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**Alternates**

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Special District Member

**Wilma Chan**  
County Member

**David Haubert**  
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**Tom Pico**  
Public Member

**Executive Officer**

**Mona Palacios**

AGENDA 6 May 12, 2016

May 5, 2016

Honorable Commissioners  
Alameda Local Agency Formation Commission

**Subject: AB 2471**

Dear Commissioners:

At the March 10, 2016 Alameda Local Agency Formation Commission (LAFCo) meeting, the Commission adopted an oppose position to AB 2471 (Quirk) and submitted a letter of opposition to the bill's author. The members of the Assembly Local Government Committee (ALGC) received a copy of the letter because this committee was scheduled to hear the bill first (Attachment 1 – Oppose Letter). AB 2471, as initially proposed, would require LAFCos to dissolve healthcare districts meeting specific criteria.

At the March 10<sup>th</sup> LAFCo meeting, the Commission also directed staff to invite Assemblymember Quirk and County Board of Supervisors members Chan and Valle to LAFCo's May 12, 2016 meeting to discuss the proposed bill and address the Commission's concerns which include circumvention of the existing local process, the absence of participation and/or comment from the public or affected agencies during the Commission's municipal service review and sphere of influence update process which occurred from 2012 through 2014, and the statewide applicability of the initially proposed bill.

AB 2471 was presented to the ALGC at its hearing on May 4, 2016. Just prior to the hearing, the Committee proposed amendments to the bill that were accepted by the author (Attachment 2 – AB 2471 amendments and committee analysis). The amendments narrow the scope of the bill to Alameda LAFCo and Eden Township Healthcare District and direct Alameda LAFCo to ensure that Eden Township Healthcare District meets the requirements of another legislative proposal regarding healthcare districts – AB 2737 (Bonta) which would require certain defined nonprovider healthcare districts to spend 80% of their budgets on grants and no more than 20% on administrative costs (Attachment 3 – AB 2737 and committee analysis).

Staff attended the ALGC hearing on May 4<sup>th</sup> and provided testimony (Attachment 4). The Mayors of San Leandro and Hayward, and staff from County Supervisor Wilma Chan's office attended the hearing

Honorable LAFCo Commissioners  
May 5, 2016  
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and spoke in support of the amended bill. Opposition to the bill was presented by the California Association of Local Agency Formation Commissions (CALAFCO), a representative of the Eden Township Healthcare District, and the California Association of Healthcare Districts.

There was discussion among the ALGC members regarding the number of times that the Committee has recently considered legislative proposals that bypass the LAFCo process. Additionally, some committee members expressed concern about changes that healthcare districts have undergone since the Healthcare District Act was passed, and the recent scrutiny of many healthcare districts around the state. Committee Chair Eggman indicated her interest in further examining the status of healthcare districts, as well as the current trend towards bypassing the LAFCo process. After discussion, the bill passed unanimously out of the Committee and next heads to the Assembly floor. If passed by the Assembly, the bill will then move to the Senate for hearing.

Assemblymember Quirk will attend the LAFCo meeting on May 12<sup>th</sup>. Staff from Supervisors Chan's and Valle's offices are also expected to be present. Representatives of the Eden Township Healthcare District also indicate that they will attend the LAFCo meeting. Other interested parties may also attend the LAFCo meeting, including Assemblymember Bonta and the Mayors of San Leandro and Hayward or their representatives. This agenda item provides an opportunity to engage the bill's author and sponsor in a discussion to better understand the reasoning behind AB 2471 and determine what, if any, deficiencies there are in the existing LAFCo process and potential remedies to those deficiencies.

Sincerely,



Mona Palacios  
Executive Officer

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Attachments:

1. LAFCo letter of opposition dated March 18, 2016
2. AB 2471 amendments and ALGC analysis
3. AB 2737 and ALGC analysis
4. LAFCo staff testimony at May 4, 2016 ALGC hearing

cc: Honorable Assemblymember Bill Quirk  
Honorable Assemblymember Rob Bonta  
Honorable Alameda County Supervisor Wilma Chan  
Honorable Alameda County Supervisor Richard Valle  
Dev Mahadevan, CEO, Eden Township Healthcare District  
Honorable Pauline Cutter, San Leandro Mayor  
Honorable Barbara Halliday, Hayward Mayor  
Honorable Board members, Eden Township Healthcare District  
Interested parties  
Andrew Massey, LAFCo Legal Counsel

*Alameda*  
**LAFCO**

ALAMEDA LOCAL AGENCY FORMATION COMMISSION  
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**Executive Officer**

Mona Palacios

March 18, 2016

The Honorable Bill Quirk  
 State Capitol  
 P.O. Box 942849  
 Sacramento, CA 94249-0020

Subject: **Oppose AB 2471**

Dear Assemblymember Quirk:

At the Alameda Local Agency Formation Commission (LAFCo) meeting on Thursday, March 10, 2016, the Commission considered AB 2471 which proposes to require LAFCos to dissolve healthcare districts. The Commission understands that, while not specified in the proposed legislation, the bill targets the dissolution of the Eden Township Healthcare District which is located in Alameda County. After careful review and discussion, Alameda LAFCo must respectfully oppose AB 2471 for the following reasons.

**Diminishes LAFCo Authority**

Alameda LAFCo opposes the bill because it diminishes LAFCo's authority by removing the Commission's discretion to decide whether certain types of healthcare districts should be dissolved. The Cortese-Knox-Hertzberg Local Government Act of 2000 (CKH Act) provides LAFCos with the authority to review and approve with or without amendment, wholly, partially, or conditionally, or disapprove proposals for changes of organization and reorganization. The removal of LAFCo's discretion especially concerns the Commission because it is counter to the State Legislature's preference for local decision-making regarding local service provision. This preference is evident in the State's decision to create a LAFCo in each county to review and approve proposed jurisdictional boundary changes rather than one State level agency for that purpose.

