

# **Modoc Local Agency Formation Commission**

## **REGULAR MEETING AGENDA**

Website: [www.modoclafco.org](http://www.modoclafco.org)

**TUESDAY August 11, 2020 – 4:00 PM**

**City Council Chambers  
Alturas City Hall  
200 North Street, Alturas, CA 96101**

*(All meeting materials are available on LAFCo's Website: [www.modoclafco.org](http://www.modoclafco.org))*

**1. Call to order / Pledge of Allegiance**

Commissioners

Alternate Members

Cheryl Nelson, City Member  
Ned Coe, Chair, County Member  
\_\_\_\_\_, Public Member  
Mark Steffek, Vice-Chair City Member  
Kathie Rhoads, County Member  
LAFCO Staff

Marie Neer, Public Member Alt.  
Geri Byrne, County Member Alt.  
\_\_\_\_\_, City Member Alt

John Benoit, Executive Officer  
Scott Browne, LAFCO Counsel  
Macey Binning, Clerk

**2. Approval of the Agenda (Additions and Deletions)**

**3. Correspondence:**

**4. Consider Minutes for the June 9<sup>th</sup> , 2020 LAFCo meeting**

a. *Approve minutes from the June 9<sup>th</sup> , 2020 LAFCo Meeting*

**5. Public Comment**

This is the time set aside for citizens to address the Commission on any item of interest to the public that is within the subject matter jurisdiction of the Commission. For items that are on the agenda, public comment will be heard when the item is discussed. If your comments concern an item that is noted as a public hearing, please address the Commission after the public hearing is opened for public testimony. The Chair reserves the right to limit each speaker to

three (3) minutes. Please understand that by law, the Commission cannot make decisions on matters not on the agenda.

**6. Authorize payment of claims**

- a. *Authorize payment of claims for June 2020 and July 2020*

**7. Daphnedale CSD**

- a) *Hold discussion, provide direction to LAFCo staff, update the MSR for the Daphnedale CSD and (or) take probable action regarding the future of the Daphnedale CSD.*

**8. Biennial Conflict of Interest Code Review**

- a) *Review LAFCO's conflict of interest code and authorize the Executive Officer to sign and transmit the 2020 Annual Biennial notice to the Clerk to the Board.*

**9. Letters of Opposition to SB 414**

- a) *Authorize Chair to sign letters opposing SB 414 to the Chair of the Assembly Appropriations Committee and Senate Member Anna Caballero.*

**10. Election for the 2020-2021 Calafco Board of Directors**

- a) *Consider a nomination for a Public Member and a City Member from Modoc LAFCo to represent Calafco's Northern District*  
b) *Authorize the Chair to vote for Calafco Northern District members on behalf of Modoc LAFCo.*

**11. Executive Officer's Report:**

**12. Commissioner Reports - Discussion**

*This item is placed on the agenda for Commissioners to discuss items and issues of concern to their constituency, LAFCO, and legislative matters.*

**14. Adjourn to the next regular meeting on October 13, 2020**

*Any member appointed on behalf of local government shall represent the interests of the public as a whole and not solely the interest of the appointing authority Government Code Section 56325.1*

*The Commission may take action upon any item listed on the agenda. Unless otherwise noted, items may be taken up at any time during the meeting.*

*Public Comment*

Members of the public may address the Commission on items not appearing on the agenda, as well as any item that does appear on the agenda, subject to the following restrictions:

- Items not appearing on the agenda must be of interest to the public and within the Commission's subject matter jurisdiction.

- No action shall be taken on items not appearing on the agenda unless otherwise authorized by Government Code Section 54954.2 (known as the Brown Act, or California Open Meeting Law).

#### Public Hearings

Members of the public may address the Commission on any item appearing on the agenda as a Public Hearing. The Commission may limit any person's input to a specified time. Written statements may be submitted in lieu of or to supplement oral statements made during a public hearing.

#### Agenda Materials

*Materials related to an item on this agenda submitted to the Commission after distribution of the agenda are available for review for public inspection in the Modoc County Planning Department office located at 203 W. 4<sup>th</sup> Street, Alturas CA. [such documents are also available on the Modoc LAFCO website ([www.modoc.lafco.ca.gov](http://www.modoc.lafco.ca.gov)) to the extent practicable and subject to staff's ability to post the documents prior to the meeting]*

#### Accessibility

An interpreter for the hearing-impaired may be made available upon request to the Executive Officer 72 hours before a meeting.

The location of this meeting is wheelchair-accessible.

