submitting an application for a permit for a proposed new public water system under this chapter.

(2) An application for a permit for a proposed new public water system under this chapter shall not be deemed complete unless the applicant has complied with the requirements of this section.

(g) The state board's review of a preliminary technical report pursuant to this section shall not be deemed a project or approval of a permit application submitted under this chapter.

(h) The requirements of this section do not apply to either of the following:

(1) An application for a permit for a new public water system that was deemed complete prior to January 1, 2017, pursuant to the statutory permit application requirements effective at the date of the permit submission.

(2) An extension of, or annexation to, an existing public water system.

(i) (1) The requirements of this section do not apply to a service area where an applicant certifies in writing to the state board that the applicant will not rely on the establishment of a new public water system for its water supply. The state board shall acknowledge receipt of the applicant's certification in a timely manner.

(2) An applicant who certifies that the service area will not rely on the establishment of a new public water system and later seeks a permit for a new public water system shall comply with the provisions of this section

and shall assume all risk of delay or rejection related to the permit application.

(j) (1) The provisions of this subdivision apply to a proposed new public water system that achieves either or both of the following:

(A) Consolidates two or more existing public water systems, existing state small water systems, or other existing water systems, which results in the creation of a new public water system.

(B) Provides water service in lieu of individual domestic wells.

(2) At least six months before the construction of any water-related improvements, an applicant for a new public water system that meets the criteria in paragraph (1) shall provide a written notice to the state board that does both of the following:

(A) Clearly describes the proposed new public water system and how it meets the criteria in paragraph (1).

(B) Requests an exemption from the requirements of this section.

(3) The state board shall promptly acknowledge receipt of a written notice described in paragraph (2). The state board shall have 30 days from the acknowledgment of receipt of the written notice to issue a written notice to the applicant that compliance with the requirements of this section is necessary and that an application for a permit of a new public water system under this chapter is not complete until the applicant has complied with the requirements of this section. A determination by the state board that compliance with the requirements of this section is necessary shall be final and is not subject to review by the state board. A determination by the state board pursuant to this subdivision is not considered a project subject to Division 13 (commencing with Section 21000) of the Public Resources Code.

(4) If the state board receives a written notice from a project applicant that satisfies the requirements of paragraph (2), the project described in the notice is deemed exempt from the requirements of this section on the 35th day following the date of the state board's acknowledgment of receipt of the written notice, unless the state board has issued a notice to comply pursuant to paragraph (3).

SEC. 3. Section 116540 of the Health and Safety Code is amended to read:

116540. (a) Following completion of the investigation and satisfaction of the requirements of paragraphs (1) and (2), the state board shall issue or deny the permit. The state board may impose permit conditions, requirements for system improvements, technical, financial, or managerial requirements, and time schedules as it deems necessary to ensure a reliable and adequate supply of water at all times that is pure, wholesome, potable, and does not endanger the health of consumers.

(1) A public water system that was not in existence on January 1, 1998, shall not be granted a permit unless the public water system demonstrates to the state board that the water supplier possesses adequate financial, managerial, and technical capability to ensure the delivery of pure,

wholesome, and potable drinking water. This section shall also apply to any change of ownership of a public water system.

(2) A permit under this chapter shall not be issued to an association organized under Title 3 (commencing with Section 18000) of the Corporations Code. This section shall not apply to unincorporated associations that, as of December 31, 1990, are holders of a permit issued under this chapter.

(b) Notwithstanding Section 116330, a local primacy agency shall not issue a permit under this article without the concurrence of the state board.

(c) In considering whether to approve a proposed new public water system, the state board shall consider the sustainability of the proposed new public water system and its water supply in the reasonably foreseeable future, in view of global climate change, potential migration of groundwater contamination and other potential treatment needs, and other factors that can significantly erode a system's capacity.

(d) If the state board determines that it is feasible for the service area of the public water system addressed by an application under this article to be served by one or more permitted public water systems identified pursuant to paragraph (1) of subdivision (c) of Section 116527, the state board may deny the permit of a proposed new public water system if it determines, based on its assessment of the preliminary technical report submitted pursuant to Section 116527, the permit application, and other relevant, substantial evidence submitted, that it is reasonably foreseeable that the proposed new public water system will be unable to provide affordable, safe drinking water in the reasonably foreseeable future.

(e) An applicant may appeal decisions and actions of the deputy director taken pursuant to this section to the state board.

SEC. 4. Section 106.4 is added to the Water Code, to read:

106.4. (a) For the purposes of this section:

(1) "Bottled water" has the same meaning as defined in Section 111070 of the Health and Safety Code.

(2) "Residential development" has the same meaning as defined in Section 65008 of the Government Code.

(3) "Retail water facility" has the same meaning as defined in Section 111070 of the Health and Safety Code.

(4) "Water-vending machine" has the same meaning as defined in Section 111070 of the Health and Safety Code.

(5) "Water hauler" has the same meaning as defined in Section 111070 of the Health and Safety Code.

(b) A city, including a charter city, or a county shall not issue a building permit for the construction of a new residential development where a source of water supply is water transported by a water hauler, bottled water, a water-vending machine, or a retail water facility.

(c) This section does not apply to a residence that will be rebuilt because of a natural disaster.

(d) The Legislature finds and declares that this section addresses a matter of statewide concern and not a municipal affair, as that term is used in Section 5 of Article XI of the California Constitution.

SEC. 5. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because a local agency or school district has the authority to levy service charges, fees, or assessments sufficient to pay for the program or level of service mandated by this act or because costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

Senate Bill No. 200

CHAPTER 120

An act to add Section 53082.6 to the Government Code, to amend Sections 39719, 100827, 116275, 116385, 116530, 116540, and 116686 of, and to add Chapter 4.6 (commencing with Section 116765) to Part 12 of Division 104 of, the Health and Safety Code, and to add Chapter 7 (commencing with Section 8390) to Division 4.1 of the Public Utilities Code, relating to drinking water, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor July 24, 2019. Filed with Secretary of State July 24, 2019.]

LEGISLATIVE COUNSEL'S DIGEST

SB 200, Monning. Drinking water.

(1) Existing law, the California Safe Drinking Water Act, requires the State Water Resources Control Board to administer provisions relating to the regulation of drinking water to protect public health. Existing law declares it to be the established policy of the state that every human being has the right to safe, clean, affordable, and accessible water adequate for human consumption, cooking, and sanitary purposes.