The CKH Act is the legal framework within which LAFCos consider proposed jurisdictional boundary changes including dissolutions of special districts such as healthcare districts, so a process already exists to consider the dissolution of the Eden Township Healthcare District. The dissolution of a special district may be initiated by resolution of an affected agency or by petition of property owners or registered voters within the boundaries of the district. No such application has been received by Alameda LAFCo. Were LAFCo to receive an application, the Commission could use its authority to publicly consider whether to approve or disapprove such a proposal.

Finally, the CKH Act provides that, except under certain enumerated circumstances, dissolution of a special district may be subject to an election depending on the outcome of a protest hearing. However, the CKH

Honorable Bill Quirk  
March 18, 2016  
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Act also provides that dissolutions of healthcare districts are always subject to confirmation by the voters of that district (Government Code Section 57103). As a result, there is some ambiguity regarding whether the dissolution of a healthcare district would be subject to confirmation of the district's voters. One potential solution to clarify this issue is to eliminate Government Code Section 57103.

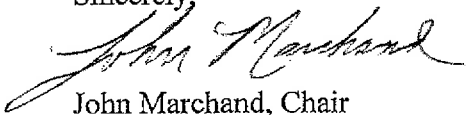
Disregards Actions Taken by Alameda LAFCo

Alameda LAFCo is concerned that in targeting the Eden Township Healthcare District, the proposed legislation ignores the processes and actions that LAFCo undertook regarding the district. As one of the local agencies under LAFCo jurisdiction, the Commission completed a municipal service review (MSR) of the Eden Township Healthcare District in order to update the district's sphere of influence (SOI). As defined in Government Code Section 56076, a SOI is a plan for the probable physical boundaries and service area of local agency. LAFCo may initiate a proposal to dissolve a special district only if such a proposal is consistent with recommendations or conclusions contained within a MSR, SOI update, or special study.

The MSR and SOI update processes reflect the value of a local commission having the time to take evidence and consider public input when deciding what to do with special districts. In November 2013, Alameda LAFCo completed Eden Township Healthcare District's MSR and subsequently updated the district's SOI first in November 2013 and then again in November 2014. When the Commission considered Eden Township Healthcare District's MSR and SOI update, there was an opportunity for members of the public and local agencies to provide comments and input. Limited public comment was provided. To the extent that any of the legislation's proponents were involved in the MSR, none advocated for the dissolution of this district. The Commission did not initiate dissolution of the Eden Township Healthcare District, nor did the Commission determine that initiation of a special study to dissolve the district was needed. Rather, the Commission adopted a coterminous SOI for the district determining that it still plays an indirect role in the provision of healthcare services within its boundaries. On February 23, 2016, LAFCo staff sent a copy of the 2013 MSR and the 2014 SOI update to your office.

In discussing the proposed legislation, the Commission felt that it would be helpful to have a conversation with you and Alameda County Board of Supervisors members Chan and Valle to discuss the reasons behind the proposed legislation and the Commission's concerns. Therefore, I would like to extend an invitation to you to come to the next LAFCo meeting on May 12, 2016. The Commission meets at 2 pm at the Dublin San Ramon Services District located at 7051 Dublin Boulevard in Dublin. Please contact Alameda LAFCo Executive Officer Mona Palacios at (510) 272-3894 or [mona.palacios@acgov.org](mailto:mona.palacios@acgov.org) if you are available to attend the LAFCo meeting.

Sincerely,



John Marchand, Chair  
Alameda LAFCo

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cc: Honorable Rob Bonta, California State Assembly  
Members, Assembly Local Government Committee  
Misa Lennox, Associate Consultant, Assembly Local Government Committee  
William Weber, Consultant, Assembly Republican Caucus  
Pamela Miller, Executive Director, CALAFCO

AB 2471 – proposed amendments by the Assembly Local Government Committee which were accepted by the bill's author.

SECTION 1. Section 57103 of the Government Code is amended to read:

57103. Any order in any resolution adopted by the commission on or after January 1, 1986, ordering the dissolution of a local hospital district, organized pursuant to Division 23 (commencing with Section 32000) of the Health and Safety Code, is subject to confirmation by the voters, except as set forth in Chapter 8 (commencing with Section 32495) of Division 23 of the Health and Safety Code.

SEC. 2. Chapter 8 (commencing with Section 32495) is added to Division 23 of the Health and Safety Code, to read:

CHAPTER 8. Dissolution

32495. (a) A Alameda County local agency formation commission shall review the compliance of Eden Township Healthcare District with subdivision (b) of this Chapter. If all of the criteria under subdivision (b) are met, the commission shall order the dissolution of a health care the district pursuant to Paragraph 2 of subdivision (c) of Section 57077.1 of the Government Code. without an election if the health care district meets all of the following criteria:

(b) (1) The health care district does not currently receive a property tax allocation.

(2) The health care district has substantial net assets.

(3) The health care district does not provide a direct health care service.

(4) The health care district does not comply with Section 32495 of the Health and Safety Code added by AB 2737 (Bonta) of this legislative session.

(b) If a local agency formation the commission orders the dissolution of a health care the district pursuant to subdivision (a), the dissolution shall be subject to the provisions of the dissolution process for winding up the affairs of a dissolved district, as set forth in Paragraph 2 of Subdivision (c) of Section 57077.1 Chapter 6(commencing with Section 57450) of Part 5 of Division 3 of Title 5 of the Government Code.

(c) For purposes of this section:

(1) "Direct health care service" means the ownership or operation of a hospital, medical clinic, wellness center, or ambulance service.

(2) "Local agency formation commission" means the commission in whose sphere of influence, as defined in Section 56076 of the Government Code, the health care district exists. "Local agency formation commission" or "commission" means the Alameda County local agency formation commission.

(3) "District" means the Eden Township Healthcare District.

Sec 3. Section 57077.1 of the Government Code is amended to read:

57077.1 (a) If a change of organization consists of a dissolution, the commission shall order the dissolution without confirmation of the voters, except if the proposal meets the requirements of subdivision (b), the commission shall order the dissolution subject to confirmation of the voters.

