



Solano Local Agency Formation Commission

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April 8, 2024

Honorable David Cortese
California State Senate
1021 O Street, Suite 6630
Sacramento, CA 95814

**RE: SB 1209 (Cortese): Local agency formation commission: indemnification –
SUPPORT (Awaiting hearing – Senate Local Government Committee)**

Dear Senator Cortese:

The Solano Local Agency Formation Commission (LAFCO) is pleased to support Senate Bill 1209, sponsored by the California Association of Local Agency Formation Commissions (CALAFCO). SB 1209 would add a new section into Government Code authorizing LAFCOs to enter into an indemnification agreement with an applicant. Counties and cities are already empowered to require indemnification and routinely do so with respect to discretionary land-use approvals. SB 1209 would merely provide LAFCOs with the same authority.

This bill addresses a 2022 decision of the Second District Court of Appeals, which found that existing State law does not provide explicit authority to require indemnification. Absent indemnification authority - and because LAFCO funding is statutorily required in a specified ratio from the county, cities, and special districts within a county - the costs to defend litigation must be absorbed by all of LAFCO's funding agencies.

Consequently, **SB 1209** will:

- Provide LAFCOs with the ability to use a tool already in use by counties and cities;
- Prevent costs to defend litigation from being shifted to a county, its cities, and its special districts; and
- Remove the possibility that an applicant threatens litigation to coerce a desirable LAFCO determination.

Thus, for the above reasons, Solano LAFCO is in strong **support of SB 1209**.

Please do not hesitate to reach out with questions or concerns about our position.

Yours sincerely,

Ron Kott, Chair
Solano LAFCO

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cc: The Honorable Maria Elena Durazo, Chair, and Members, Senate Local Government Committee
Anton Favorini-Csorba, Chief Consultant, Senate Local Government Committee
Ryan Eisberg, Consultant, Senate Republican Caucus
Rene' LaRoche, Executive Director, California Association of Local Agency Formation Commissions