#### Disclosure & Disqualification Requirements

Any person or group of persons acting in concert who directly or indirectly contribute \$1,000 or more in support of or in opposition to a change of organization or reorganization that has been submitted to Modoc LAFCO must comply with the disclosure requirements of the Political Reform Act of 1974 applicable to local initiative measures to be submitted to the electorate. These requirements contain provisions for making disclosures of contributions and expenditures at specified intervals; they may be reviewed at Government Code §§56700.1 and 81000 *et seq.* Additional information about the requirements pertaining to local initiative measures to be presented to the electorate can be obtained by calling the Fair Political Practices Commission at (916) 322-5660. A LAFCO Commissioner must disqualify herself or himself from voting on an application involving an "entitlement for use" (such as an annexation or sphere amendment) if, within the last twelve months, the Commissioner has received \$250 or more in campaign contributions from the applicant, any financially interested person who actively supports or opposes the application, or an agency (such as an attorney, engineer, or planning consultant) representing the applicant or an interested party. The law (Government Code Section 84308) also requires any applicant or other participant in a LAFCO proceeding to disclose the contribution amount and name of the recipient Commissioner on the official record of the proceeding. Contact LAFCO Staff LAFCO staff may be contacted at (530) 233-9625 or by email at [j.benoit4@icloud.com](mailto:j.benoit4@icloud.com) Copies of reports to the extent feasible are located on the LAFCO webpage at: [www.modoclafco.org](http://www.modoclafco.org)

CERTIFICATE NO.

ISSUE DATE

GL1-4069

CO

**CERTIFICATE OF COVERAGE**

06/25/2020

**Public Risk Innovation,  
Solutions and Management**

C/O ALLIANT INSURANCE SERVICES, INC.

PO BOX 6450

NEWPORT BEACH, CA 92658-6450

PHONE (949) 756-0271 / FAX (619) 699-0901

LICENSE #0C36861

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BELOW. THIS CERTIFICATE OF COVERAGE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED and/or requesting a WAIVER OF SUBROGATION, the Memorandums of Coverage must be endorsed. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

COVERAGE AFFORDED **A- Public Risk Innovation, Solutions and Management**

COVERAGE AFFORDED **B**

COVERAGE AFFORDED **C**

COVERAGE AFFORDED **D**

**Member:**

MODOC COUNTY

ATTN: PAM RANDALL

204 SOUTH COURT ST. ROOM 100

ALTURAS, CA 96101

**Coverages**

THIS IS TO CERTIFY THAT THE MEMORANDUMS OF COVERAGE LISTED BELOW HAVE BEEN ISSUED TO THE MEMBER NAMED ABOVE FOR THE PERIOD INDICATED, NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN. THE COVERAGE AFFORDED BY THE MEMORANDUMS DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS, AND CONDITIONS OF SUCH MEMORANDUMS. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

CO LTR	TYPE OF COVERAGE	MEMORANDUM NUMBER	COVERAGE EFFECTIVE DATE	COVERAGE EXPIRATION DATE	LIABILITY LIMITS
A	<input checked="" type="checkbox"/> Excess General Liability	PRISM 20 EL-43	07/01/2020	07/01/2021	\$1,000,000  Limits inclusive of the Member's Self-Insured Retention of \$250,000

**Description of Operations/Locations/Vehicles/Special Items:**

AS RESPECTS EVIDENCE OF COVERAGE ONLY.

**Certificate Holder**

JOHN BENOIT

EXECUTIVE OFFICER

LOCAL AGENCY FORMATION COMMISSION (LAFCO)

P.O. BOX 2694

GRANITE BAY, CA 95746

**Cancellation**

SHOULD ANY OF THE ABOVE DESCRIBED MEMORANDUMS OF COVERAGES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE MEMORANDUMS OF COVERAGE PROVISIONS

**AUTHORIZED REPRESENTATIVE**

*Gina Dean*  
Public Risk Innovation, Solutions and Management

**Local Agency Formation Commission of Modoc County**  
**Meeting Minutes**  
**June 9, 2020**

**1. Call to order / Pledge of Allegiance**

Chair Read called the meeting to order at 4:00 p.m. in City Council Chambers at 200 W. North Street in Alturas, CA. Commissioner Byrne, Commissioner Rhoads, Commissioner Steffek, Commissioner Neer and Chair Read were present. Commissioner Coe, and Commissioner Nelson were absent. Public attending 0.

Staff Present: John Benoit, Executive Officer and Macey Binning, Clerk.

Pledge of Allegiance.

**2. Approval of the Agenda (Additions and Deletions)**

Commissioner Rhoads made the motion to approve the agenda as presented; seconded by Commissioner Steffek. In favor were Commissioners Byrne, Rhoads, Steffek and Read.

