

AMENDED IN SENATE APRIL 25, 2011

AMENDED IN SENATE MARCH 15, 2011

SENATE BILL

No. 244

Introduced by Senator Wolk
(Coauthors: Senators Price and Rubio)
(Coauthor: Assembly Member Perea)

February 10, 2011

An act to amend Sections 56425 and 56430 of, and to add Sections 56033.5 and 65302.10 to, the Government Code, relating to land use.

LEGISLATIVE COUNSEL'S DIGEST

SB 244, as amended, Wolk. Land use: general plan: disadvantaged unincorporated communities.

(1) The Planning and Zoning Law requires a city or county to adopt a comprehensive, long-term general plan for the physical development of the city or county and of any land outside its boundaries that bears relation to its planning. That law also requires the general plan to contain specified mandatory elements, including a housing element for the preservation, improvement, and development of the community's housing.

This bill would require, ~~prior to January 1, 2014, and thereafter~~ upon ~~each~~ *the next* revision of its housing element, *and each revision thereafter*, a city or county to review and update one or more elements of its general plan, as necessary to address the presence of island, fringe, or legacy unincorporated communities, as defined, inside or near its boundaries, and would require the updated general plan to include specified information. This bill would also require the city or county planning agency, after the initial revision and update of the general plan, to review, and if necessary amend, the general plan to update the

information, goals, and program of action relating to these communities therein. By adding to the duties of city and county officials, this bill would impose a state-mandated local program.

(2) The Cortese-Knox-Hertzberg Act of 2000 requires a local agency formation commission to develop and determine the sphere of influence of each local governmental agency within the county and to enact policies designed to promote the logical and orderly development of areas within the sphere, and requires the commission, in preparing and updating spheres of influence to conduct a service review of the municipal services provided in the county or other area designated by the commission, and to prepare a written statement of its determinations with respect to the growth and population projections for the affected area, the present and planned capacity of public facilities and adequacy of public services, including infrastructure needs or deficiencies, financial ability of agencies to provide services, status of, and opportunities for, shared facilities, accountability for community service needs, including governmental structure, and operational efficiencies, as specified.

This bill would also require the agency to include in its written statement a determination with respect to the location and characteristics, including infrastructure needs or deficiencies, of any disadvantaged inhabited communities within or adjacent to the sphere of influence, thereby imposing a state-mandated local program. The bill would also require a commission, upon the review and update of a sphere of influence on or after July 1, 2012, to include in the review or update of each sphere of influence of a city or special district that provides public facilities or services related to sewers, ~~nonagricultural~~ *municipal and industrial* water, or structural fire protection to include the present and probable need for public facilities and services of disadvantaged inhabited communities within or adjacent to the sphere of influence, and *would authorize the agency* to assess the feasibility of governmental reorganization of particular agencies, as specified.

(3) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement shall be made pursuant to these statutory provisions for costs mandated by the state pursuant to this act, but would recognize that local agencies and school districts may pursue any available remedies to seek reimbursement for these costs.

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

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

1 SECTION 1. (a) The Legislature finds and declares all of the
2 following:

3 (1) Hundreds of disadvantaged unincorporated communities,
4 commonly referred to as “colonias,” exist in California. There are
5 more than 200 of these communities in the San Joaquin Valley
6 alone. Many of these communities are geographically isolated
7 islands, surrounded by the city limits of large and medium-sized
8 cities.

9 (2) Conditions within these disadvantaged unincorporated
10 communities evidence a distinct lack of public and private
11 investment that threatens the health and safety of the residents of
12 these communities and fosters economic, social, and educational
13 inequality. Many of these communities lack basic infrastructure,
14 including, but not limited to, streets, sidewalks, storm drainage,
15 clean drinking water, and adequate sewer service.

16 (3) *The Clean Water State Revolving Fund, the Safe Drinking*
17 *Water State Revolving Fund, the Clean up and Abatement Account,*
18 *and the Community Development Block Grant are robust and*
19 *continuous sources of funding for drinking water, wastewater, and*
20 *other basic infrastructure.*

21 (b) It is the intent of the Legislature to encourage investment in
22 these communities and address the complex legal, financial, and
23 political barriers that contribute to regional inequity and
24 infrastructure deficits within disadvantaged unincorporated
25 communities.

26 SEC. 2. Section 56033.5 is added to the Government Code, to
27 read:

28 56033.5. “Disadvantaged inhabited community” means
29 inhabited territory, as defined by Section 56046, or as determined
30 by commission policy, that constitutes all or a portion of a
31 “disadvantaged community” as defined by Section ~~75005~~ 79505.5
32 of the ~~Public Resources~~ *Water Code*.