This bill would establish the Safe and Affordable Drinking Water Fund in the State Treasury to help water systems provide an adequate and affordable supply of safe drinking water in both the near and long terms. The bill would authorize the state board to provide for the deposit into the fund of certain moneys and would continuously appropriate the moneys in the fund to the state board for grants, loans, contracts, or services to assist eligible recipients. The bill would require the state board, in consultation with the Department of Finance, to adopt a fund expenditure plan with specified contents and would require, on and after July 1, 2020, expenditures of the fund to be consistent with the plan. The bill would require, by January 1, 2021, the state board, in consultation with local health officers and other relevant stakeholders, to make publicly available, as specified, a map of aquifers that are used or likely to be used as a source of drinking water that are at high risk of containing contaminants that exceed safe drinking water standards. For purposes of the map, the bill would require local health officers and other relevant local agencies to provide all results of, and data associated with, water quality testing performed by certified laboratories to the state board, as specified. By imposing additional duties on local health officers and local agencies, the bill would impose a state-mandated local program.

The act provides for the operation of public water systems and authorizes the state board to contract with, or provide a grant to, an administrator to

provide administrative, technical, operational, or managerial services, or any combination of those services, to a designated water system to assist with the provision of an adequate supply of affordable, safe drinking water. The act defines an administrator as a person whom the state board has determined is competent to perform the administrative, technical, operational, or managerial services required, as specified, and authorizes a privately owned public utility to serve as an administrator.

This bill would, among other things, authorize an administrator to additionally provide legal services pursuant to those provisions and to act, where the administrator is authorized to act on behalf of a designated public water system, on behalf of a voluntary participant, as defined. The bill would recast the authorization for a local agency or a privately owned public utility to serve as an administrator for these purposes.

The act prohibits a person from operating a public water system unless the person first submits an application to the state board and receives a permit to operate the system, as specified. The act authorizes the state board, if the state board determines that it is feasible for the service area of the public water system addressed by the application to be served by one or more currently permitted public water systems, to deny the permit of a proposed new public water system if it determines that it is reasonably foreseeable that the proposed new public water system will be unable to provide affordable, safe drinking water in the reasonably foreseeable future, as prescribed.

This bill would eliminate the requirement that the state board determine that it is reasonably foreseeable that the proposed new public water system will be unable to provide affordable, safe drinking water in the reasonably foreseeable future in order to deny the permit of a proposed new public water system.

The act defines a disadvantaged community for its purposes as an area, as specified, in which the median household income is less than 80% of the statewide average.

This bill would revise that definition to apply to specified areas with a median household income of less than 80% of the statewide annual median household income level.

The act requires a public water system to submit a technical report to the state board as a part of the permit application or when otherwise required by the state board, as specified.

This bill would require a public water system to submit the report in the form and format and at intervals specified by the state board.

(2) Existing law requires a laboratory that performs analyses for regulatory purposes of drinking water, wastewater, hazardous waste, and contaminated soils or sediments to obtain certification or accreditation, as specified. Existing law requires, when a person or entity submits material to the laboratory for testing, the laboratory to report the results of all detected contaminants and pollutants to that person or entity.

This bill would require a laboratory accredited by the State Water Resources Control Board to also report the results of each drinking water

analysis to the state board in the form or format and at intervals specified by the state board.

(3) The California Global Warming Solutions Act of 2006 designates the State Air Resources Board as the state agency charged with monitoring and regulating sources of emissions of greenhouse gases. The act authorizes the state board to include the use of market-based compliance mechanisms. Existing law requires all moneys, except for fines and penalties, collected by the state board as part of a market-based compliance mechanism to be deposited in the Greenhouse Gas Reduction Fund and to be available upon appropriation. Existing law continuously appropriates 35% of the annual proceeds of the fund for transit, affordable housing, and sustainable communities programs and 25% of the annual proceeds of the fund for certain components of a specified high-speed rail project.

This bill, beginning in the 2020–21 fiscal year, would require 5% of the annual proceeds of the Greenhouse Gas Reduction Fund, up to the sum of \$130,000,000, to be deposited into the Safe and Affordable Drinking Water Fund for the purposes of the Safe and Affordable Drinking Water Fund, subject to specified restrictions. The bill would require the Director of Finance, beginning in the 2023–24 fiscal year and until June 30, 2030, to calculate the sum to be transferred by the Controller from the General Fund to the Safe and Affordable Drinking Water Fund if the annual transfer from the annual proceeds of the Greenhouse Gas Reduction Fund is less than \$130,000,000 to equal a total transfer into the Safe and Affordable Drinking Water Fund of \$130,000,000, as specified.

(4) The Budget Act of 2019 appropriates \$100,000,000 from the Greenhouse Gas Reduction Fund and \$30,000,000 from the General Fund to the State Water Resources Control Board for support or local assistance to fund grants, loans, contracts, or services to help water systems provide safe and affordable drinking water.

This bill would require these moneys to be available for the purposes of the Safe and Affordable Drinking Water Fund, subject to specified restrictions.

(5) This bill would provide that its provisions are severable.

(6) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to the statutory provisions noted above.

(7) This bill would declare that it is to take effect immediately as an urgency statute.

Appropriation: yes.

The people of the State of California do enact as follows:

SECTION 1. Section 53082.6 is added to the Government Code, to read: 53082.6. A local agency may serve as an administrator for the purposes of Section 116686 of the Health and Safety Code.

SEC. 2. Section 39719 of the Health and Safety Code is amended to read:

39719. (a) The Legislature shall appropriate the annual proceeds of the fund for the purpose of reducing greenhouse gas emissions in this state in accordance with the requirements of Section 39712.

(b) To carry out a portion of the requirements of subdivision (a), the annual proceeds of the fund are continuously appropriated for the following:

(1) Beginning in the 2015–16 fiscal year, and notwithstanding Section 13340 of the Government Code, 35 percent of the annual proceeds of the fund are continuously appropriated, without regard to fiscal years, for transit, affordable housing, and sustainable communities programs as follows:

(A) Ten percent of the annual proceeds of the fund is hereby continuously appropriated to the Transportation Agency for the Transit and Intercity Rail Capital Program created by Part 2 (commencing with Section 75220) of Division 44 of the Public Resources Code.

(B) Five percent of the annual proceeds of the fund is hereby continuously appropriated to the Low Carbon Transit Operations Program created by Part 3 (commencing with Section 75230) of Division 44 of the Public Resources Code. Moneys shall be allocated by the Controller, according to requirements of the program, and pursuant to the distribution formula in subdivision (b) or (c) of Section 99312 of, and Sections 99313 and 99314 of, the Public Utilities Code.