Motion passed unanimous

**3. Election of Chair and Vice Chair for Fiscal Year 2020-2021**

Motion by Commissioner Rhoads to nominate Commissioner Ned Coe as 2020-2021 Chair; seconded by Commissioner Byrne. In favor were Commissioners Byrne, Rhoads, Steffek and Read.

Motion passed unanimous

Motion by Commissioner Byrne to nominate Commissioner Mark Steffek as 2020-2021 Vice Chair; seconded by Commissioner Read. In favor were Commissioners Byrne, Rhoads, Steffek and Read.

Motion passed unanimous

**4. Correspondence**

Executive Officer Benoit received a formal notice of resignation from Richard Read a Public Member Representative of the Modoc County LAFCO. Resignation will be effective June 30, 2020.

**5. Consider Minutes from the April 14, 2020 LAFCo meeting**

Motion made by Commissioner Rhoads to approve the April 14, 2020 minutes; seconded by Commissioner Steffek. In favor were Commissioners Byrne, Rhoads, Steffek and Read.

Motion passed unanimous

**6. Public Comment – None**

**7. Authorize payment of Claims for April 2020 and May 2020**

Motion made by Commissioner Rhoads to authorize the payment claims for April 2020 and May 2020; seconded by Commissioner Steffek. In favor were Commissioners Byrne, Rhoads, Steffek and Read.

Motion passed unanimous

**8. Public Hearing: 2020-2021 Final LAFCo Budget**

Public Hearing was opened by Chair Read at 4:09 P.M.

No comments were presented to Commissioners.

Public Hearing was closed at 4:09 P.M.

Motion made by Commissioner Steffek to adopt **Resolution #2020-0002** adopting the final budget for 2020-2021; seconded by Commissioner Rhoads. In favor were Commissioners Byrne, Rhoads, Steffek and Read.

Motion passed unanimous

**9. Public Hearing: Pest Abatement Districts MSR and SOI (Lookout and Stronghold)**

Public Hearing was opened by Chair Read at 4:11 P.M. to review the Service Review for Lookout and Stronghold Pest Abatement Districts.

No comments were presented to Commissioners.

Public Hearing was closed at 4:11 P.M.

Motion made by Commissioner Rhoads to adopt **Resolution #2020-0003** adopting a Service Review for the Lookout and Stronghold Pest Abatement Districts; seconded by Commissioner Byrne. In favor were Commissioners Byrne, Rhoads, Steffek and Read.

Motion passed unanimous

Public Hearing was opened by Chair Read at 4:12 P.M. to review the Sphere of Influence for Lookout and Stronghold Pest Abatement Districts.

No comments were presented to Commissioners.

Public Hearing was closed at 4:13 P.M.

Motion made by Commissioner Rhoads to adopt **Resolution #2020-0004** adopting a Sphere of Influence for the Lookout and Stronghold Pest Abatement Districts; seconded by Commissioner Steffek. In favor were Commissioners Byrne, Rhoads, Steffek and Read.

Motion passed unanimous

**10. Public Hearing: Policy, Standards and Procedures Update**

Public Hearing was opened by Chair Read at 4:21 P.M.

No comments were presented to Commissioners.

Public Hearing was closed at 4:21 P.M.

Motion made by Commissioner Steffek to adopt **Resolution #2020-0005** adopting the updated Policies and Procedures for Modoc LAFCo; seconded by Commissioner Byrne. In favor were Commissioners Byrne, Rhoads, Steffek and Read.

Motion passed unanimous

**11. Executive Officer's Report**

Executive Officer Benoit reported he attended a class with the Drinking Water Quality Program. Mr. Benoit would like to reach out to them and provide LAFCo meeting dates, more information on LAFCo, and LAFCo procedures. Mr. Benoit senses a lack of knowledge of the LAFCo resources that could be provided to the Drinking Water Quality Program. The State Water Resource Control Board Drinking Water Quality Program offers a lot of funding opportunities for rural disadvantaged water systems and feels it would be beneficial for Modoc County.

**12. Commissioner Reports**

Commissioner Steffek inquires if there have been any communications with the Daphnedale district regarding sewer services. The City of Alturas has not received a payment since June, 2019.

Executive Officer Benoit recommends reaching out to Modoc County to inquire if Stephanie Wellemeyer, Auditor/Clerk or Chester Robertson, County Administrative Officer have received any communications regarding Daphnedale.

There being no further business to come before the Commission. Motion made by Commissioner Rhoads to adjourn at 4:34 p.m.; seconded by Commissioner Steffek. In favor were Commissioners Byrne, Rhoads, Steffek and Read.