33 SEC. 3. Section 56425 of the Government Code is amended
34 to read:

1 56425. (a) In order to carry out its purposes and responsibilities
2 for planning and shaping the logical and orderly development and
3 coordination of local governmental agencies to advantageously
4 provide for the present and future needs of the county and its
5 communities, the commission shall develop and determine the
6 sphere of influence of each local governmental agency within the
7 county and enact policies designed to promote the logical and
8 orderly development of areas within the sphere.

9 (b) Prior to a city submitting an application to the commission
10 to update its sphere of influence, representatives from the city and
11 representatives from the county shall meet to discuss the proposed
12 new boundaries of the sphere and explore methods to reach
13 agreement on development standards and planning and zoning
14 requirements within the sphere to ensure that development within
15 the sphere occurs in a manner that reflects the concerns of the
16 affected city and is accomplished in a manner that promotes the
17 logical and orderly development of areas within the sphere. If an
18 agreement is reached between the city and county, the city shall
19 forward the agreement in writing to the commission, along with
20 the application to update the sphere of influence. The commission
21 shall consider and adopt a sphere of influence for the city consistent
22 with the policies adopted by the commission pursuant to this
23 section, and the commission shall give great weight to the
24 agreement to the extent that it is consistent with commission
25 policies in its final determination of the city sphere.

26 (c) If the commission’s final determination is consistent with
27 the agreement reached between the city and county pursuant to
28 subdivision (b), the agreement shall be adopted by both the city
29 and county after a noticed public hearing. Once the agreement has
30 been adopted by the affected local agencies and their respective
31 general plans reflect that agreement, then any development
32 approved by the county within the sphere shall be consistent with
33 the terms of that agreement.

34 (d) If no agreement is reached pursuant to subdivision (b), the
35 application may be submitted to the commission and the
36 commission shall consider a sphere of influence for the city
37 consistent with the policies adopted by the commission pursuant
38 to this section.

1 (e) In determining the sphere of influence of each local agency,
2 the commission shall consider and prepare a written statement of
3 its determinations with respect to each of the following:

4 (1) The present and planned land uses in the area, including
5 agricultural and open-space lands.

6 (2) The present and probable need for public facilities and
7 services in the area. Upon the next review and update of a sphere
8 of influence that occurs pursuant to subdivision (g) on or after July
9 1, 2012, the review and update of each sphere of influence of a
10 city or special district that provides public facilities or services
11 related to sewers, ~~nonagricultural~~ *municipal and industrial* water,
12 or structural fire protection shall include the present and probable
13 need for public facilities and services of any disadvantaged
14 inhabited communities within or adjacent to its sphere of influence.

15 (3) The present capacity of public facilities and adequacy of
16 public services that the agency provides or is authorized to provide.

17 (4) The existence of any social or economic communities of
18 interest *in the area if the commission determines that they are*
19 *relevant to the agency*.

20 (f) Upon determination of a sphere of influence, the commission
21 shall adopt that sphere.

22 (g) On or before January 1, 2008, and every five years thereafter,
23 the commission shall, as necessary, review and update each sphere
24 of influence.

25 (h) In determining the sphere of influence, the commission ~~shall~~
26 *may* assess the feasibility of governmental reorganization of
27 particular agencies and recommend reorganization of those
28 agencies when they are found to be feasible and if reorganization
29 will further the goals of orderly development as well as efficient
30 and affordable service delivery. The commission shall make all
31 reasonable efforts to ensure wide public dissemination of the
32 recommendations.

33 (i) When adopting, amending, or updating a sphere of influence
34 for a special district, the commission shall do all of the following:

35 (1) Require existing districts to file written statements with the
36 commission specifying the functions or classes of services provided
37 by those districts.

38 (2) Establish the nature, location, and extent of any functions
39 or classes of services provided by existing districts.

1 SEC. 4. Section 56430 of the Government Code is amended
2 to read:

3 56430. (a) In order to prepare and to update spheres of
4 influence in accordance with Section 56425, the commission shall
5 conduct a service review of the municipal services provided in the
6 county or other appropriate area designated by the commission.
7 The commission shall include in the area designated for service
8 review the county, the region, the subregion, or any other
9 geographic area as is appropriate for an analysis of the service or
10 services to be reviewed, and shall prepare a written statement of
11 its determinations with respect to each of the following:

12 (1) Growth and population projections for the affected area.

13 (2) The location and characteristics, ~~including infrastructure~~
14 ~~needs or deficiencies~~, of any disadvantaged inhabited communities
15 ~~within or adjacent to the agency's proposed sphere of influence.~~

16 (3) Present and planned capacity of public facilities and
17 adequacy of public services ~~within or adjacent to the proposed~~
18 ~~sphere of influence~~, including infrastructure needs or deficiencies,
19 *with attention to water, wastewater, storm water drainage, and*
20 *structural fire protection needs or deficiencies of disadvantaged,*
21 *unincorporated communities within or adjacent to the agency's*
22 *proposed sphere of influence.*

23 (4) Financial ability of agencies to provide services.