(C) Twenty percent of the annual proceeds of the fund is hereby continuously appropriated to the Strategic Growth Council for the Affordable Housing and Sustainable Communities Program created by Part 1 (commencing with Section 75200) of Division 44 of the Public Resources Code. Of the amount appropriated in this subparagraph, no less than 10 percent of the annual proceeds of the fund shall be expended for affordable housing, consistent with the provisions of that program.

(2) Beginning in the 2015–16 fiscal year, notwithstanding Section 13340 of the Government Code, 25 percent of the annual proceeds of the fund is hereby continuously appropriated to the High-Speed Rail Authority for the following components of the initial operating segment and Phase I Blended System as described in the 2012 business plan adopted pursuant to Section 185033 of the Public Utilities Code:

(A) Acquisition and construction costs of the project.

(B) Environmental review and design costs of the project.

(C) Other capital costs of the project.

(D) Repayment of any loans made to the authority to fund the project.

(3) (A) Beginning in the 2020–21 fiscal year, and until June 30, 2030, 5 percent of the annual proceeds of the fund, up to the sum of one hundred thirty million dollars (\$130,000,000), is hereby annually transferred to the

Safe and Affordable Drinking Water Fund established pursuant to Section 116766 for the purposes of Chapter 4.6 (commencing with Section 116765) of Part 12 of Division 104.

(B) Moneys transferred under this paragraph shall be used for the purpose of facilitating the achievement of reductions of greenhouse gas emissions in this state in accordance with the requirements of Section 39712 or to improve climate change adaptation and resiliency of disadvantaged communities or low-income households or communities, consistent with Division 25.5 (commencing with Section 38500). For purposes of the moneys transferred under this paragraph, a state agency may also comply with the requirements of paragraphs (2) and (3) of subdivision (a) of Section 16428.9 of the Government Code by describing how each proposed expenditure will improve climate change adaptation and resiliency of disadvantaged communities or low-income households or communities.

(c) In determining the amount of annual proceeds of the fund for purposes of the calculation in subdivision (b), the funds subject to Section 39719.1 shall not be included.

SEC. 3. Section 100827 of the Health and Safety Code is amended to read:

100827. (a) A laboratory accredited by the state board shall report, in a timely fashion and in accordance with the request for analysis, the full and complete results of all detected contaminants and pollutants to the person or entity that submitted the material for testing. The state board may adopt regulations to establish reporting requirements for this section.

(b) A laboratory accredited by the state board shall report the results of each drinking water analysis the laboratory conducts to the state board in the form or format and at intervals specified by the state board.

SEC. 4. Section 116275 of the Health and Safety Code is amended to read:

116275. As used in this chapter:

(a) “Contaminant” means any physical, chemical, biological, or radiological substance or matter in water.

(b) “Department” means the state board.

(c) “Primary drinking water standards” means:

(1) Maximum levels of contaminants that, in the judgment of the state board, may have an adverse effect on the health of persons.

(2) Specific treatment techniques adopted by the state board in lieu of maximum contaminant levels pursuant to subdivision (j) of Section 116365.

(3) The monitoring and reporting requirements as specified in regulations adopted by the state board that pertain to maximum contaminant levels.

(d) “Secondary drinking water standards” means standards that specify maximum contaminant levels that, in the judgment of the state board, are necessary to protect the public welfare. Secondary drinking water standards may apply to any contaminant in drinking water that may adversely affect the odor or appearance of the water and may cause a substantial number of persons served by the public water system to discontinue its use, or that may otherwise adversely affect the public welfare. Regulations establishing

secondary drinking water standards may vary according to geographic and other circumstances and may apply to any contaminant in drinking water that adversely affects the taste, odor, or appearance of the water when the standards are necessary to ensure a supply of pure, wholesome, and potable water.

(e) “Human consumption” means the use of water for drinking, bathing or showering, hand washing, oral hygiene, or cooking, including, but not limited to, preparing food and washing dishes.

(f) “Maximum contaminant level” means the maximum permissible level of a contaminant in water.

(g) “Person” means an individual, corporation, company, association, partnership, limited liability company, municipality, public utility, or other public body or institution.

(h) “Public water system” means a system for the provision of water for human consumption through pipes or other constructed conveyances that has 15 or more service connections or regularly serves at least 25 individuals daily at least 60 days out of the year. A public water system includes the following:

(1) Any collection, treatment, storage, and distribution facilities under control of the operator of the system that are used primarily in connection with the system.

(2) Any collection or pretreatment storage facilities not under the control of the operator that are used primarily in connection with the system.

(3) Any water system that treats water on behalf of one or more public water systems for the purpose of rendering it safe for human consumption.

(i) “Community water system” means a public water system that serves at least 15 service connections used by yearlong residents or regularly serves at least 25 yearlong residents of the area served by the system.

(j) “Noncommunity water system” means a public water system that is not a community water system.

(k) “Nontransient noncommunity water system” means a public water system that is not a community water system and that regularly serves at least 25 of the same persons over six months per year.

(l) “Local health officer” means a local health officer appointed pursuant to Section 101000 or a local comprehensive health agency designated by the board of supervisors pursuant to Section 101275 to carry out the drinking water program.

(m) “Significant rise in the bacterial count of water” means a rise in the bacterial count of water that the state board determines, by regulation, represents an immediate danger to the health of water users.

(n) “State small water system” means a system for the provision of piped water to the public for human consumption that serves at least five, but not more than 14, service connections and does not regularly serve drinking water to more than an average of 25 individuals daily for more than 60 days out of the year.

(o) “Transient noncommunity water system” means a noncommunity water system that does not regularly serve at least 25 of the same persons over six months per year.

(p) “User” means a person using water for domestic purposes. User does not include a person processing, selling, or serving water or operating a public water system.

(q) “Waterworks standards” means regulations adopted by the state board entitled “California Waterworks Standards” (Chapter 16 (commencing with Section 64551) of Division 4 of Title 22 of the California Code of Regulations).

(r) “Local primacy agency” means a local health officer that has applied for and received primacy delegation pursuant to Section 116330.

(s) “Service connection” means the point of connection between the customer’s piping or constructed conveyance, and the water system’s meter, service pipe, or constructed conveyance. A connection to a system that delivers water by a constructed conveyance other than a pipe shall not be considered a connection in determining if the system is a public water system if any of the following apply:

(1) The water is used exclusively for purposes other than residential uses, consisting of drinking, bathing, and cooking, or other similar uses.