Motion passed unanimous

# Modoc Local Agency Formation Commission

## CLAIMS

for

June 2020 - July 2020

Authorize the following Claims for FY 2019-2020

July 1, 2020	Staff Svcs and Expenses June 2020	\$ 4,238.24
June 9, 2020	Meeting stipend 6.9.20	\$ 500.00
<b>TOTAL:</b>		<b>\$ 4,738.24</b>

Authorize Claims for FY 2020-2021

August 1, 2020	Staff Svcs and Expenses July 2020	\$ 2,639.95
July 31, 2020	Calafco Dues for FY 2020-2021	\$ 1,130.00
<b>TOTAL:</b>		<b>\$ 3,769.95</b>

**DATED:** August 11, 2020

**APPROVED:** August 11, 2020

**Ned Coe, Chair Modoc Local Agency Formation  
Commission**

**Attest:**

\_\_\_\_\_  
**John Benoit**  
**Executive Officer**



Modoc LAFCo  
Expenditures and Revenue  
FY 2020-2021

Item Account Number	File Scanning 4420	Memberships 4420	copies 4410	postage 4217	Communications 4227	Office Exp. 4210	Outsides 4008	soft Svcs. 4004	Check Costs 4006
Total Budgeted 2020-2021	\$ 3,000.00	\$ 1,130.00	\$ 1,200.00	\$ 300.00	\$ 1,000.00	\$ 421.00	\$ 2,000.00	\$ 36,000.00	\$ 720.00
Catalco Dues 20-21		\$ (1,730.00)	\$ (10.00)	\$ (0.50)	\$ (79.45)			\$ (2,550.00)	
JB staff exp July 2021									

Item Account Number	File Scanning 4420	Memberships 4420	copies 4410	postage 4217	Communications 4227	Office Exp. 4210	Outsides 4008	soft Svcs. 4004	Check Costs 4006
Total Budgeted 2020-2021	\$ 3,000.00	\$ 1,130.00	\$ 1,200.00	\$ 300.00	\$ 1,000.00	\$ 421.00	\$ 2,000.00	\$ 36,000.00	\$ 720.00
Catalco Dues 20-21		\$ (1,730.00)	\$ (10.00)	\$ (0.50)	\$ (79.45)			\$ (2,550.00)	
JB staff exp July 2021									
Total Expenditures to date	\$ -	\$ -	\$ 1,190.00	\$ 299.50	\$ 920.55	\$ -	\$ 2,000.00	\$ 33,450.00	\$ 720.00
Total Budget Remaining	\$ -	\$ -	\$ 10.00	\$ 0.50	\$ 79.45	\$ -	\$ -	\$ 2,550.00	\$ -
unaudited									
July 1, 2020 City Fund Carryover						\$ 21,378.94	\$ 24,387.59		
20-21 Actual City/Co. Contributions									
FY 2020-21 City Anticipated Funds Transf						\$ 24,897.50	\$ 24,897.50		
2020-21 County-City Funds anticipated								\$ 46,866.70	
Funds received									
REVENUE FOR PROJECTS									
Interest									
Anticipated Funds received									
Less Expenditures									
Actual Cash Balance									

[illegible][illegible]

## Modoc Local Agency Formation Commission

### Memorandum

August 11, 2020

**TO:** LAFCo Commissioners

**FROM:** John Benoit, Executive Officer

**SUBJECT:** Conflict of Interest Code Review.

**Attachments:** Modoc LAFCO's Conflict of Interest Code  
2020 Local Agency Biennial Notice

Government code section 87300 et. seq. (the Political Reform Act) requires each local government agency to maintain a conflict of interest code and update it to reflect changes that occur in the organization of an entity. The Local Agency Formation Commission (as well as other local agencies) is required to review and possibly amend its Conflict of Interest code on even-numbered years. A biennial notice is normally sent out by the County Clerk or other official designated by the Board of Supervisors during the summer of even numbered years to each agency required to review its Conflict of Interest Code. After review or approval of the Conflict of Interest Code, LAFCO is required to submit any proposed changes to the Board of Supervisors acting as the code reviewing body.

Government code section 87311 requires review of a conflict of interest code to be carried out under procedures which guarantee to officers, employees, members and consultants of the agency and to residents of the County adequate notice and a fair opportunity to present their views. A conflict of interest code was adopted on October 9, 2018. To engage the public, a notice of Public Hearing was published prior to LAFCO adopting amending its conflict of interest code (which was included in LAFCo's Bylaws). Since that time LAFCO has found no amendments to that code necessary.

#### Recommendation:

Direct the Executive Officer to sign and transmit the 2020 Local Agency Biennial Notice to the Clerk to the Board of Supervisors declaring LAFCO has reviewed its Conflict of Interest code and no amendment is required at this time.