24 (5) Status of, and opportunities for, shared facilities.

25 (6) Accountability for community service needs, including
26 governmental structure and operational efficiencies.

27 (7) Any other matter related to effective or efficient service
28 delivery, as required by commission policy.

29 (b) In conducting a service review, the commission shall
30 comprehensively review all of the agencies that provide the
31 identified service or services within the designated geographic
32 area. The commission shall assess various alternatives for
33 improving efficiency and affordability of infrastructure and service
34 delivery within and adjacent to the sphere of influence, including,
35 but not limited to, the consolidation of governmental agencies.

36 (c) The commission shall conduct a service review before, or
37 in conjunction with, but no later than the time it is considering an
38 action to establish a sphere of influence in accordance with Section
39 56425 or Section 56426.5 or to update a sphere of influence
40 pursuant to Section 56425.

1 SEC. 5. Section 65302.10 is added to the Government Code,
2 to read:

3 65302.10. (a) As used in this section, the following terms shall
4 have the following meanings:

5 (1) “Disadvantaged unincorporated community” means a fringe,
6 island, or legacy community in which the median household
7 income is 80 percent or less than the statewide median household
8 income.

9 (2) “Unincorporated fringe community” means any inhabited
10 and unincorporated territory that is within a city’s sphere of
11 influence.

12 (3) “Unincorporated island community” means any inhabited
13 and unincorporated territory that is surrounded or substantially
14 surrounded by one or more cities or by one or more cities and a
15 county boundary or the Pacific Ocean.

16 (4) “Unincorporated legacy community” means a geographically
17 isolated community that is inhabited and has existed for at least
18 50 years.

19 (b) ~~Prior to January 1, 2014, and thereafter upon~~ *Upon the next*
20 *revision of its general plan* each revision of its housing element
21 made pursuant to Section 65588, the legislative body of a city or
22 county shall review and update one or more elements of its general
23 plan as necessary to include data and analysis, goals,
24 implementation measures, policies, and objectives to address the
25 presence of unincorporated island, fringe, or legacy communities
26 inside or near its boundaries. The updated general plan shall ~~also~~
27 include all of the following:

28 (1) ~~An~~ *In the case of a city, an* identification of each
29 unincorporated island; ~~or fringe; or community, in or adjacent to~~
30 *the city’s sphere of influence. In the case of a county, an*
31 *identification of each* legacy community ~~within or proximate to~~
32 the boundaries of the ~~city or~~ county. This identification shall
33 include a description of the community and a map designating its
34 location.

35 (2) For each identified community, ~~a quantification and an~~
36 analysis of all of the following:

37 (A) ~~The number of housing units and residents that extent to~~
38 *which households in the community* lack access to sanitary sewer
39 service.

1 (B) ~~The number of housing units and residents that extent to~~
2 ~~which households in the community lack access to municipal water~~
3 ~~service safe drinking water.~~

4 (C) ~~The number of residential neighborhoods within a~~
5 ~~community that lack extent to which the community lacks one or~~
6 more of the following:

- 7 (i) Paved roads.
- 8 (ii) Storm drainage.
- 9 (iii) Sidewalks.
- 10 (iv) Street lighting.

11 (D) The number of households within one-quarter of a mile of
12 public transit.

13 (E) The number of housing units that are in substandard
14 condition.

15 (F) The number of households paying more than 30 percent of
16 their income toward housing.

17 (G) The number of households in overcrowded housing.

18 (3) An analysis of the city’s or county’s current programs and
19 activities to address the conditions or deficiencies described in
20 paragraph (2), and an identification of any constraints to addressing
21 those conditions or deficiencies. The analysis shall evaluate the
22 annexation of any identified island or fringe communities.

23 (4) A statement setting forth the city’s or county’s specific,
24 quantified goals for eliminating or reducing the conditions or
25 deficiencies described in paragraph (2) and found to be present in
26 an unincorporated island, fringe, or legacy community within or
27 proximate to the boundaries of the city or county.

28 (5) A set of flexible implementation measures designed to carry
29 out the goals described in paragraph (4), including an identification
30 of resources and a timeline of actions.

31 (c) After the initial revision of its general plan pursuant to this
32 section, on or before the due date for the next revision of its
33 housing element, the planning agency shall review, and if necessary
34 amend, its general plan to update the analysis, goals, and actions
35 required by this section.

36 SEC. 6. No reimbursement shall be made pursuant to Part 7
37 (commencing with Section 17500) of Division 4 of Title 2 of the
38 Government Code for costs mandated by the state pursuant to this
39 act. It is recognized, however, that a local agency or school district
40 may pursue any remedies to obtain reimbursement available to it

1 under Part 7 (commencing with Section 17500) and any other
2 provisions of law.

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