

AMENDED IN SENATE MAY 3, 2011
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, upon 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, 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 79505.5 of the
32 Water Code.

1 SEC. 3. Section 56425 of the Government Code is amended
2 to read:

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

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

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

36 (d) If no agreement is reached pursuant to subdivision (b), the
37 application may be submitted to the commission and the
38 commission shall consider a sphere of influence for the city
39 consistent with the policies adopted by the commission pursuant
40 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, municipal and industrial water, or structural fire
12 protection shall include the present and probable need for public
13 facilities and services of any disadvantaged inhabited communities
14 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 may
26 assess the feasibility of governmental reorganization of particular
27 agencies and recommend reorganization of those agencies when
28 they are found to be feasible and if reorganization will further the
29 goals of orderly development as well as efficient and affordable
30 service delivery. The commission shall make all reasonable efforts
31 to ensure wide public dissemination of the recommendations.

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

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

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

39 SEC. 4. Section 56430 of the Government Code is amended
40 to read:

1 56430. (a) In order to prepare and to update spheres of
2 influence in accordance with Section 56425, the commission shall
3 conduct a service review of the municipal services provided in the
4 county or other appropriate area designated by the commission.
5 The commission shall include in the area designated for service
6 review the county, the region, the subregion, or any other
7 geographic area as is appropriate for an analysis of the service or
8 services to be reviewed, and shall prepare a written statement of
9 its determinations with respect to each of the following:

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

11 (2) The location and characteristics of any disadvantaged
12 inhabited communities.

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

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

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

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

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

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

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

38 SEC. 5. Section 65302.10 is added to the Government Code,
39 to read:

1 65302.10. (a) As used in this section, the following terms shall
2 have the following meanings:

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

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

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

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

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

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

32 (2) For each identified community, an analysis of all of the
33 following:

34 (A) The extent to which households in the community lack
35 access to sanitary sewer service.

36 (B) The extent to which households in the community lack
37 access to safe drinking water.

38 (C) The extent to which the community lacks one or more of
39 the following:

40 (i) Paved roads.

1 (ii) Storm drainage.

2 (iii) Sidewalks.

3 (iv) Street lighting.

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

6 (E) The number of housing units that are in substandard
7 condition.

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

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

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

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

21 (5) A set of ~~flexible~~ *feasible* implementation measures designed
22 to carry out the goals described in paragraph (4), including an
23 identification of resources and a timeline of actions.

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

29 SEC. 6. No reimbursement shall be made pursuant to Part 7
30 (commencing with Section 17500) of Division 4 of Title 2 of the
31 Government Code for costs mandated by the state pursuant to this
32 act. It is recognized, however, that a local agency or school district
33 may pursue any remedies to obtain reimbursement available to it
34 under Part 7 (commencing with Section 17500) and any other
35 provisions of law.

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