(b) The commission shall order the dissolution subject to the confirmation of the voters as follows:

(1) If the proposal was not initiated by the commission, and if a subject agency has not objected by resolution to the proposal, the commission has found that protests meet one of the following protest thresholds:

(A) In the case of inhabited territory, protests have been signed by either of the following:

(i) At least 25 percent of the number of landowners within the affected territory who own at least 25 percent of the assessed value of land within the territory.

(ii) At least 25 percent of the voters entitled to vote as a result of residing within, or owning land within, the affected territory.

(B) In the case of a landowner-voter district, that the territory is uninhabited and that protests have been signed by at least 25 percent of the number of landowners within the affected territory owning at least 25 percent of the assessed value of land within the territory.

(2) If the proposal was not initiated by the commission, and if a subject agency has objected by resolution to the proposal, written protests have been submitted as follows:

(A) In the case of inhabited territory, protests have been signed by either of the following:

(i) At least 25 percent of the number of landowners within any subject agency within the affected territory who own at least 25 percent of the assessed value of land within the territory.

(ii) At least 25 percent of the voters entitled to vote as a result of residing within, or owning land within, and subject agency within the affected territory.

(B) In the case of a landowner-voter district, that the territory is uninhabited and protests have been signed by at least 25 percent of the number of landowners within any subject agency within the affected territory, owning at least 25 percent of the assessed value of land within the subject agency.

(3) If a proposal was initiated by the commission, and regardless of whether a subject agency has objected to the proposal by resolution, written protests have been submitted that meet the requirements of Section 57113.

(c) Notwithstanding subdivisions (a) and (b) and Section 57102 if a change of organization consists of the dissolution of a district that is consistent with a prior action of the commission pursuant to Section 56378, 56425, or 56430, the commission may do either of the following:

(1) If the dissolution is initiated by the district board, immediately approve and order the dissolution without an election or protest proceedings pursuant to this part.

(2) If the dissolution is initiated by an affected local agency, by the commission pursuant to Section 56375, by Alameda County local agency formation commission pursuant to Section 32495 of the Health and Safety Code, or by petition pursuant to Section 56650, order the dissolution after holding at least one noticed public hearing, and after conducting protest proceedings in accordance with this part. Notwithstanding any other law, the commission shall terminate proceedings if a majority protest exists in accordance with Section 57078. If a majority protest is not found, the commission shall order the dissolution without an election.

Date of Hearing: May 4, 2016

ASSEMBLY COMMITTEE ON LOCAL GOVERNMENT

Susan Talamantes Eggman, Chair

AB 2471 (Quirk) – As Introduced February 19, 2016

**SUBJECT:** Health care districts: dissolution.

**SUMMARY:** Requires a local agency formation commission (LAFCO) to order the dissolution of a healthcare district without an election, if the healthcare district meets specified criteria.

Specifically, **this bill:**

- 1) Requires a LAFCO to order the dissolution of a healthcare district without an election, if the healthcare district meets all of the following criteria:
  - a) The healthcare district does not currently receive a property tax allocation;
  - b) The healthcare district has substantial net assets; and,
  - c) The healthcare district does not provide a direct healthcare service.
- 2) Requires the dissolution, if a LAFCO orders the dissolution of a healthcare district subject to 1) above, to be subject to the provisions for winding up the affairs of a dissolved district, pursuant to existing law.
- 3) Provides the following definitions:
  - a) "Direct healthcare service" to mean the ownership or operation of a hospital, medical clinic, wellness center, or ambulance service.
  - b) "LAFCO" to mean the commission in whose sphere of influence the healthcare district exists.

**EXISTING LAW:**

- 1) Establishes the procedures for the organization and reorganization of cities, counties, and special districts under the Cortese-Knox-Hertzberg Local Reorganization Act of 2000 (Act).
- 2) Defines "dissolution" to mean the dissolution, disincorporation, extinguishment, and termination of the existence of a district and the cessation of all its corporate powers, except as the LAFCO may otherwise provide, pursuant to existing law, or for the purpose of winding up the affairs of the district.
- 3) Defines "sphere of influence" to mean a plan for the probable physical boundaries and service area of a local agency, as determined by LAFCO.
- 4) Provides any resolution adopted by LAFCO on or after January 1, 1986, ordering the dissolution of a healthcare district is subject to confirmation by the voters.

**FISCAL EFFECT:** None

**COMMENTS:**

- 1) **Healthcare Districts.** Near the end of World War II, California faced a severe shortage of hospital beds. To respond to the inadequacy of acute care services in the non-urban areas of the state, the Legislature enacted the Local Hospital District Law, with the intent to give rural, low-income areas without ready access to hospital facilities, a source of tax dollars that could be used to construct and operate community hospitals and health care institutions in medically underserved areas, to recruit physicians and support their practices. The Local Hospital District Law (now called the Local Health Care District Law) allowed communities to create a new governmental entity, independent of local and county jurisdictions that had the power to impose property taxes, enter into contracts, purchase property, issue debt, and hire staff. In general, the process of creating a hospital district started with citizens in a community identifying the need for improved access to medical care.

According to the Association of California Healthcare Districts, there are currently 78 districts, of which three have stand-alone skilled nursing facilities; 54 are rural; 34 hospitals, 20 of which are critical access; and, five have stand-alone clinics. These institutions provide a significant portion of the medical care to minority populations and the uninsured in medically underserved regions of the state and are mainly funded by Medicare, Medi-Cal, and district tax dollars.

- 2) **LAFCOs and District Dissolution.** LAFCOs are responsible for coordinating logical and timely changes in local governmental boundaries, conducting special studies that review ways to reorganize, simplify, and streamline governmental structures, and preparing a sphere of influence for each city and special district within each county. The courts refer to LAFCOs as the Legislature's "watchdog" over local boundary changes. The Act establishes procedures for local government changes of organization, including special district dissolution. LAFCOs regulate boundary changes through the approval or denial of proposals by other public agencies or individuals for these procedures.