(2) The state board determines that alternative water to achieve the equivalent level of public health protection provided by the applicable primary drinking water regulation is provided for residential or similar uses for drinking and cooking.

(3) The state board determines that the water provided for residential or similar uses for drinking, cooking, and bathing is centrally treated or treated at the point of entry by the provider, a passthrough entity, or the user to achieve the equivalent level of protection provided by the applicable primary drinking water regulations.

(t) “Resident” means a person who physically occupies, whether by ownership, rental, lease, or other means, the same dwelling for at least 60 days of the year.

(u) “Water treatment operator” means a person who has met the requirements for a specific water treatment operator grade pursuant to Section 106875.

(v) “Water distribution operator” means a person who has met the requirements for a specific water distribution operator grade pursuant to Section 106875.

(w) “Water treatment plant” means a group or assemblage of structures, equipment, and processes that treats, blends, or conditions the water supply of a public water system.

(x) “Water distribution system” means any combination of pipes, tanks, pumps, and other physical features that deliver water from the source or water treatment plant to the consumer.

(y) “Public health goal” means a goal established by the Office of Environmental Health Hazard Assessment pursuant to subdivision (c) of Section 116365.

(z) “Small community water system” means a community water system that serves no more than 3,300 service connections or a yearlong population of no more than 10,000 persons.

(aa) “Disadvantaged community” means the entire service area of a community water system, or a community therein, in which the median household income is less than 80 percent of the statewide annual median household income level.

(ab) “State board” means the State Water Resources Control Board.

(ac) “Deputy director” means the deputy director appointed by the state board pursuant to subdivision (k) of Section 116271.

SEC. 5. Section 116385 of the Health and Safety Code is amended to read:

116385. Any person operating a public water system shall obtain and provide at that person’s expense an analysis of the water to the state board, in the form, covering those matters, and at intervals as the state board by regulation may prescribe. The analysis shall be performed by a laboratory duly certified by the state board.

SEC. 6. Section 116530 of the Health and Safety Code is amended to read:

116530. (a) A public water system shall submit a technical report to the state board as part of the permit application or when otherwise required by the state board. This report may include, but not be limited to, detailed plans and specifications, water quality information, physical descriptions of the existing or proposed system, information related to technical, managerial, and financial capacity and sustainability, and information related to achieving the goals of Section 106.3 of the Water Code, including affordability and accessibility.

(b) A public water system shall submit the report in the form and format and at intervals specified by the state board.

SEC. 7. Section 116540 of the Health and Safety Code is amended to read:

116540. (a) Following completion of the investigation and satisfaction of the requirements of paragraphs (1) and (2), the state board shall issue or deny the permit. The state board may impose permit conditions, requirements for system improvements, technical, financial, or managerial requirements, and time schedules as it deems necessary to ensure a reliable and adequate supply of water at all times that is pure, wholesome, potable, and does not endanger the health of consumers.

(1) A public water system that was not in existence on January 1, 1998, shall not be granted a permit unless the public water system demonstrates to the state board that the water supplier possesses adequate financial, managerial, and technical capability to ensure the delivery of pure, wholesome, and potable drinking water. This section shall also apply to any change of ownership of a public water system.

(2) A permit under this chapter shall not be issued to an association organized under Title 3 (commencing with Section 18000) of the Corporations Code. This section shall not apply to unincorporated

associations that, as of December 31, 1990, are holders of a permit issued under this chapter.

(b) Notwithstanding Section 116330, a local primacy agency shall not issue a permit under this article without the concurrence of the state board.

(c) In considering whether to approve a proposed new public water system, the state board shall consider the sustainability of the proposed new public water system and its water supply in the reasonably foreseeable future, in view of global climate change, potential migration of groundwater contamination and other potential treatment needs, and other factors that can significantly erode a system's capacity.

(d) If the state board determines that it is feasible for the service area of the public water system addressed by an application under this article to be served by one or more permitted public water systems identified pursuant to paragraph (1) of subdivision (c) of Section 116527, the state board may deny the permit of a proposed new public water system.

(e) An applicant may petition the state board for reconsideration of a decision of action of the deputy director taken pursuant to this section.

SEC. 8. Section 116686 of the Health and Safety Code is amended to read:

116686. (a) (1) To provide an adequate supply of affordable, safe drinking water to disadvantaged communities, voluntary participants, and public water systems that have demonstrated difficulty in maintaining technical, managerial, and financial capacity and to prevent fraud, waste, and abuse, the state board may do any of the following, if sufficient funding is available:

(A) (i) Contract with, or provide a grant to, an administrator to provide administrative, technical, operational, legal, or managerial services, or any combination of those services, to a designated water system to assist the designated water system with the provision of an adequate supply of affordable, safe drinking water, which may include steps necessary to enable consolidation.

(ii) To fulfill the requirements of this section, the state board may contract with more than one administrator, but only one administrator may be assigned to provide services to a given designated water system.

(iii) An administrator may provide services to more than one designated water system.

(B) Order the designated water system to accept administrative, technical, operational, legal, or managerial services, including full management and control of all aspects of the designated water system, from an administrator selected by the state board.

(C) Order the designated water system to accept administrative, technical, operational, legal, or managerial services from an administrator appointed by the state board for full oversight of construction or development projects related to a consolidation or extension of service, including, but not limited to, accepting loans and grants issued by the state board and entering into contracts on behalf of the designated water system.

(2) In performing its duties pursuant to paragraph (1), the state board may use criteria from the handbook adopted pursuant to subdivision (g).

(b) Unless the state board has already held a public meeting pursuant to subdivision (b) of Section 116682, the state board shall do all of the following to determine that a public water system or state small water system is a designated water system:

(1) Provide the public water system or state small water system with notice and an opportunity to show either of the following:

(A) That the public water system or state small water system has not consistently failed to provide an adequate supply of affordable, safe drinking water.

(B) That the public water system or state small water system has taken steps to timely address its failure to provide an adequate supply of affordable, safe drinking water.

(2) (A) Conduct a public meeting in a location as close as feasible to the affected community.

(B) The state board shall make reasonable efforts to provide a 30-day notice of the meeting to affected ratepayers, renters, and property owners.

(C) Representatives of the public water system or state small water system, affected ratepayers, renters, and property owners shall be provided an opportunity to present oral and written comments at the meeting.

(D) The meeting shall provide an opportunity for public comment.

(3) Provide an opportunity to submit comments by mail or electronically during the 30-day notice period and for at least one week after the public meeting described in paragraph (2).

