

AMENDED IN ASSEMBLY MAY 18, 2009

AMENDED IN ASSEMBLY MAY 5, 2009

AMENDED IN ASSEMBLY APRIL 14, 2009

CALIFORNIA LEGISLATURE—2009—10 REGULAR SESSION

ASSEMBLY BILL

No. 853

Introduced by Assembly Member Arambula

February 26, 2009

An act to add Sections 56375.6 and 56375.7 to the Government Code, relating to local government.

LEGISLATIVE COUNSEL'S DIGEST

AB 853, as amended, Arambula. Local government: organization.

The Cortese-Knox-Hertzberg Act of 2000 governs the organization and reorganization of local governmental entities, including, among other things, the annexation of island territories to a city or county.

This bill would provide procedures for annexing unincorporated fringe communities *and unincorporated island communities*, as defined, to a city under specified circumstances, including provisions for a revenue neutrality agreement between the affected local government entities.

Vote: majority. Appropriation: no. Fiscal committee: no. State-mandated local program: no.

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

- 1 SECTION 1. Section 56375.6 is added to the Government
2 Code, to read:
3 56375.6. (a) As used in this section, *the following terms have*
4 *the following meanings:* ~~“unincorporated~~

1 (1) “*Unincorporated fringe community*” means any inhabited;
 2 unincorporated ~~area territory~~ that is within ~~1.5 miles of a city or~~
 3 ~~within or adjacent to~~ a city’s sphere of influence.

4 (2) “*Unincorporated island community*” means any inhabited
 5 unincorporated territory that is surrounded or substantially
 6 surrounded by one or more cities or by one or more cities and a
 7 county boundary or the Pacific Ocean.

8 (b) The board of supervisors shall petition the commission in
 9 the board’s county to approve the annexation to a city of any island
 10 or fringe community after notice and hearing if all of the following
 11 conditions exist:

12 (1) Twenty-five percent of the registered voters or landowners
 13 in the unincorporated ~~territory~~ *fringe community or unincorporated*
 14 *island community* file a petition with the board to initiate an
 15 annexation of that community to a municipality.

16 (2) The territory contained in the annexation petition constitutes
 17 an island or constitutes an unincorporated fringe community that
 18 lacks wastewater, drinking water services, storm drainage, paved
 19 streets, sidewalks, or streetlights, or there exists a serious
 20 infrastructure-related health hazard.

21 (3) The territory that is the subject of the annexation petition
 22 constitutes a disadvantaged community, as defined by Section
 23 79505.5 of the Water Code. Income evidence may be provided by
 24 a community household survey.

25 (c) Notwithstanding any other provision of law, within 180 days
 26 of a petition being mailed pursuant to subdivision (b), a separate
 27 property tax transfer agreement shall be agreed to between the
 28 annexing city and the county pursuant to Section 99 of the Revenue
 29 and Taxation Code. If an agreement is not made within 180 days,
 30 a property tax transfer agreement shall be determined pursuant to
 31 Section ~~36375.7~~ 56375.7. That agreement shall not affect any
 32 existing master tax sharing agreement between the city and county.

33 (d) The commission shall approve, after notice and hearing, the
 34 annexation, and as needed, the change of organization or
 35 reorganization of a city, subject to subdivision (a) of Section 57080,
 36 unless the commission finds, based on the preponderance of
 37 evidence, that the change in reorganization will not result in a net
 38 benefit to the public health of the affected communities. The
 39 financial impact of the annexation shall not be a factor in this
 40 determination.

1 (e) Subject to the commission’s approval of an annexation under
2 this subdivision, no affected special district shall have the authority
3 to terminate the annexation.

4 (f) Subject to the commission’s approval of an annexation under
5 this subdivision, the city shall amend its general plan to ensure ~~the~~
6 that the annexation conforms with the municipality’s general plan.

7 SEC. 2. Section 56375.7 is added to the Government Code, to
8 read:

9 56375.7. (a) The commission shall determine a revenue
10 neutrality agreement, including the amount of property tax revenue
11 to be exchanged by the affected local agency pursuant to this
12 section. The commission shall notify the county auditor of the
13 proposal and the services that the annexing city will assume within
14 the territory to be annexed and identify for the auditor the existing
15 service providers within the area subject to the proposal.