The Act prescribes a process for the dissolution of special districts, which is similar to most boundary changes that require numerous steps: a) Initiation of LAFCO process, by petition of property owners or registered voters in the district or resolution of an affected agency; b) Noticed public hearing, testimony, and approval or disapproval by LAFCO; c) Additional public hearing for protests and in specified cases LAFCO must order an election on the proposed dissolution; d) Dissolution election, if required, among district's voters, which requires a majority vote approval; and, e) LAFCO staff files documents to complete the dissolution.

AB 912 (Gordon), Chapter 109, Statutes of 2011, created an expedited process for the dissolution of special districts. Under this expedited process, if the proposed dissolution is initiated by the special district's board and dissolution is consistent with a prior action of LAFCO regarding a special study, sphere of influence, or municipal service review, LAFCO can order dissolution without protest or election. If the dissolution was initiated by an affected local agency, LAFCO, or petition, LAFCO must hold a public hearing to consider protest, and if there is no majority protest LAFCO, must order the dissolution without an election. Existing law also requires that a resolution adopted by LAFCO ordering the dissolution of a healthcare district to be subject to confirmation by the voters. Due to this provision and the expedited dissolution process put in place by AB 912, there is some



ambiguity in existing law about a LAFCO's ability to order the dissolution of a healthcare district without an election.

- 3) **Bill Summary.** This bill requires a LAFCO to order the dissolution of a healthcare district without an election, if the healthcare district meets specified criteria. The criteria established by this bill would require the dissolution of a healthcare district that a) does not currently receive property tax; b) has substantial net assets; and, c) does not own or operate a hospital, medical clinic, wellness center, or ambulance service. The criteria established by this bill only currently apply to one district – Eden Township Healthcare District (District). This bill is sponsored by Alameda County.
- 4) **Author's Statement.** According to the author, "With the right focus of delivering direct health services and/or providing substantial financial support to various healthcare providers and organizations in a community, healthcare districts have the potential to improve and promote the health status of underserved communities. Yet, there are significant variations in the way healthcare districts operate and the rules that govern them. Due to this, many healthcare districts still exist that no longer own a hospital or provide any direct healthcare services to the community and therefore, may not be fulfilling their original intent and commitment to the residents of the district.

"For example, in Alameda County, Eden Township Healthcare District (ETHD) does not provide any direct healthcare services. Their revenue source is mostly derived from commercial property rental income which, along with cash and securities, has a net value of \$45.6 million. In 2015, ETHD spent 85% of its budget on administrative expenditures, such as salaries, benefits, utilities and other professional services, while only disbursing 15% of their budget on grants to service providers and sponsorships. Furthermore, ETHD pays less than half of 1% of its annual net assets towards charitable activities. AB 2471 will order the dissolution of a health care district without an election when it meets all of the following criteria... Currently ETHD in Alameda County is the only healthcare district that meets these criteria."

- 5) **Eden Township Healthcare District.** According to Alameda County Local Agency Formation Commission's (LAFCO) 2012 municipal service review (MSR), the District was established by the voters in 1948 to finance construction of Eden Hospital, which opened in 1954. In 1998, the District transferred all of the net operating assets and operations of the hospital to Sutter Health. In 2004, the District purchased San Leandro Hospital and leased it to Sutter Health. In order to comply with seismic safety laws, the District entered into an agreement with Sutter Health to replace Eden Medical Center. The agreement also gave Sutter the option to purchase San Leandro Hospital. On December 21, 2011, an appellate court ruled in favor of Sutter in litigation over the terms of the 2008 agreement. On October 31, 2013, Sutter transferred San Leandro Hospital to the Alameda Health System, the public health authority that operates Alameda County's health care system.

Currently, the District provides grant funding to health-related organizations through a Community Health Fund and owns three office buildings, where it leases office space to healthcare providers. The District does not receive any property tax, special tax, or benefit assessments. The main source of revenue is rental income. The District consists of 130 square miles and includes the City of San Leandro, most of the City of Hayward, and the

unincorporated areas of Castro Valley and San Lorenzo, and is governed by a five-member board of directors elected to four-year terms.

Alameda LAFCO's MSR identified three governance structure options for the District: a) Annexation of the City of Dublin by the District; b) dissolution; or, c) consolidation with Washington Township Healthcare District. The MSR found that while the District no longer owns and operates a hospital, it is premature to dissolve the District, pointing to the grant funding, leased office space, and an indication from the District of their willingness to provide direct services in the future.

- 6) **Controversy and Subsequent Legislation.** Recent controversy surrounding several healthcare districts has brought greater media and legislative scrutiny on several issues, including their fiscal management. The Assembly Committee on Accountability and Administrative Review conducted several hearings regarding healthcare districts, and focused specifically on healthcare districts that do not operate hospitals. Additionally, the Legislative Analyst Office (LAO) produced a report entitled, "Overview of Health Care Districts", in April 2012 in response to several healthcare districts that have declared bankruptcy since 2000. There have also been concerns regarding districts maintaining reserve balances in the tens of millions of dollars. For example, Peninsula Health Care District and Beach Cities Health District have each reported over \$45 million in unrestricted net assets (reserves) at the end of June 2011.

Additionally, according to the LAO report, several LAFCOs have considered dissolving districts. Five districts have been dissolved or otherwise reorganized since 2000. Since that time, the Contra Costa County LAFCO consolidated Mount Diablo Healthcare District into the City of Concord. The Mount Diablo Healthcare District did not operate a hospital and similar concerns were expressed about the amount of revenue spent on administrative costs, instead of on grant funding for community health needs. Contra Costa LAFCO is currently undertaking a special study to examine governance options, including dissolution, for West Contra Costa Healthcare District. Sonoma LAFCO is also in receipt of an application to begin the dissolution process for a healthcare district.