(4) If the public water system is operated by a local educational agency, obtain the local educational agency's agreement, in writing, to the appointment of an administrator.

(c) The state board shall make financial assistance available to an administrator for a designated water system, as appropriate and to the extent that funding is available.

(d) The authority granted to an administrator by the state board pursuant to subdivision (a) may include, but shall not be limited to, the authority to do all of the following:

(1) Expend available moneys for capital infrastructure improvements that the designated water system needs to provide an adequate supply of affordable, safe drinking water or to execute a consolidation ordered pursuant to Section 116682.

(2) Set and collect user water rates and fees, subject to approval by the state board. The state board shall consider affordability when approving water rates and fees. The provisions of this section are subject to all applicable constitutional requirements, including Article XIII D of the California Constitution.

(3) Expend available moneys for operation and maintenance costs of the designated water system.

(4) Expend available moneys necessary to achieve consolidation, including conducting feasibility or planning studies, or addressing outstanding technical or legal issues.

(e) The state board shall work with the administrator of a designated water system and the communities served by that designated water system to develop, within the shortest practicable timeframe, adequate technical, managerial, and financial capacity to deliver an adequate supply of affordable, safe drinking water so that the services of the administrator are no longer necessary.

(f) A designated water system shall not be responsible for any costs associated with an administrator that are higher than the costs necessary to maintain the designated water system and provide an adequate supply of affordable, safe drinking water.

(g) Before ordering a designated water system to accept administrative, technical, operational, legal, or managerial services from an administrator pursuant to subdivision (a), the state board shall develop standards, terms, and procedures in a handbook adopted consistent with the process provided for in subdivision (a) of Section 116760.43 for all of the following:

(1) Ensuring compliance with subdivision (f).

(2) Providing opportunity for public comment on selection of an administrator and the services to be provided.

(3) Providing public access to budgets, ownership and financial information, and other documents and records related to the provision of water service to the designated water system or affected residences and to the management of the designated water system by the administrator.

(4) Providing regular public meetings, notifications, opportunities for public comment, and other forms of engagement with customers of the designated water system for significant decisions or actions made on behalf of the designated water system, including, but not limited to, establishing operating budgets, altering water rates, adopting system policies, entering into long-term contracts or financing commitments, and developing system projects or plans.

(5) Formal requests to the state board to reverse or modify a decision of an administrator or to request substitution of an administrator.

(6) Ensuring an administrator acts in the best interests of the community served.

(7) Development and approval of a post-administrator drinking water service plan to ensure compliance with subdivision (e). Development of the plan shall include, but is not limited to, an evaluation of long-term public governance or community ownership options.

(h) Administrative and managerial contracts pursuant to this section shall be exempt from Chapter 2 (commencing with Section 10290) of Part 2 of Division 2 of the Public Contract Code and may be awarded on a noncompetitive bid basis as necessary to implement the purposes of this section.

(i) For purposes of this section, a local government, as defined in Article XIII C of the California Constitution, that sets water rates in accordance

with Article XIII D of the California Constitution shall be deemed to be providing affordable water.

(j) This section does not apply to a charter city, charter county, or charter city and county.

(k) (1) For purposes of this section, an administrator is authorized to act on behalf of an affected residence to the same extent, and in the same manner, as a designated water system with the consent of the affected residence.

(2) For purposes of this section, where an administrator is authorized to act on behalf of a designated public water system, it may also act on behalf of a voluntary participant.

(l) The Legislature finds and declares that the funding provided to a state small water system, affected residence, public water system, voluntary participant, or administrator for purposes of this section serves a public purpose and does not constitute a gift of public funds within the meaning of Section 6 of Article XVI of the California Constitution.

(m) For purposes of this section, the following terms have the following meanings:

(1) “Administrator” means a person whom the state board has determined is competent to perform the administrative, technical, operational, legal, or managerial services required for purposes of this section, pursuant to criteria set forth in the handbook adopted pursuant to subdivision (g). Notwithstanding any other law, a privately owned public utility may serve as an administrator for purposes of this section.

(2) “Designated water system” means a public water system or state small water system that has been ordered to consolidate pursuant to Section 116682 or that serves a disadvantaged community, and that the state board finds consistently fails to provide an adequate supply of affordable, safe drinking water.

(3) “Domestic well” has the same meaning as defined in Section 116767.

(4) “Voluntary participant” means the owner of a domestic well or state small water system who has agreed to accept financial assistance pursuant to Chapter 4.6 (commencing with Section 116765) for the provision of an adequate and affordable supply of safe drinking water.

SEC. 9. Chapter 4.6 (commencing with Section 116765) is added to Part 12 of Division 104 of the Health and Safety Code, to read:

CHAPTER 4.6. SAFE AND AFFORDABLE DRINKING WATER

Article 1. Findings and Declarations

116765. The Legislature finds and declares all of the following:

(a) Every Californian should enjoy the same degree of protection from environmental and health hazards. Every community should be a healthy environment in which to live, work, play, and learn.

(b) No single group of people should bear a disproportionate share of the negative environmental consequences and adverse health impacts arising from industrial, governmental, or commercial operations or policies.

(c) Concentrated environmental contamination in water creates cumulative health burdens resulting in communities with higher rates of disease such as asthma, heart disease, cancer, neurological and reproductive health effects, birth defects, and obesity.

(d) Despite significant improvements in environmental protection over the past several decades, millions of Californians continue to live, work, play, and go to school in unhealthy environments.

(e) California was one of the first states in the nation to put environmental justice considerations into law and defines environmental justice as the fair treatment of people of all races, cultures, and incomes with respect to the development, adoption, implementation, and enforcement of environmental laws, regulations, and policies.

(f) California law also declares that it is the established policy of the state that every human being has the right to safe, clean, affordable, and accessible water adequate for human consumption, cooking, and sanitary purposes.

(g) Yet, still more than 1,000,000 Californians do not have access to safe drinking water. In communities where the sole water supply is contaminated with substances like arsenic, manganese, nitrates, or hexavalent chromium, families are often left without safe water. The central valley and central coast regions, where more than 90% of the communities rely on groundwater as a primary source of drinking water, are particularly at risk, but other communities around the state are also at risk. More than 250,000 people in the central valley alone lack access to a consistent source of safe, affordable water.

(h) The Safe Drinking Water and Toxic Enforcement Act of 1986 lists lead, arsenic, and hexavalent chromium as substances that can cause cancer and reproductive toxicity.

(i) Established state environmental justice law and policies are only effective insofar as they result in true parity.