John Benoit, Executive Officer                      j.benoit4@icloud.com  
P.O. Box 2694 Granite Bay, CA 95746  
530.233.9625 ph.

## EXHIBIT A

### MODOC LOCAL AGENCY FORMATION COMMISSION (LAFCo)

#### CONFLICT-OF-INTEREST CODE

The Political Reform Act (Government Code Section 81000, et seq.) requires state and local government agencies to adopt and promulgate conflict-of-interest codes. The Fair Political Practices Commission has adopted a regulation (2 California Code of Regulations Section 18730) that contains the terms of a standard conflict-of-interest code, which can be incorporated by reference in an agency's code. After public notice and hearing, the standard code may be amended by the Fair Political Practices Commission to conform to amendments in the Political Reform Act. Therefore, the terms of 2 California Code of Regulations Section 18730 and any amendments to it duly adopted by the Fair Political Practices Commission are hereby incorporated by reference. This regulation and the attached Appendices, designating positions and establishing disclosure categories, shall constitute the conflict-of-interest code of the **Modoc Local Agency Formation Commission**

Individuals holding designated positions shall file their statements of economic interests with the **Modoc Local Agency Formation Commission's Executive Officer**, which will make the statements available for public inspection and reproduction. (Gov. Code Sec. 81008.) All statements will be retained by the **Modoc Local Agency Formation Commission**.

John Benoit, Executive Officer      j.benoit4@icloud.com  
P.O. Box 2694 Granite Bay, CA 95746  
530.233.9625 ph.

## CONFLICT-OF-INTEREST CODE (Modoc LAFCo)

### APPENDIX A-DESIGNATED POSITIONS

<u>Designated Positions</u>	<u>Disclosure Category</u>
Members of the Commission**	1, 2
Executive Officer	1, 2
Deputy Executive Officer	1, 2
LAFCo Counsel	1, 2
Consultants*	*

\*Consultants shall be included in the list of designated positions and shall disclose pursuant to the broadest disclosure category in the code subject to the following limitation:

The Executive Officer may determine in writing that a particular consultant, although a "designated position," is hired to perform a range of duties that is limited in scope and thus is not required to fully comply with the disclosure requirements in this section. Such written determination shall include a description of the consultant's duties and, based upon that description, a statement of the extent of disclosure requirements. The Executive Officer's determination is a public record and shall be retained for public inspection in the same manner and location as this conflict-of-interest code (Gov. Code Section 81008).

## **CONFLICT-OF-INTEREST CODE (Modoc LAFCo)**

### **APPENDIX B-DISCLOSURE CATEGORIES**

#### **Disclosure Category 1**

Designated positions assigned to this category shall report:

Interests in real property located within or not more than two miles outside the boundaries of LAFCo's jurisdiction or within two miles of the County Boundary.

Persons shall not be required to disclose property used primarily as their residence or for personal recreational purposes.

#### **Disclosure Category 2**

Designated positions assigned to this category shall report:

Investments and business positions in business entities, and sources of income, including loans, gifts, and travel payments, from sources of the type that provide services, supplies, materials, machinery, or equipment to LAFCo. Such sources include but are not limited to architects, engineering and construction firms.



## 2020 Local Agency Biennial Notice

Name\_of\_Agency: Modoc LAFCo

Mailing\_Address: P.O. Box 2694 Granite Bay, CA 96746

Contact Person: John Benoit Phone No. 530.233.9625

Email: j.benoit4@icloud.com Alternate Email: \_\_\_\_\_

Accurate disclosure is essential to monitor whether officials have conflicts of interest and to help ensure public trust in government. The biennial review examines current programs to ensure that the agency's code includes disclosure by those agency officials who make or participate in making governmental decisions.

This agency has reviewed its conflict of interest code and has determined that (check one BOX):

☐ An amendment is required. The following amendments are necessary:

(Check all that apply.)

- ☐ Include new positions
- ☐ Revise disclosure categories
- ☐ Revise the titles of existing positions
- ☐ Delete titles of positions that have been abolished and/or positions that no longer make or participate in making governmental decisions
- ☐ Other (describe) \_\_\_\_\_

☐ The code is currently under review by the code reviewing body.

☒ No amendment is required. (If your code is over five years old, amendments may be necessary.)

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Verification (to be completed if no amendment is required)

This agency's code accurately designates all positions that make or participate in the making of governmental decisions. The disclosure assigned to those positions accurately requires that all investments, business positions, interests in real property, and sources of income that may foreseeably be affected materially by the decisions made by those holding designated positions are reported. The code includes all other provisions required by Government Code Section 87302.

