

Assembly Bill No. 1263

CHAPTER 64

An act to amend Sections 56375, 56375.4, and 56383 of the Government Code, relating to local government.

[Approved by Governor July 3, 2008. Filed with Secretary
of State July 3, 2008.]

LEGISLATIVE COUNSEL'S DIGEST

AB 1263, Caballero. Local agency formation commissions: statement.

(1) Existing law authorizes a Local Agency Formation Commission to initiate, conduct, and complete proceedings for annexations, except for territories that, after January 1, 2000, became surrounded or substantially surrounded by the city to which annexation is proposed.

This bill would provide that this exception does not apply to islands created after January 1, 2000, as a result of boundary adjustments between 2 counties.

The bill would also specifically authorize a commission to initiate proposals to form a new district.

(2) Existing law authorizes the commission to establish a schedule of fees for the costs of proceedings for filing and processing applications filed with the commission, proceedings undertaken by the commission and any reorganization committee, amending a sphere of influence, and reconsidering a resolution to make determinations.

This bill would also authorize the commission to establish a schedule of service charges to not exceed the cost of providing the service. The commission would be authorized to require an applicant to deposit, as specified, some or all of the required amount that will be owed as part of the application. The reduction or waiver of a fee, service charge, or deposit would be limited to the costs incurred by the commission in the processing of an application. Any mandatory time limits for commission action may be deferred until the applicant pays the required fee, service charge, or deposit.

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

SECTION 1. Section 56375 of the Government Code is amended to read:

56375. The commission shall have all of the following powers and duties subject to any limitations upon its jurisdiction set forth in this part:

(a) (1) To review and approve or disapprove with or without amendment, wholly, partially, or conditionally, proposals for changes of organization or

reorganization, consistent with written policies, procedures, and guidelines adopted by the commission.

(2) The commission may initiate proposals for any of the following:

(A) The consolidation of a district, as defined in Section 56036.

(B) The dissolution of districts.

(C) A merger.

(D) The establishment of a subsidiary district.

(E) The formation of a new district or districts.

(F) A reorganization that includes any of the changes specified in subparagraph (A), (B), (C), (D), or (E).

(3) A commission may initiate a proposal described in paragraph (2) only if that change of organization or reorganization is consistent with a recommendation or conclusion of a study prepared pursuant to Section 56378, 56425, or 56430 and the commission makes the determinations specified in subdivision (b) of Section 56881.

(4) A commission shall not disapprove an annexation to a city, initiated by resolution, of contiguous territory that the commission finds is any of the following:

(A) Surrounded or substantially surrounded by the city to which the annexation is proposed or by that city and a county boundary or the Pacific Ocean if the territory to be annexed is substantially developed or developing, is not prime agricultural land as defined in Section 56064, is designated for urban growth by the general plan of the annexing city, and is not within the sphere of influence of another city.

(B) Located within an urban service area that has been delineated and adopted by a commission, which is not prime agricultural land, as defined by Section 56064, and is designated for urban growth by the general plan of the annexing city.

(C) An annexation or reorganization of unincorporated islands meeting the requirements of Section 56375.3.

(5) As a condition to the annexation of an area that is surrounded, or substantially surrounded, by the city to which the annexation is proposed, the commission may require, when consistent with the purposes of this division, that the annexation include the entire island of surrounded, or substantially surrounded, territory.

(6) A commission shall not impose any conditions that would directly regulate land use density or intensity, property development, or subdivision requirements.

(7) The decision of the commission with regard to a proposal to annex territory to a city shall be based upon the general plan and rezoning the city. When the development purposes are not made known to the annexing city, the annexation shall be reviewed on the basis of the adopted plans and policies of the annexing city or county. A commission shall require, as a condition to annexation, that a city prezone the territory to be annexed or present evidence satisfactory to the commission that the existing development entitlements on the territory are vested or are already at buildout, and are

consistent with the city's general plan. However, the commission shall not specify how, or in what manner, the territory shall be rezoned.

(b) With regard to a proposal for annexation or detachment of territory to, or from, a city or district or with regard to a proposal for reorganization that includes annexation or detachment, to determine whether territory proposed for annexation or detachment, as described in its resolution approving the annexation, detachment, or reorganization, is inhabited or uninhabited.

(c) With regard to a proposal for consolidation of two or more cities or districts, to determine which city or district shall be the consolidated, successor city or district.

(d) To approve the annexation of unincorporated, noncontiguous territory, subject to the limitations of Section 56742, located in the same county as that in which the city is located, and that is owned by a city and used for municipal purposes and to authorize the annexation of the territory without notice and hearing.

(e) To approve the annexation of unincorporated territory consistent with the planned and probable use of the property based upon the review of general plan and rezoning designations. No subsequent change may be made to the general plan for the annexed territory or zoning that is not in conformance to the rezoning designations for a period of two years after the completion of the annexation, unless the legislative body for the city makes a finding at a public hearing that a substantial change has occurred in circumstances that necessitate a departure from the rezoning in the application to the commission.

(f) With respect to the incorporation of a new city or the formation of a new special district, to determine the number of registered voters residing within the proposed city or special district or, for a landowner-voter special district, the number of owners of land and the assessed value of their land within the territory proposed to be included in the new special district. The number of registered voters shall be calculated as of the time of the last report of voter registration by the county elections official to the Secretary of State prior to the date the first signature was affixed to the petition. The executive officer shall notify the petitioners of the number of registered voters resulting from this calculation. The assessed value of the land within the territory proposed to be included in a new landowner-voter special district shall be calculated as shown on the last equalized assessment roll.

(g) To adopt written procedures for the evaluation of proposals, including written definitions not inconsistent with existing state law. The commission may adopt standards for any of the factors enumerated in Section 56668. Any standards adopted by the commission shall be written.