16 (b) If the proposal would not transfer all of an affected agency’s
17 service responsibilities to the proposed city, the commission and
18 the county auditor shall do all of the following:

19 (1) The county auditor shall determine the proportion that the
20 amount of property tax revenue derived by each affected local
21 agency pursuant to subdivision (b) of Section 93 of the Revenue
22 and Taxation Code bears to the total amount of revenue from all
23 sources, available for general purposes, received by each affected
24 local agency in the prior fiscal year. For purposes of making this
25 determination and the determination required by paragraph (3),
26 “total amount of revenue from all sources available for general
27 purposes” means the total amount of revenue which an affected
28 local agency may use on a discretionary basis for any purpose and
29 does not include any of the following:

30 (A) Revenue which, by statute, is required to be used for a
31 specific purpose.

32 (B) Revenue from fees, charges, or assessments which are levied
33 to specifically offset the cost of particular services and do not
34 exceed the cost reasonably borne in providing these services.

35 (C) Revenue received from the federal government which is
36 required to be used for a specific purpose.

37 (2) The commission shall determine, based on information
38 submitted by each affected local agency, an amount equal to the
39 total net cost to each affected local agency during the prior fiscal
40 year of providing those services that the annexing city will assume

1 within the area subject to the proposal, including the cost of
2 connecting residents to wastewater or drinking water services.

3 For purposes of this paragraph, “total net cost” means the total
4 direct and indirect costs that were funded by general purpose
5 revenues of the affected local agency and excludes any portion of
6 the total cost that was funded by any revenues of that agency that
7 are specified in subparagraphs (A), (B), and (C) of paragraph (1).

8 (3) The commission shall multiply the amount determined
9 pursuant to paragraph (2) for each affected local agency by the
10 corresponding proportion determined pursuant to paragraph (1) to
11 derive the amount of property tax revenue used to provide services
12 by each affected local agency during the prior fiscal year within
13 the area subject to the proposal. The county auditor shall adjust
14 the amount described in the previous sentence by the annual tax
15 increment according to the procedures set forth in Chapter 6
16 (commencing with Section 95) of Part 0.5 of Division 1 of the
17 Revenue and Taxation Code, to the fiscal year in which the new
18 city or district receives its initial allocation of property taxes.

19 (4) For purposes of this subdivision, in any county in which,
20 prior to the adoption of Article XIII A of the California
21 Constitution, and continuing thereafter, a separate fund or funds
22 were established consisting of revenues derived from the
23 unincorporated area of the county and from which fund or funds
24 services rendered in the unincorporated area have been paid, the
25 amount of property tax revenues derived pursuant to paragraph
26 (3), may, at the discretion of the commission, be transferred to the
27 annexing city over a period not to exceed 12 fiscal years following
28 the annexation. In determining whether the transfer of the amount
29 of property tax revenues determined pursuant to paragraph (3)
30 shall occur entirely within the fiscal year immediately following
31 the annexation or shall be phased in over a period not to exceed
32 12 full fiscal years following the annexation, the commission shall
33 consider each of the following:

34 (A) The total amount of revenue from all sources available to
35 the annexing city.

36 (B) The fiscal impact of the proposed transfer on the transferring
37 agency.

38 (C) Any other relevant facts which interested parties to the
39 exchange may present to the commission in written form.

1 The decision of the commission shall be supported by written
2 findings setting forth the basis for its decision.

3 (c) If the proposal would transfer all of an affected agency's
4 service responsibilities to the annexing city, the commission shall
5 request the auditor to determine the property tax revenue generated
6 for the affected service providers by tax rate area, or portion
7 thereof, and transmit that information to the commission.

8 (d) The executive officer shall notify the auditor of the amount
9 determined pursuant to paragraph (3) of subdivision (b) or
10 subdivision (c), as the case may be, and, where applicable, the
11 period of time within which and the procedure by which the
12 transfer of property tax revenues will be effected pursuant to
13 paragraph (4) of subdivision (b), at the time the executive officer
14 records a certificate of completion pursuant to Section 57203 for
15 any proposal described in subdivision (a), and the auditor shall
16 transfer that amount to the new jurisdiction.

17 (e) An action brought by a city or district to contest any
18 determinations of the county auditor or the commission with regard
19 to the amount of property tax revenue to be exchanged by the
20 affected local agency pursuant to this section shall be commenced
21 within three years of the effective date of the annexation.