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## Sen. Cortese's Statement on SB 1209 - LAFCO Indemnification - Advancing to Governor's Desk

~3 minutes

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**SAN JOSE, CA** – Senator Dave Cortese (D-San Jose) issued the following statement regarding the California Senate’s approval of his Senate Bill 1209 (SB 1209), which now advances to the Governor for signing and adoption.

“Ultimately, SB 1209 is about good governance which aims to protect taxpayers and ratepayers from being saddled with additional, unexpected, and unnecessary fees. It does so by extending the same indemnification provisions afforded to city, county, and special district jurisdictions to Local Agency Formation Commissions (LAFCO’s),” said Senator Cortese. “By indemnifying LAFCO’s, we prevent the buck from being passed down onto consumers.”

"I am pleased and grateful to learn that the Assembly has approved SB 1209 and we are one step close to the bill becoming law. Approval of SB 1209 will provide California LAFCOs with the same indemnification authority currently held by counties, cities, and special districts. This authority is essential to LAFCOs’ ability to meet their statutory obligations and make decisions without being hindered by the potential costs of defending lawsuits," said Margie Mohler, CA-LAFCO President and Mayor, Town of Yountville.

For most applications to public agencies, such as those for land-use, private parties indemnify the involved city or county. Similarly, LAFCOs have normally required an indemnification provision in applications and conditions of approval.

However, in 2022, the Second District Court of Appeals determined that LAFCO, despite prevailing in the underlying court case, could not require or rely upon indemnification because it is not expressly authorized in the Cortese-Knox-Hertzberg Local Government Act of 2000.

Without the ability to indemnify, the LAFCO will necessarily have to consider whether to make concessions to the applicant, or to not defend its actions. Applicants are typically public agencies (cities and districts), a small percentage are developers and an even smaller percentage are a member of the general public.

*Senator Dave Cortese represents Senate District 15, which encompasses San Jose and much of Santa Clara County in the heart of Silicon Valley. Visit Senator Cortese's website: <https://sd15.senate.ca.gov>*

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