(j) It is the intent of the Legislature that the State of California bring true environmental justice to our state and begin to address the continuing disproportionate environmental burdens in the state by creating a fund to provide safe drinking water in every California community, for every Californian.

(k) Climate change is exacerbating the water impacts on disadvantaged and environmentally burdened communities by reducing surface water flows, accelerating declining groundwater basins, and contributing to increasing concentrations of environmental contamination.

(l) Enhancing the long-term sustainability of drinking water systems in disadvantaged and environmentally burdened communities increases those communities' resilience to climate change.

(m) Funding for safe and affordable drinking water under this chapter promotes investments in disadvantaged communities, provides important contributions to those communities in adapting to climate change, and is an

appropriate expenditure from the Greenhouse Gas Reduction Fund created pursuant to Section 16428.8 of the Government Code.

(n) It is the intent of the Legislature that the state board, in developing the fund expenditure plan pursuant to Article 4 (commencing with Section 116768), strive to ensure all regions of the state receive the same level of consideration for funding pursuant to this chapter, to the extent practicable.

Article 2. Safe and Affordable Drinking Water Fund

116766. (a) The Safe and Affordable Drinking Water Fund is hereby established in the State Treasury to help water systems provide an adequate and affordable supply of safe drinking water in both the near and long terms. Notwithstanding Section 13340 of the Government Code, all moneys deposited in the fund are continuously appropriated to the board to fund the following:

(1) Operation and maintenance costs to help deliver an adequate supply of safe drinking water in both the near and long terms.

(2) Consolidating water systems, or extending drinking water services to other public water systems, domestic wells, and state small water systems.

(3) The provision of replacement water, as needed, to ensure immediate protection of health and safety as a short-term solution.

(4) The provision of services under Section 116686 for purposes of helping the systems become self-sufficient in the long term.

(5) The development, implementation, and sustainability of long-term drinking water solutions.

(6) Board costs associated with the implementation and administration of programs pursuant to this chapter.

(b) Consistent with subdivision (a), the board shall expend moneys in the fund for grants, loans, contracts, or services to assist eligible recipients.

(c) (1) Eligible recipients of funding under this chapter are public agencies, nonprofit organizations, public utilities, mutual water companies, federally recognized California Native American tribes, nonfederally recognized Native American tribes on the contact list maintained by the Native American Heritage Commission for the purposes of Chapter 905 of the Statutes of 2004, administrators, and groundwater sustainability agencies.

(2) To be eligible for funding under this chapter, grants, loans, contracts, or services provided to a public utility that is regulated by the Public Utilities Commission or a mutual water company shall have a clear and definite public purpose and shall benefit the customers of the water system and not the investors.

(d) On and after July 1, 2020, an expenditure from the fund shall be consistent with the fund expenditure plan.

(e) The board may expend moneys from the fund for reasonable costs associated with the administration of this chapter, not to exceed 5 percent of the annual deposits into the fund.

(f) In administering the fund, the board shall make reasonable efforts to ensure that funds are used to secure the long-term sustainability of drinking water service and infrastructure, including, but not limited to, requiring adequate technical, managerial, and financial capacity of eligible applicants as part of funding agreement outcomes.

(g) Beginning in the 2023–24 fiscal year, and each fiscal year thereafter until June 30, 2030, if the annual transfer to the fund pursuant to paragraph (3) of subdivision (b) of Section 39719 is less than one hundred thirty million dollars (\$130,000,000), on an annual basis the Director of Finance shall calculate a sum equivalent to the difference, up to one hundred thirty million dollars (\$130,000,000), and the Controller shall transfer that sum from the General Fund to the Safe and Affordable Drinking Water Fund. This subdivision is operative only while a market-based compliance mechanism adopted pursuant to Section 38562 is operative.

Article 3. Definitions

116767. For the purposes of this chapter:

(a) “Adequate supply” has the same meaning as defined in Section 116681.

(b) “Administrator” has the same meaning as defined in Section 116686.

(c) “Board” means the State Water Resources Control Board.

(d) “Community water system” has the same meaning as defined in Section 116275.

(e) “Consistently fails” has the same meaning as defined in Section 116681.

(f) “Disadvantaged community” has the same meaning as defined in Section 79505.5 of the Water Code.

(g) “Domestic well” has the same meaning as defined in Section 116681.

(h) “Fund” means the Safe and Affordable Drinking Water Fund established pursuant to Section 116766.

(i) “Fund expenditure plan” means the fund expenditure plan adopted pursuant to Article 4 (commencing with Section 116768).

(j) “Groundwater sustainability agency” has the same meaning as defined in Section 10721 of the Water Code.

(k) “Low-income household” means a single household with an income that is less than 200 percent of the federal poverty level, as updated periodically in the Federal Register by the United States Department of Health and Human Services under authority of subsection (2) of Section 9902 of Title 42 of the United States Code.

(l) “Mutual water company” means a mutual water company, as defined in Section 14300 of the Corporations Code, that operates a public water system or a state small water system.

(m) “Nonprofit organization” means an organization qualified to do business in California and qualified under Section 501(c)(3) of Title 26 of the United States Code.

(n) “Public agency” means a state agency or department, special district, joint powers authority, city, county, city and county, or other political subdivision of the state.

(o) “Public utility” has the same meaning as defined in Section 216 of the Public Utilities Code.

(p) “Public water system” has the same meaning as defined in Section 116275.

(q) “Replacement water” includes, but is not limited to, bottled water, vended water, point-of-use, or point-of-entry treatment units.

(r) “Safe drinking water” has the same meaning as defined in Section 116681.

(s) “Service connection” has the same meaning as defined in Section 116275.

(t) “State small water system” has the same meaning as defined in Section 116275.

(u) “Vended water” has the same meaning as defined in Section 111070.

Article 4. Fund Expenditure Plan

116768. The purposes of the fund expenditure plan are as follows:

(a) To identify public water systems, community water systems, and state small water systems that consistently fail to provide an adequate supply of safe drinking water, including the cause or causes of the failure and appropriate measures to remedy the failure.

(b) To determine the amount and type of funding necessary to implement appropriate measures to remedy a failure to provide an adequate supply of safe drinking water.

(c) To identify public water systems, community water systems, and state small water systems that are at significant risk of failing to provide an adequate supply of safe drinking water, including the source or sources of the risk and appropriate measures to eliminate the risk.

(d) To determine the amount and type of funding necessary to implement appropriate measures to eliminate the risk of failing to provide an adequate supply of safe drinking water.