A Bureau of State Audits' (BSA) audit of Salinas Valley Memorial Health Care System found that the District's Board violated open meeting laws to grant overly generous compensation, retirement, and benefits to the chief executive officer. This Committee heard several bills addressing the employment contract between a healthcare district and hospital administrator, including AB 2115 (Alejo) of 2012; AB 2180 (Alejo), Chapter 322, Statutes of 2012; and, AB 130 (Alejo), Chapter 92, Statutes of 2013.

AB 2418 (Gordon and Dickinson) of 2012 would have required healthcare districts to expend 95% of any property tax revenue on current community healthcare benefits.

- 7) **Prior Bills that Established a Modified LAFCO Process.** In the past several years, the Legislature has established a modified LAFCO process or exempted specified requirements in the LAFCO process for the formation and consolidation of several special districts following a history of failed attempts at the local level including, AB 2453 (Achadjian), Chapter 350, Statutes of 2014, for the creation of the Paso Robles Water District; AB 3 (Williams), Chapter 548, Statutes of 2015, for the formation of the Isla Vista Community Services District; and, AB 1232 (Huffman), Chapter 518, Statutes of 2010, for the

consolidation of the Sewerage Agency of Southern Marin and its member districts, after notice and hearing, but without protest hearings.

- 8) **Related Legislation.** AB 72 (Bonta) of 2015, on the Senate Inactive File, would have authorized the District, until January 1, 2026, to impose special taxes within the District, subject to the approval of two-thirds of the District's voters.

AB 2737 (Bonta), pending in the Assembly Appropriations Committee, would require specified healthcare districts to spend at least 80% of their annual budget on community grants awarded to organizations that provide direct health services, and would prohibit more than 20% of their annual budget to be spent on administrative expenses. The parameters of AB 2737 were also established to address the District.

- 9) **Policy Considerations.** The Committee may wish to consider the following:

- a) **Limiting LAFCO Powers.** The Legislature has delegated the power to control local boundaries to the 58 LAFCOs. This bill bypasses LAFCO, and does not require the usual dissolution process to occur. This Committee has seen an increasing number of bills seeking to bypass the LAFCO process, therefore, the Committee may wish to consider if this bill is going against prior directives from the Legislature that designated fundamental powers to LAFCOs to make these types of decisions. The Committee may wish to ask the author why the current LAFCO process is not a viable option for the dissolution of the District and why this bill is necessary.

Opposition argues that this bill disregards prior actions taken by Alameda LAFCO pertaining to the District. Alameda LAFCO determined the District still has an indirect role in the provision of healthcare services within its existing boundaries. If the author does not agree with prior LAFCO actions or determinations regarding the District, the Committee may wish to consider if the LAFCO should be reexamined and altered as opposed to eliminating LAFCOs discretion outright.

- b) **Voter Involvement.** The dissolution process under LAFCO contains a number of required steps that allow for public involvement. For example, the voters have the opportunity to weigh in at a publicly noticed hearing, register their protest, and when enough protest is received, vote in an election. The Committee may wish to consider that this bill denies the voters the opportunity to weigh in on the dissolution of a district that was created by the voters.
- c) **Statewide Approach.** The Committee may wish to consider, while the criteria established by the bill is aimed at Eden Township Healthcare District, this bill applies statewide to any healthcare district that fits the criteria established by this bill. Because this bill prevents LAFCO and the public from weighing in on the question of dissolution, the Committee may wish to consider if statewide application is appropriate.
- d) **Healthcare Districts and LAFCO.** The relationship between LAFCOs and healthcare districts is unique in comparison to other special districts. The Local Healthcare District Law and the formation of some healthcare districts predate the Knox Nisbet Act, which created LAFCOs and formalized the process for establishing a hospital district. Due to the unique nature of healthcare services and the long history of healthcare district's principal act, the Committee may wish to consider if there is a need to more clearly

define the relationship between LAFCOs and healthcare districts, and undertake a closer examination of healthcare districts' service boundaries, the process of dissolution for healthcare districts, and the considerations LAFCOs are required to make when doing an MSR and determining the sphere of influence for healthcare districts.

- e) **Definitions.** Local agencies, not LAFCOs, have a sphere of influence; therefore, the Committee may wish to encourage the author to correct the definition in the bill for LAFCOs. Further, opposition argues that the bill does not define "substantial net assets" and leaves open the opportunity for wide interpretation.

10) **Committee Amendments.** In light of the considerations raised above, the Committee may wish to ask the author to take the following amendments:

- a) Narrow the scope of the bill down to Eden Township Healthcare District.
- b) Specify that the bill's provisions apply to Alameda LAFCO to order the dissolution of Eden Township Healthcare District if specified criteria in the bill are met.
- c) Require Alameda LAFCO to review compliance with AB 2737 (Bonta) and with all criteria in the bill.
- d) Add to the list of criteria that the District does not comply with AB 2737 (Bonta).
- e) Insert the expedited dissolution process pursuant to AB 912 (Gordon), if the criteria established by the bill are met, which would require Alameda LAFCO to hold at least one noticed public hearing, and after conducting protest proceedings, order an election only if majority protest is registered.

11) **Arguments in Support.** Supporters argue that the criteria for dissolution included in AB 2471 will dissolve healthcare districts in California that are no longer serving their original purpose when approved by the voters of the district. Supporters argue that this bill is very narrow, and therefore, would not affect the vast majority of healthcare districts in California who are continuing to service their communities, as promised.

12) **Arguments in Opposition.** Opposition argues that the existing local process should be fully utilized before resorting to state action. Opposition suggests amendments to address the process of dissolving a healthcare district without voter approval, but incorporates a local LAFCO process that provides an opportunity for community input.