\_\_\_\_\_  
Signature of Chief Executive Officer

\_\_\_\_\_  
Date

All agencies must complete and return this notice regardless of how recently your code was approved or amended. Please return this notice no later than October 1, 2020, or by the date specified by your agency, if earlier, to:

Tiffany Martinez, Clerk of the Board of Supervisors  
204 So. Court Street, Suite 203  
Alturas, Ca 96101

PLEASE DO NOT RETURN THIS FORM TO THE FPPC.

## Modoc Local Agency Formation Commission

August 11, 2020

The Honorable Anna Caballero  
California State Senate  
State Capitol, Room 5052  
Sacramento, CA 95814

### **RE: SB 414 – Small System Water Authority Act of 2020 – OPPOSE PROPOSED AMENDMENTS**

Dear Senator Caballero:

The Modoc Local Agency Formation Commission (LAFCO), joins the California Association of Local Agency Formation Commissions (CALAFCO) in opposing the proposed pending amendments for your bill **SB 414**. It is our understanding you are planning amendments to be done in Assembly Appropriations where the bill is currently being held in Suspense.

We support efforts to ensure all Californians have safe, affordable drinking water. However, the proposed amendments have such a substantive negative impact to local agency formation commission (LAFCOs) that we must now oppose them.

It is our understanding these changes are an effort to reduce the cost of the bill, and to closer align processes and State Water Resources Control Board (SWRCB) authority existing in SB 88 (2015, Committee on Budget & Fiscal Review) and AB 2501 (2018, Chu). These laws deal with consolidation of existing water systems, whereas SB 414 creates a new type of public water system and reflects the formation of a new public entity (as well as dissolving existing public and private systems). One simply should not be compared to the other.

The proposed amendments strip LAFCOs of their part and authority in the formation of the new water authority – a public agency that would otherwise be formed at the discretion of and by the authority of LAFCo. Additionally, they remove LAFCOs' authority to dissolve a public water system as authorized by the SWRCB and as part of the formation process of the new authority. As you know, formation of a new, local public agency has been the authority of LAFCo since 1963 when the Legislature created them. To now turn that authority over to the SWRCB in an effort to “save money” or “streamline the process”, we believe, creates a false perception that the cost will be reduced and sets a dangerous precedent.

SECTION 1 of the bill is being completely stricken and therefore divests LAFCo of all involvement in the formation process and it removes LAFCo from the process of dissolving any public water system identified by the SWRCB as mandated for dissolution and inclusion into the new authority except for holding a public hearing on the matter. Not only does this removal divest LAFCo of their authority and give it to the SWRCB, it eliminates the Plan for Service requirements to be included in the draft conceptual formation plan. All other public agencies are subject to submit a comprehensive Plan for Service when applying to provide services and exempting the authority from doing so sets a precedent.

Code Section 78038(b) proposes to give quasi-legislative authority to the SWRCB in the action to form the new authority. The Legislature created LAFCo as a quasi-legislative body decades ago to do this very thing. While the Legislature has exercised its authority to create new service providers in the past, until



now there has been no state agency with that authority. We fail to understand the need to create an entity at the state level to do something LAFcos have been effectively doing for 57 years – forming new districts – that happen at the local level.

LAFco is being excluded from several critical notification points:

- Code Section 78033(a)(1) excludes LAFco from the list of entities the SWRCB is to notify of their intent to form the authority. *LAFco needs to be included in the list of other local agencies receiving such notification* (such as cities, county, water districts, etc.). Further, this section allows the SWRCB to invite other public water suppliers to consider dissolving and join the authority. Without including LAFco on the notification under this section, we would be in the dark regarding those local districts (both independent and dependent) that may consider dissolving.
- Code Section 78033(a)(2)(A) excludes LAFco notification from an entity wishing to consolidate into a proposed authority. *LAFco needs to be included in this notification.*
- Code Section 78033(a)(2)(B) provides that customers of an entity wishing to join a proposed authority petition the SWRCB directly. Not only does this keep LAFco in the dark, it is a run-around of the current service provider as there appears to be no notification to them.
- Code Section 78033(b) allows the governing board of a county or city dependent special district to notify the formation coordinator they wish to opt into the new authority. Here again, without LAFco receiving this notification there is no way for us to know of the pending dissolution.

In addition to removing LAFcos' existing authority from the formation process of a public agency service provider, we are concerned about Code Section 78037(a)(3) which requires the LAFco to hold a public hearing to allow for public comment on the dissolution of the public water system mandated for dissolution by the SWRCB and requires the LAFco to provide all comments back to the SWRCB for consideration (without the funding to do either). The section also states the dissolution shall be ordered upon completion of the public hearing. We question the purpose of reporting back the public comments to the SWRCB for consideration if the dissolution is ordered immediately upon closure of the public hearing.