(h) To adopt standards and procedures for the evaluation of service plans submitted pursuant to Section 56653 and the initiation of a change of organization or reorganization pursuant to subdivision (a).

(i) To make and enforce regulations for the orderly and fair conduct of hearings by the commission.

(j) To incur usual and necessary expenses for the accomplishment of its functions.

(k) To appoint and assign staff personnel and to employ or contract for professional or consulting services to carry out and effect the functions of the commission.

(l) To review the boundaries of the territory involved in any proposal with respect to the definiteness and certainty of those boundaries, the nonconformance of proposed boundaries with lines of assessment or ownership, and other similar matters affecting the proposed boundaries.

(m) To waive the restrictions of Section 56744 if it finds that the application of the restrictions would be detrimental to the orderly development of the community and that the area that would be enclosed by the annexation or incorporation is so located that it cannot reasonably be annexed to another city or incorporated as a new city.

(n) To waive the application of Section 25210.90 or Section 22613 of the Streets and Highways Code if it finds the application would deprive an area of a service needed to ensure the health, safety, or welfare of the residents of the area and if it finds that the waiver would not affect the ability of a city to provide any service. However, within 60 days of the inclusion of the territory within the city, the legislative body may adopt a resolution nullifying the waiver.

(o) If the proposal includes the incorporation of a city, as defined in Section 56043, or the formation of a district, as defined in Section 2215 of the Revenue and Taxation Code, the commission shall determine the property tax revenue to be exchanged by the affected local agencies pursuant to Section 56810.

(p) To authorize a city or district to provide new or extended services outside its jurisdictional boundaries pursuant to Section 56133.

(q) To enter into an agreement with the commission for an adjoining county for the purpose of determining procedures for the consideration of proposals that may affect the adjoining county or where the jurisdiction of an affected agency crosses the boundary of the adjoining county.

SEC. 2. Section 56375.4 of the Government Code is amended to read:

56375.4. (a) The authority to initiate, conduct, and complete any proceeding pursuant to subdivision (a) of Section 56375.3 does not apply to any territory that, after January 1, 2000, became surrounded or substantially surrounded by the city to which annexation is proposed, except for islands that were created after January 1, 2000, as a result of boundary adjustments between two counties. The authority to initiate, conduct, and complete any proceeding pursuant to paragraph (1) of subdivision (a) of Section 56375.3 shall expire January 1, 2014. The period of time between January 1, 2000, and January 1, 2014, shall not include any period of time during which, in an action pending in any court, a local agency is enjoined from conducting proceedings pursuant to paragraph (1) of subdivision (a) of Section 56375.3. Upon final disposition of that case, the previously enjoined local agency may initiate, conduct, and complete proceedings pursuant to paragraph (1) of subdivision (a) of Section 56375.3 for the same

period of time as was remaining under that 14-year limit at the time the injunction commenced. However, if the remaining time is less than six months, that authority shall continue for six months following final disposition of the action.

(b) Between January 1, 2000, and January 1, 2014, no new proposal involving the same or substantially the same territory as a proposal initiated pursuant to paragraph (1) of subdivision (a) of Section 56375.3 after January 1, 2000, shall be initiated for two years after the date of adoption by the commission of a resolution terminating proceedings.

SEC. 3. Section 56383 of the Government Code is amended to read:

56383. (a) The commission may establish a schedule of fees and a schedule of service charges for the proceedings taken pursuant to this division, including, but not limited to, all of the following:

- (1) Filing and processing applications filed with the commission.
- (2) Proceedings undertaken by the commission and any reorganization committee.
- (3) Amending a sphere of influence.
- (4) Reconsidering a resolution making determinations.

(b) The fees shall not exceed the estimated reasonable cost of providing the service for which the fee is charged and shall be imposed pursuant to Section 66016. The service charges shall not exceed the cost of providing the service for which the service charge is charged and shall be imposed pursuant to Section 60016.

(c) The commission may require that an applicant deposit some or all of the required amount that will be owed with the executive officer before any further action is taken. The deposit shall be made within the time period specified by the commission. No application shall be deemed filed until the applicant deposits the required amount with the executive officer. The executive officer shall provide the applicant with an accounting of all costs charged against the deposited amount. If the costs are less than the deposited amount, the executive officer shall refund the balance to the applicant after the executive officer verifies the completion of all proceedings. If the costs exceed the deposited amount, the applicant shall pay the difference prior to the completion of all proceedings.

(d) The commission may reduce or waive a fee, service charge, or deposit if it finds that payment would be detrimental to the public interest. The reduction or waiver of any fee, service charge, or deposit is limited to the costs incurred by the commission in the proceedings of an application.

(e) Any mandatory time limits for commission action may be deferred until the applicant pays the required fee, service charge, or deposit.

(f) The signatures on a petition submitted to the commission by registered voters shall be verified by the elections official of the county and the costs of verification shall be provided for in the same manner and by the same agencies which bear the costs of verifying signatures for an initiative petition in the same county.

(g) For incorporation proceedings that have been initiated by the filing of a sufficient number of voter signatures on petitions that have been verified

by the county registrar of voters, the commission may, upon the receipt of a certification by the proponents that they are unable to raise sufficient funds to reimburse fees, service charges, or deposits for the proceedings, take no action on the proposal and request a loan from the General Fund of an amount sufficient to cover those expenses subject to availability of an appropriation for those purposes and in accordance with any provisions of the appropriation. Repayment of the loan shall be made a condition of approval of the incorporation, if successful, and shall become an obligation of the newly formed city. Repayment shall be made within two years of the effective date of incorporation. If the proposal is denied by the commission or defeated at an election, the loan shall be forgiven.

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