**REGISTERED SUPPORT / OPPOSITION:**

**Support**

Alameda County [SPONSOR]

**Opposition**

Alameda Local Agency Formation Commission

Association of California Healthcare Districts (unless amended)

California Association of Local Agency Formation Commissions (unless amended)

**Analysis Prepared by:** Misa Lennox / L. GOV. / (916) 319-3958



*California*  
LEGISLATIVE INFORMATION

**AB-2737 Nonprovider health care districts. (2015-2016)**

AMENDED IN ASSEMBLY APRIL 11, 2016

AMENDED IN ASSEMBLY MARCH 17, 2016

CALIFORNIA LEGISLATURE— 2015–2016 REGULAR SESSION

**ASSEMBLY BILL**

**No. 2737**

**Introduced by Assembly Member Bonta**

**February 19, 2016**

An act to add Chapter 8 (commencing with Section 32495) to Division 23 of the Health and Safety Code, relating to health care districts.

**LEGISLATIVE COUNSEL'S DIGEST**

AB 2737, as amended, Bonta. Nonprovider health care districts.

The Local Health Care District Law provides for local health care districts that govern certain health care facilities. Each health care district has specific duties and powers respecting the creation, administration, and maintenance of the districts, including the authority to purchase, receive, take, hold, lease, use, and enjoy property of every kind and description within and without the limits of the district.

This bill would require a nonprovider health care district, as defined, to spend at least 80% of its annual budget on community grants awarded to organizations that provide direct health services and not more than 20% of its annual budget on administrative ~~expenses~~. *expenses, as defined*. By requiring a higher level of service from nonprovider health care districts, this bill would impose a state-mandated local program.

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 these statutory provisions.

Vote: majority Appropriation: no Fiscal Committee: yes Local Program: yes

**THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:**

**SECTION 1.** Chapter 8 (commencing with Section 32495) is added to Division 23 of the Health and Safety Code, to read:

**CHAPTER 8. Nonprovider Health Care Districts**

**32495.** For the purposes of this chapter, the following definitions shall apply:

*(a) "Administrative expenses" means expenses relating to the general management of a health care district, such as accounting, budgeting, personnel, procurement, legislative advocacy services, public relations, salaries, benefits, rent, office supplies, or other miscellaneous overhead costs.*

~~(a)~~

*(b) "Direct health service" means ownership or direct operation of a hospital, medical clinic, ambulance service, transportation program for seniors or persons with disabilities, a wellness center, health education, or other similar service.*

~~(b)~~

*(c) "Nonprovider health care district" means a health care district that meets all of the following criteria:*

- (1) The district does not provide direct health care services to consumers.
- (2) The district has not received an allocation of real property taxes in the past three years.
- (3) The district has assets of twenty million dollars (\$20,000,000) or more.
- (4) The district is not located in a rural area that is typically underserved for health care services.
- (5) In two or more consecutive years, the amount the district has dedicated to community grants has amounted to less than twice the total administrative costs and overhead not directly associated with revenue-generating enterprises.

**32496.** (a) A nonprovider health care district shall not spend more than 20 percent of its annual budget on administrative expenses.

(b) A nonprovider health care district shall spend at least 80 percent of its annual budget on community grants awarded to organizations that provide direct health services.

**SEC. 2.** 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.

Date of Hearing: April 20, 2016

ASSEMBLY COMMITTEE ON LOCAL GOVERNMENT

Susan Talamantes Eggman, Chair

AB 2737 (Bonta) – As Amended April 11, 2016

**SUBJECT:** Nonprovider health care districts.

**SUMMARY:** Requires a "nonprovider healthcare district" to spend at least 80% of its annual budget on community grants awarded to organizations that provide direct health services, and prohibits more than 20% of its annual budget to be spent on administrative expenses.

Specifically, **this bill:**

- 1) Requires a "nonprovider healthcare district" to spend at least 80% of their annual budget on community grants awarded to organizations that provide direct health services, and prohibits more than 20% of their annual budget to be spent on administrative expenses.
- 2) Defines "nonprovider health care district" to mean a healthcare district that meets all of the following criteria:
  - a) The district does not provide direct health care services to consumers;
  - b) The district has not received an allocation of real property taxes in the past three years;
  - c) The district has assets of \$20 million dollars or more;
  - d) The district is not located in a rural area that is typically underserved for health care services; and,
  - e) The district, in two or more consecutive years, has dedicated an amount to community grants that is less than twice the total administrative costs and overhead not directly associated with revenue-generating enterprises.
- 3) Defines "direct health service" to mean "ownership or direct operation of a hospital, medical clinic, ambulance service, transportation program for seniors or persons with disabilities, a wellness center, health education, or other similar service."
- 4) Defines "administrative expenses" to mean "expenses relating to the general management of a healthcare district, such as accounting, budgeting, personnel, procurement, legislative advocacy services, public relations, salaries, benefits, rent, office supplies, or other miscellaneous overhead costs."
- 5) Provides that, if the Commission on State Mandates determines that this bill contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made, pursuant to current laws governing state mandated local costs.

**EXISTING LAW:**

- 1) Establishes the Local Health Care District Law that defines the powers and duties of healthcare districts, including, but not limited to, the following:



- a) Operating health care facilities, such as hospitals, clinics, skilled nursing facilities (SNFs), nurses' training schools, and child care facilities;
- b) Operating ambulance services within and outside of the district;
- c) Operating programs that provide chemical dependency services, health education, wellness and prevention, rehabilitation, and aftercare;
- d) Carrying out activities through corporations, joint ventures, or partnerships;
- e) Establishing or participating in managed care;
- f) Contracting with and making grants to provider groups and clinics in the community; and,
- g) Other activities that are necessary for the maintenance of good physical and mental health in communities served by the district.

**FISCAL EFFECT:** This bill is keyed fiscal.

**COMMENTS:**

- 1) **Healthcare Districts.** Near the end of World War II, California faced a severe shortage of hospital beds. To respond to the inadequacy of acute care services in the non-urban areas of the state, the Legislature enacted the Local Hospital District Law, with the intent to give rural, low-income areas without ready access to hospital facilities a source of tax dollars that could be used to construct and operate community hospitals and health care institutions in medically underserved areas, to recruit physicians and support their practices. The Local Hospital District Law (now called the Local Health Care District Law) allowed communities to create a new governmental entity – independent of local and county jurisdictions – that had the power to impose property taxes, enter into contracts, purchase property, issue debt, and hire staff. In general, the process of creating a hospital district started with citizens in a community identifying the need for improved access to medical care.