If one of the goals of these amendments is to closer align processes with SB 88, then it would stand to reason the SWRCB would be the entity conducting the public hearing (pursuant to Code Section 116682 of the Health and Safety Code), especially given the fact that with these amendments, the LAFco no longer has any other part in the actual dissolution.

Ordering a dissolution for a service provider who is currently providing service requires a successor agency to assume the delivery of service as well as all the assets and liabilities of the entity being dissolved. Code Section 78037(a)(4) requires the order of dissolution to make appropriate equitable arrangements for the interim operation of the public water system until the formation of the authority is complete, and they are prepared to take over service delivery. While that "interim" service provider may be identified in the draft conceptual formation plan, 78037(a)(4) does not explicitly state to whom the service, assets and liabilities should be transferred. We suggest language be added to explicitly state the interim operator as identified in the approved conceptual formation plan.

#### Proposed amendments to the draft conceptual plan

We have a few concerns relating to the draft conceptual plan as noted below.

- Code Section 78035(c) requires the formation coordinator to submit the draft conceptual formation plan to the SWRCB and any applicable LAFco for comments within 60 days of its receipt. Further, the formation coordinator shall finalize the plan for public comment no later
- than 30 days after receiving comments from the SWRCB. What is left out of this section are the comments on the plan from the LAFco. Undoubtedly, as the local agency who is responsible for the formation of public agencies, LAFcos know what to look for and consider when reviewing formation plans. *The LAFco comments need to be considered by the SWRCB and the formation coordinator before the document is available for public comment.*

- Code Section 78038 requires LAFCo to hold two public hearings on the draft conceptual formation plan and to subsequently submit a report to the SWRCB summarizing public comment and any recommendations the LAFCo may have for the SWRCB on the plan. *We would like to see amendments requiring the SWRCB to specifically adopt or reject each of our recommendation on the draft plan and explain their response for those decisions.*

#### Removing funding for LAFCo mandates

The current version of the bill reflects a cost of up to \$10.65 million to LAFCOs for authority formations, which represents only 11.5% of the total cost estimate of \$89.15 million. Using these projections, the costs associated with LAFCo are far below every other entity and related provision (with one exception) of the dissolutions; formations; administration; SWRCB support and support for the authorities once formed. The cost for LAFCOs to perform the dissolution of public water systems and to form the new authority are far likely to be less than having the SWRCB perform these functions. Consequently, we believe this creates a false perception that the overall cost will be reduced by removing LAFCo from the process. Transitioning these processes to a state agency rather than keeping them at the local level does not in fact reduce costs – it simply transfers the cost from the local level to the state level. Further, we would assert the cost is less at the LAFCo level.

Finally, the proposed pending amendments require LAFCOs to (1) review the proposed plan and provide recommendations to the SWRCB; (2) hold a public hearing to allow for public comment on the dissolution of the public water system mandated by the SWRCB for dissolution and provide all comments to the SWRCB; (3) hold two public hearings to receive input on the proposed plan for the new authority, summarize comments received and provide a report to the SWRCB; (4) review a report on the authority's performance for the first three years; and (5) hold a public hearing as directed by the SWRCB if the new authority is failing to comply with the plan to review the authority's performance and provide a report back to the SWRCB on comments received at the hearing.

The proposed pending amendments remove all the funding for LAFCo for all the actions still required by the bill as noted above. Section 78038(a) adds a clause to address funding for only the two public hearings to consider the draft conceptual plan and prepare the required report – and only if – they (LAFCo) “*incur extraordinary costs over and above its normal budgeted operating expenses for conducting the public hearing and preparing the report to the state board*”. All of the LAFCo expenses related to SB 414 are over and above normal operating budget costs and in order to cover them should the state not, it is highly likely we will have to increase fees to the local government agencies that pay into the LAFCo annually (cities, counties, and special districts).

*We strongly believe LAFCOs need to be added to the language in Section 78115 (a)(1).* All other entities, including the Public Utilities Commission, have some level of funding in the proposed pending amendments. To eliminate the funding for the one local agency involved and retain funding for all state agencies involved puts the collection of that funding on the backs of local government.

Please do not hesitate to contact me if you have any questions about our OPPOSE position to the proposed amendments on **SB 414**.