(e) To identify gaps in the provision of safe drinking water, in furtherance of Section 106.3 of the Water Code, and to determine the amount and type of funding necessary to minimize or eliminate those gaps.

116768.5. (a) On or before July 1, 2020, the board shall develop and adopt a policy for developing the fund expenditure plan that includes all of the following elements:

(1) A requirement that the board consult with an advisory group to aid in meeting the purposes of the fund expenditure plan as established in Section 116768. The advisory group shall include representatives of the following:

(A) Public water systems.

(B) Technical assistance providers.

(C) Local agencies.

- (D) Nongovernmental organizations.
 - (E) Residents served by community water systems in disadvantaged communities, state small water systems, and domestic wells.
 - (F) The public.
 - (2) Identification of key terms, criteria, and metrics, and their definitions.
 - (3) A description of how proposed remedies will be identified, evaluated, prioritized, and included in the fund expenditure plan.
 - (4) The establishment of a process by which members of a disadvantaged community may petition the board to consider ordering consolidation.
 - (5) A requirement that the board hold at least one public hearing before adopting a fund expenditure plan.
 - (b) The board, in consultation with the Department of Finance, shall annually adopt a fund expenditure plan. The board shall adopt a handbook and may update it at least once every three years.
 - (c) On or before March 1, 2021, and every March 1 thereafter, the board shall provide to the Joint Legislative Budget Committee and the chairpersons of the fiscal committees in each house of the Legislature the most recently adopted fund expenditure plan. The board may submit the fund expenditure plan as required by this subdivision either in the Governor’s Budget documents or as a separate report.
116769. (a) The fund expenditure plan shall contain the following:
- (1) A report of expenditures from the fund for the prior fiscal year and planned expenditures for the current fiscal year.
 - (2) A list of systems that consistently fail to provide an adequate supply of safe drinking water. The list shall include, but is not limited to, all of the following:
 - (A) Any public water system that consistently fails to provide an adequate supply of safe drinking water.
 - (B) Any community water system that serves a disadvantaged community that must charge fees that exceed the affordability threshold established by the board in order to supply, treat, and distribute potable water that complies with federal and state drinking water standards.
 - (C) Any state small water system that consistently fails to provide an adequate supply of safe drinking water.
 - (3) A list of public water systems, community water systems, and state small water systems that may be at risk of failing to provide an adequate supply of safe drinking water.
 - (4) An estimate of the number of households that are served by domestic wells or state small water systems in high-risk areas identified pursuant to Article 6 (commencing with Section 116772). The estimate shall identify approximate locations of households, without identifying exact addresses or other personal information, in order to identify potential target areas for outreach and assistance programs.
 - (5) An estimate of the funding needed for the next fiscal year based on the amount available in the fund, anticipated funding needs, other existing funding sources, and other relevant data and information.

(6) A list of programs to be funded that assist or will assist households supplied by a domestic well that consistently fails to provide an adequate supply of safe drinking water. This list shall include the number and approximate location of households served by each program without identifying exact addresses or other personal information.

(7) A list of programs to be funded that assist or will assist households and schools whose tap water contains contaminants, such as lead or secondary contaminants, at levels that exceed recommended standards.

(b) The fund expenditure plan shall be based on data and analysis drawn from the drinking water needs assessment funded by Chapter 449 of the Statutes of 2018 as that assessment may be updated and as information is developed pursuant to Article 6 (commencing with Section 116772).

(c) The fund expenditure plan shall prioritize funding for all of the following:

(1) Assisting disadvantaged communities served by a public water system, and low-income households served by a state small water system or a domestic well.

(2) The consolidation or extension of service, when feasible, and administrative and managerial contracts or grants entered into pursuant to Section 116686 where applicable.

(3) Funding costs other than those related to capital construction costs, except for capital construction costs associated with consolidation and service extension to reduce the ongoing unit cost of service and to increase sustainability of drinking water infrastructure and service delivery.

116770. The fund expenditure plan may include expenditures for the following:

(a) The provision of replacement water, as needed, to ensure immediate protection of health and safety as a short-term solution.

(b) The development, implementation, and sustainability of long-term drinking water solutions, including, but not limited to, the following:

(1) (A) Technical assistance, planning, construction, repair, and operation and maintenance costs associated with any of the following:

(i) Replacing, blending, or treating contaminated drinking water.

(ii) Repairing or replacing failing water system equipment, pipes, or fixtures.

(iii) Operation and maintenance costs associated with consolidated water systems, extended drinking water services, or reliance on a substituted drinking water source.

(B) Technical assistance and planning costs may include, but are not limited to, analyses to identify and efforts to further opportunities to reduce the unit cost of providing drinking water through organizational and operational efficiency improvements, and other options and approaches to reduce costs.

(2) Creating and maintaining natural means and green infrastructure solutions that contribute to sustainable drinking water.

(3) Consolidating water systems.

(4) Extending drinking water services to other public water systems, community water systems, and state small water systems, or domestic wells.

(5) Satisfying outstanding long-term debt obligations of public water systems, community water systems, and state small water systems where the board determines that a system's lack of access to capital markets renders this solution the most cost effective for removing a financial barrier to the system's sustainable, long-term provision of drinking water.

(c) Identifying and providing outreach to persons who are eligible to receive assistance from the fund.

(d) Testing the drinking water quality of domestic wells serving low-income households, prioritizing those in high-risk areas identified pursuant to Article 6 (commencing with Section 116772).

(e) Providing services under Section 116686.

Article 5. Miscellaneous Provisions

116771. (a) The board may undertake any of the following actions to implement the fund:

(1) Provide for the deposit of any of the following moneys into the fund:

(A) Federal contributions.

(B) Voluntary contributions, gifts, grants, or bequests.

(C) Financial participation by a public agency in an activity authorized for funding from the fund.

(2) Enter into agreements for contributions to the fund from the federal government, local or state agencies, and private corporations or nonprofit organizations.

(3) Direct portions of the fund to a subset of eligible applicants as required or appropriate based on funding source and consistent with the annual fund expenditure plan.

(4) Direct moneys described in subparagraph (B) of paragraph (1) towards a specific project, program, or study.

(5) Take additional action as may be appropriate for adequate administration and operation of the fund.

(b) The board may set appropriate requirements as a condition of funding, including, but not limited to, the following:

(1) A system technical, managerial, or financial capacity audit.

(2) Improvements to reduce costs and increase efficiencies.

(3) An evaluation of alternative treatment technologies.

(4) A consolidation or service extension feasibility study.