According to the Association of California Healthcare Districts, there are currently 78 districts, of which three have stand-alone skilled nursing facilities, 54 are rural, 34 hospitals, 20 of which are critical access, and five have stand-alone clinics. These institutions provide a significant portion of the medical care to minority populations and the uninsured in medically underserved regions of the state and are mainly funded by Medicare, Medi-Cal, and district tax dollars.

- 6) **Bill Summary.** This bill requires specified healthcare districts to spend at least 80% of their annual budget on community grants awarded to organizations that provide direct health services, and prohibits more than 20% of their annual budget to be spent on administrative expenses. This bill only applies to "nonprovider healthcare districts," which must meet all of the following criteria: a) the district does not provide direct health care services to consumers; b) the district has not received an allocation of real property taxes in the past three years; c) the district has assets of \$20 million or more; d) the district is not located in a rural area that is typically underserved for health care services; and, e) the district, in two or

more consecutive years, has dedicated an amount to community grants that is less than twice the total administrative costs and overhead not directly associated with revenue-generating enterprises. Additionally, this bill defines "administrative expenses" and "direct healthcare service." The parameters of this bill were established to address one healthcare district, Eden Township Healthcare District (District). This bill is sponsored by the City of San Leandro.

- 2) **Author's Statement.** According to the author, "The Eden Township Healthcare District was established to serve the health needs of Castro Valley, San Leandro, San Lorenzo, Hayward and other nearby communities. At one point, Eden owned and operated a hospital and provided direct healthcare services to the community. Currently, Eden no longer owns or operates a hospital and does not provide any direct health services to the public. Aside from managing buildings they own, Eden primarily serves as a grant making entity with the purpose of providing grants to community non-profits to provide healthcare services to the public. In 2013 and 2014, Eden spent almost twice as much on salaries and benefits for its three employees compared to what it gave out in community grants for healthcare services. The basic foundation for a healthcare district's existence is to provide healthcare services to the community it serves. When that basic premise [is not] being followed, rules need to be set in place for the benefit of the community."
- 3) **Eden Township Healthcare District.** According to Alameda County Local Agency Formation Commission's (LAFCO) 2012 municipal service review (MSR), the District was established by the voters in 1948 to finance construction of Eden Hospital, which opened in 1954. In 1998, the District transferred all of the net operating assets and operations of the hospital to Sutter Health. In 2004, the District purchased San Leandro Hospital and leased it to Sutter Health. In order to comply with seismic safety laws, the District entered into an agreement with Sutter Health to replace Eden Medical Center. The agreement also gave Sutter the option to purchase San Leandro Hospital. On December 21, 2011, an appellate court ruled in favor of Sutter in litigation over the terms of the 2008 agreement. On October 31, 2013, Sutter transferred San Leandro Hospital to the Alameda Health System, the public health authority that operates Alameda County's health care system.

Currently, the District provides grant funding to health-related organizations through a Community Health Fund and owns three office buildings, where it leases office space to healthcare providers. The District does not receive any property tax, special tax, or benefit assessments. The main source of revenue is rental income. The District consists of 130 square miles and includes the City of San Leandro, most of the City of Hayward, and the unincorporated areas of Castro Valley and San Lorenzo, and is governed by a five-member board of directors elected to four-year terms.

Alameda LAFCO's MSR identified three governance structure options for the District: a) annexation of City of Dublin by the District; b) dissolution; and, c) consolidation with Washington Township Healthcare District. The MSR found that while the District no longer owns and operates a hospital, it is premature to dissolve the District pointing to the grant funding, leased office space, and an indication from the District of their willingness to provide direct services in the future.

- 4) **Controversy and Subsequent Legislation.** Recent controversy surrounding several healthcare districts has brought greater media and legislative scrutiny on several issues, including their fiscal management. The Assembly Committee on Accountability and

Administrative Review conducted several hearings regarding healthcare districts, and focused specifically on healthcare districts that do not operate hospitals. Additionally, the Legislative Analyst Office (LAO) produced a report entitled, "Overview of Health Care Districts", in April 2012 in response to several healthcare districts that have declared bankruptcy since 2000. There have also been concerns regarding districts maintaining reserve balances in the tens of millions of dollars. For example, Peninsula Health Care District and Beach Cities Health District have each reported over \$45 million in unrestricted net assets (reserves) at the end of June 2011.

Additionally, according to the LAO report, several LAFCOs have considered dissolving districts. Five districts have been dissolved or otherwise reorganized since 2000. Since that time, the Contra Costa County LAFCO consolidated Mount Diablo Healthcare District into the City of Concord. The Mount Diablo Healthcare District did not operate a hospital and similar concerns were expressed about the amount of revenue spent on administrative costs, instead of on grant funding for community health needs.

A Bureau of State Audits' (BSA) audit of Salinas Valley Memorial Health Care System found that the District's Board violated open meeting laws to grant overly generous compensation, retirement, and benefits to the chief executive officer. This Committee heard several bills addressing the employment contract between a healthcare district and hospital administrator, including AB 2115 (Alejo) of 2012, AB 2180 (Alejo), Chapter 322, Statutes of 2012, and, AB 130 (Alejo), Chapter 92, Statutes of 2013.

AB 2418 (Gordon and Dickinson) of 2012 would have required healthcare districts to expend 95% of any property tax revenue on current community healthcare benefits. AB 2418 sought to exclude salaries and benefits paid to staff, benefits provided to board members, and expenses of hiring a consultant from the definition of community healthcare benefit. AB 912 (Gordon) Chapter 109, Statutes of 2011, created an expedited process for the dissolution of special districts.