Yours Sincerely,

Ned Coe, Chair  
Modoc LAFCo

Cc: Assembly Local Government Committee  
Assembly Environmental Safety & Toxic Materials Committee  
Senate Governance and Finance Committee  
Senate Environmental Quality Committee  
Pamela Miller, Executive Director, CALAFCO

## Modoc Local Agency Formation Commission

August 11, 2020

The Honorable Lorena Gonzalez  
Chair, Appropriations Committee  
California State Assembly  
State Capitol, Room 2114  
Sacramento, CA 95814

### **RE: SB 414 – Small System Water Authority Act of 2020 – OPPOSE PROPOSED AMENDMENTS**

Dear Chair Gonzalez:

The Modoc Local Agency Formation Commission (LAFCo), joins the California Association of Local Agency Formation Commissions (CALAFCO) to oppose the proposed pending amendments for **SB 414** (Caballero). The bill is currently being held in your committee. While there are vast policy issues with the proposed amendments, this letter will focus our concerns to you and your committee on the fiscal issues of the proposed amendments.

According to the sponsors, in an effort to reduce costs associated with the bill, the role of LAFCos that exist in the current version of the bill (dated June 25, 2019) is being drastically reduced. The proposed amendments strip LAFCos of their authority in the formation of the new water authority – a public agency that would otherwise be formed at the discretion of and by the authority of LAFCo. Additionally, they remove LAFCos' authority to dissolve a public water system as authorized by the State Water Resources Control Board (SWRCB) and as part of the formation process of the new authority.

The sponsors have also indicated the proposed amendments that change numerous processes in SB 414 are intended to reflect closer alignment with processes and SWRCB authority existing in SB 88 (2015, Committee on Budget & Fiscal Review) and AB 2501 (2018, Chu). These laws deal with consolidation of existing water systems, whereas SB 414 creates a new type of public water system and reflects the formation of a new public entity (as well as dissolving existing public and private systems). One simply should not be compared to the other.

The current version of the bill, as noted in last fiscal analysis on August 21, 2019 in your committee, reflects a cost of up to \$10.65 million to LAFCos for authority formations, which represents only 11.5% of the total cost estimate of \$89.15 million. Using the fiscal projections in the current bill, the costs associated with LAFCo are far below every other entity and related provision (with one exception) of the dissolutions; formations; administration; SWRCB support and support for the authorities once formed. The cost for LAFCos to perform the dissolution of public water systems and to form the new authority are far likely to be less than having the SWRCB perform these functions. Consequently, we believe this creates a false perception that the overall cost will be reduced by removing LAFCo from the process. Transitioning these processes to a state agency rather than keeping them at the local level does not in fact reduce costs – it simply transfers the cost from the local level to the state level. Further, we would assert the cost is less at the LAFCo level.

Finally, the proposed pending amendments require LAFCos to (1) review the proposed plan and provide recommendations to the SWRCB; (2) hold a public hearing to allow for public comment on the dissolution of the public water system mandated by the SWRCB for dissolution and provide all

comments to the SWRCB: (3) hold two public hearings to receive input on the proposed plan for the new authority, summarize comments received and provide a report to the SWRCB; (4) review a report on the authority's performance for the first three years; (5) hold a public hearing as directed by the SWRCB if the new authority is failing to comply with the plan to review the authority's performance and provide a report back to the SWRCB on comments received at the hearing.

The proposed pending amendments remove all the funding for LAFCo for all the actions still required by the bill as noted above. Section 78038(a) adds a clause to address funding for only the two public hearings to consider the draft conceptual plan and prepare the required report – and only if – they (LAFCo) *"incur extraordinary costs over and above its normal budgeted operating expenses for conducting the public hearing and preparing the report to the state board"*. All of the LAFCo expenses related to SB 414 are over and above normal operating budget costs and in order to cover them should the state not, it is likely we will have to increase fees to the local government agencies that pay into the LAFCo annually (cities, counties, and special districts).

*LAFCOs need to be added to the language in Section 78115 (a)(1).* All other entities, including the Public Utilities Commission, have some level of funding in the proposed pending amendments. To eliminate the funding for the one local agency involved and retain funding for all state agencies involved is inappropriate and puts the collection of that funding on the backs of local government.

For these fiscal reasons, we oppose the proposed pending amendments to **SB 414** and strongly urge your committee to reject the amendments and hold the bill.

Please do not hesitate to contact me if you have any questions about our OPPOSE position to the proposed amendments on **SB 414**.

Yours Sincerely,

Ned Coe, Chair  
Modoc LAFCo

cc: Members, Assembly Appropriations Committee  
Honorable Senator Caballero  
Jennifer Galehouse, Assembly Appropriations Committee Deputy Chief Consultant  
Suzanne Sutton, Consultant, Senate Republican Caucus  
Pamela Miller, Executive Director, CALAFCO