(5) Requirements for a domestic well with nitrate contamination where ongoing septic system failure may be causing or contributing to contamination of a drinking water source to have conducted an investigation and project to address the septic system failure, if adequate funding sources are identified and accessible.

(c) Actions taken to implement, interpret, or make specific this chapter, including, but not limited to, the adoption or development of any plan,

handbook, or map, are not subject to the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code).

116771.5. (a) This chapter does not expand any obligation of the state to provide resources for the provisions of this article or to require the expenditure of additional resources beyond the amount of moneys deposited in the fund.

(b) The Legislature finds and declares that participation in an activity authorized for funding from the fund or a contribution to the fund by a federal, state, or local agency serves a public purpose and does not constitute a gift of public funds within the meaning of Section 6 of Article XVI of the California Constitution.

Article 6. Information on High-Risk Areas

116772. (a) (1) By January 1, 2021, the board, in consultation with local health officers and other relevant stakeholders, shall use available data to make available a map of aquifers that are at high risk of containing contaminants that exceed safe drinking water standards that are used or likely to be used as a source of drinking water for a state small water system or a domestic well. The board shall update the map annually based on new and relevant data.

(2) The board shall make the map of high-risk areas, as well as the data used to make the map, publicly accessible on its internet website in a manner that complies with the Information Practices Act of 1977 (Chapter 1 (commencing with Section 1798) of Title 1.8 of Part 4 of Division 3 of the Civil Code). The board shall notify local health officers and county planning agencies of high-risk areas within their jurisdictions.

(b) (1) By January 1, 2021, a local health officer or other relevant local agency shall provide to the board all results of, and data associated with, water quality testing performed by a laboratory that has accreditation or certification pursuant to Article 3 (commencing with Section 100825) of Chapter 4 of Part 1 of Division 101 for a state small water system or domestic well that was collected after January 1, 2014, and that is in the possession of the local health officer or other relevant local agency.

(2) By January 1, 2022, and by January 1 of each year thereafter, all results of, and data associated with, water quality testing performed by a laboratory that has accreditation or certification pursuant to Article 3 (commencing with Section 100825) of Chapter 4 of Part 1 of Division 101 for a state small water system or domestic well that is submitted to a local health officer or other relevant local agency shall also be submitted directly to the board in electronic format.

SEC. 10. Chapter 7 (commencing with Section 8390) is added to Division 4.1 of the Public Utilities Code, to read:

CHAPTER 7. DESIGNATED WATER SYSTEM ADMINISTRATION

8390. A privately owned public utility may serve as an administrator for purposes of Section 116686 of the Health and Safety Code.

SEC. 11. (a) The amounts appropriated by Item 3940-102-0001 and Item 3940-102-3228 in the Budget Act of 2019 shall be available for purposes outlined in Chapter 4.6 (commencing with Section 116765) of Part 12 of Division 104 of the Health and Safety Code.

(b) Funds made available pursuant to subdivision (a) shall be used for the purpose of facilitating the achievement of reductions of greenhouse gas emissions in this state in accordance with the requirements of Section 39712 of the Health and Safety Code or to improve climate change adaptation and resiliency of disadvantaged communities, as defined in Section 39711 of the Health and Safety Code, or low-income households or communities, as defined in Section 39713 of the Health and Safety Code, consistent with Division 25.5 (commencing with Section 38500) of the Health and Safety Code. For purposes of the funds made available pursuant to subdivision (a), a state agency may also comply with the requirements of paragraphs (2) and (3) of subdivision (a) of Section 16428.9 of the Government Code by describing how each proposed expenditure will improve climate change adaptation and resiliency of disadvantaged communities or low-income households or communities.

SEC. 12. This act does not impose a levy, charge, or exaction of any kind, such as a tax or fee.

SEC. 13. The provisions of this act are severable. If any provision of this act or its application is held invalid, that invalidity shall not affect other provisions or applications that can be given effect without the invalid provision or application.

SEC. 14. If the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code.

SEC. 15. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the California Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to address the immediate need to provide safe and affordable drinking water to all Californians, it is necessary for this act to take effect immediately.

Supplemental Information No. 1
Item No. 3

From: Sally Syracuse <ssyracuse2003@gmail.com>
Sent: Tuesday, June 2, 2020 4:33 PM
To: LAFCO; Abello, Emmanuel
Subject: [EXTERNAL] public comments

To Secretary of LAFCOs

Please read part in bold be read during public comment: “This portion of the meeting provides an opportunity for members of the public to address the Commission on matters not on the agenda, provided that the subject matter is within the jurisdiction of the Commission.”

Racism in land use is relevant and within the jurisdiction of the Commission of LAFCOs. Land use decisions have been used to segregate & oppress black, brown and Asian people in our county. Black, brown and Asian people have been pushed into flood areas or contaminated lands by local racist land use regulations

Black, brown and Asian people were unfairly hurt in the Rock Springs and San José flood

This communique is about your member Lezotte. Not only on the water board but when on our city council she has frequently taken the racist side. We are bringing this to your attention to put this into the public record: and when ready: take action like Reverend Jethro Moore states

Please no need to read the rest of this email outloud just put it in the official record

<https://www.sanjoseinside.com/news/rick-callenders-promotion-to-ceo-divides-valley-water-board/>

Last week the San Jose-Silicon Valley NAACP President Rev. Jethroe Moore compared Keegan and LeZotte to Amy Cooper, the white woman who went viral as the latest embodiment of the “[Karen](#)” meme by calling 9-1-1 on an African-American birdwatcher in Central Park. “I am disappointed to have to write this letter,” Moore began. “However it appears that we have a clear case of ‘managing while black’ occurring right here in Silicon Valley.”

The reverend called on Valley Water to investigate “likely unethical and likely illegal behaviors” of Keegan and LeZotte (notably, not Hsueh), whom he accused of “releasing incomplete confidential personnel information to members of the public and media, and lobbying external people during the course of a confidential hiring process.”

“White women’s fear turning into black men being attacked is nothing new,” Moore continued. “Simply look at what’s in the news right now. We live in an era with things like Ahmaud Arbery, where black men are targets and able to have their rights attacked.”

The NAACP leader invoked the name of George Floyd—an unarmed black man killed by two Minneapolis police officers—and “the larger national dialogue on racism” as sharing a common thread with the votes against Callender’s promotion.

Moore accused Keegan and LeZotte (again, no mention of Hsueh) of conspiring with a former Valley Water director, [Joe Judge](#), to sabotage Callender’s shot at the CEO job.