- 5) **Related Legislation.** AB 72 (Bonta) of 2015, on the Senate Inactive File, would have authorized the District, until January, 1 2026, to impose special taxes within the District, subject to the approval of two-thirds of the District's voters.

AB 2471 (Quirk), pending in this Committee, would require LAFCO to order the dissolution of a healthcare district without an election, if the district meets specified criteria. The District meets the criteria established by AB 2471. The Committee may wish to consider the necessity of this bill, if AB 2471 is signed into law.

- 6) **Policy Considerations.** The Committee may wish to consider the following:

- a) **Identifying the Problem.** This Committee has heard several bills aiming to address many of the same issues raised by the proponents of this bill in regards to the District. These issues include healthcare districts that 1) do not operate hospitals; 2) do not expend adequate funds on community needs; and, 3) expend funds on administrative costs, instead of providing benefits to the community. The Committee may wish to consider, if it is necessary to legislate how an independent special district expends its revenue to a specified percentage. If so, then the Committee may wish to consider whether the author and proponents of the bill should more appropriately address these issues, pursuant to the local process provided by existing law, to initiate the dissolution of the District.

- b) **Healthcare Districts and LAFCO.** The relationship between LAFCOs and healthcare districts is unique in comparison to other special districts. The Local Healthcare District Law and the formation of some healthcare districts predate the Knox Nisbet Act, which created LAFCOs and formalized the process for establishing a hospital district. Due to the unique nature of healthcare services and the long history of healthcare district's principal act, the Committee may wish to consider, beyond the scope of this individual bill, if there is a need to more clearly define the relationship between LAFCOs and healthcare districts, and undertake a closer examination of healthcare district's service boundaries, the process of dissolution for healthcare districts, and the considerations LAFCOs are required to make when doing an MSR and determining the sphere of influence for healthcare districts.
- c) **Compliance.** The Committee may wish to consider the logistical challenges the District may encounter when trying to comply with the provisions of this bill.
  - i) **Other Costs.** The Committee may wish to consider how costs not defined by this bill will be addressed. For example, the District must comply with requirements in the Ralph M. Brown Act, elections for board positions, or any outstanding debt for construction or maintenance of District owned facilities.

In the 2010-11 fiscal year, the District's Board voted to temporarily suspend grants to offset legal expenses over the dispute with Sutter Health over the closure of the San Leandro Hospital. Following that case the District is legally required to make specified payments to Sutter. Additionally, in 2011 the District made a \$3 million loan to St. Rose Hospital to fund their operating expenses. St. Rose is an independent hospital located in Hayward and has experienced significant operating losses. The Committee may wish to consider how the requirements established by this bill would affect scenarios like these recent examples.

- ii) **80/20.** Some costs included in the definition provided for administrative costs are easier to determine than others. For example, due to compensation reporting requirements for local agencies, including healthcare districts' salary and benefits are easy to access and determine. According to the State Controller's website, in 2014 the District reported eight employees with total wages at \$318,231 and total retirement and health costs at \$23,401. Reported in the number of employees are five board members. The total wages for the three employees of the District, Chief Executive Office, Senior Accountant, and Executive Officer's Assistant are \$312, 131. The Committee may wish to consider that the 20% cap on administrative costs must include all other expenditures of the District because 80% of the budget must be expended on community grants.
- 7) **Arguments in Support.** According to the City of San Leandro, "...one of the top priorities for the City of San Leandro is a legislative solution to help address the financial sustainability of San Leandro Hospital. With the resolution of the six-year lawsuit between Eden Township Healthcare District and Sutter regarding San Leandro Hospital, it is imperative to activate Eden's obligation to the San Leandro community and create a sustainable environment for the hospital. The basic foundation for a healthcare district's existence is to provide healthcare services. When a healthcare district isn't following that

basic premise, rules need to be put in place. Fortunately, AB 2737 serves to create an appropriate set of rules to address this issue."

- 8) **Arguments in Opposition.** According to the Association of California Healthcare Districts, "While we can appreciate that there may be local concerns about the level, type, and cost of services provided, we assert that the best approach to addressing those concerns is through engagement with the duly elected trustees of the district. Statewide measures like AB 2737 have the effect of bypassing an important local discourse and are likely to impose unintended consequences on other local agencies not involved in the controversy."

#### **REGISTERED SUPPORT / OPPOSITION:**

##### **Support**

City of San Leandro [SPONSOR]

##### **Opposition**

Association of California Healthcare Districts  
California Special Districts Association

**Analysis Prepared by:** Misa Lennox / L. GOV. / (916) 319-3958

**May 4, 2016 Assembly Local Government Committee Hearing Testimony  
AB 2471**

Thank you and intro

Alameda LAFCo submitted a letter opposing AB 2471 on March 18<sup>th</sup>. The letter outlined the reasons for the Commission's opposition which are:

- It's a state level solution to a local issue.
- It circumvents the existing public process – what are the deficiencies in the existing process that the proposed legislation addresses? Why is this legislation needed?
- Finally, LAFCo has received no applications to initiate dissolution of the district and received no comments from the community or affected agencies regarding dissolving the district.

As agencies subject to LAFCo jurisdiction, Alameda LAFCo adopts sphere of influence for healthcare districts as required by law. LAFCo updated the Eden Township Healthcare District's sphere of influence and completed a municipal services review in 2013. At that time, the commission determined that the district still plays an indirect role in the provision of healthcare services within its boundaries and did not initiate dissolution of the district. As mentioned in our opposition letter, limited public comment was provided during the sphere update process and, to the extent that any of the legislation's proponents were involved in the municipal service review, none advocated for the dissolution of this district. So, the commission was surprised to learn about this legislation and continues to believe that the existing local process should be exhausted before seeking a state level solution. Alameda LAFCo encourages proponents of district dissolution to submit an application to dissolve to the district and engage in the local, public process that already exists. To that end, the Commission invited Assembly member Quirk and county supervisors to LAFCo's May 12<sup>th</sup> meeting next week to discuss the issues with the Eden Township Healthcare District. Thank you.