

Introduced by Senator EmmersonFebruary 24, 2012

An act to amend Sections 56133 and 56375 of the Government Code, relating to local government.

LEGISLATIVE COUNSEL'S DIGEST

SB 1498, as introduced, Emmerson. Local agency formation commission: powers.

(1) The Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 authorizes a city or district to provide new or extended services by contract or agreement outside its jurisdictional boundaries if the city or district requests and receives permission to do so from the local agency formation commission in the affected county. Existing law authorizes the commission to authorize a city or district to provide new or extended services outside its jurisdictional boundaries but within its sphere of influence in anticipation of a later change of organization, or outside its sphere of influence to respond to an existing or impending threat to the public health or safety of the residents of the affected territory, under specified circumstances.

This bill would additionally authorize the commission to authorize a city or district to provide new or existing services outside its jurisdictional boundaries and outside its sphere of influence to support existing or planned uses involving public or private properties, subject to approval at a noticed public hearing, in which certain determinations are made. The bill would also authorize the commission to delegate to its executive officer the approval of certain requests to authorize a city or district to provide new or extended services outside its jurisdictional boundaries or outside its sphere of influence, as described above, under

specified circumstances. The bill would also make certain technical, nonsubstantive, and conforming changes.

(2) The Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 prohibits a local agency formation commission from approving an annexation to a city of any territory greater than 10 acres, or as determined, that includes a disadvantaged unincorporated community that is contiguous to the area of proposed annexation, subject to specified exceptions.

This bill would repeal this provision.

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 56133 of the Government Code is
2 amended to read:

3 56133. (a) A city or district may provide new or extended
4 services by contract or agreement outside its jurisdictional
5 ~~boundaries~~ *boundary* only if it first requests and receives written
6 approval from the commission ~~in the affected county~~. *The*
7 *commission may delegate approval of requests made pursuant to*
8 *subdivision (b) and paragraph (1) of subdivision (c) to the*
9 *executive officer.*

10 (b) The commission may authorize a city or district to provide
11 new or extended services outside its jurisdictional ~~boundaries~~
12 *boundary* but within its sphere of influence in anticipation of a
13 later change of organization.

14 (c) ~~The~~ *If the consistent with adopted commission policy, the*
15 *commission may authorize a city or district to provide new or*
16 *extended services outside its jurisdictional ~~boundaries~~ *boundary**
17 *and outside its sphere of influence as follows: to*

18 (1) *To respond to an existing or impending threat to the public*
19 *health or safety of the residents of the affected territory if both of*
20 *the following requirements are met:*

21 (1)

22 (A) *The entity applying for the ~~contract~~ approval has provided*
23 *the commission with documentation of a threat to the health and*
24 *safety of the public or the affected residents.*

25 (2)

1 (B) The commission has notified any alternate service provider,
2 including any water corporation as defined in Section 241 of the
3 Public Utilities Code, or sewer system corporation as defined in
4 Section 230.6 of the Public Utilities Code, that has filed a map and
5 a statement of its service capabilities with the commission.

6 (2) *To support existing or planned uses involving public or*
7 *private properties, subject to approval at a noticed public hearing*
8 *in which all of the following determinations are made:*

9 (A) *The extension of service or service deficiency was identified*
10 *and evaluated in a municipal service review prepared by the*
11 *commission pursuant to Section 56430.*

12 (B) *The effect of the extension of service would not result in*
13 *adverse impacts on open space or agricultural lands or result in*
14 *adverse growth inducing impacts.*

15 (C) *A later change of organization involving the subject property*
16 *and the affected agency is not feasible or desirable based on the*
17 *adopted policies of the commission.*

18 (d) The executive officer, within 30 days of receipt of a request
19 for approval by a city or district ~~of a contract~~ to extend services
20 outside its jurisdictional boundary, shall determine whether the
21 request is complete and acceptable for filing or whether the request
22 is incomplete. If a request is determined not to be complete, the
23 executive officer shall immediately transmit that determination to
24 the requester, specifying those parts of the request that are
25 incomplete and the manner in which they can be made complete.
26 When the request is deemed complete, the executive officer shall
27 place the request on the agenda of the next commission meeting
28 for which adequate notice can be given but not more than 90 days
29 from the date that the request is deemed complete, unless the
30 commission has delegated approval of ~~those~~ requests *made under*
31 *this section* to the executive officer. The commission or executive
32 officer shall approve, disapprove, or approve with conditions the
33 contract for extended services. If the ~~contract~~ *is extended services*
34 *are* disapproved or approved with conditions, the applicant may
35 request reconsideration, citing the reasons for reconsideration.

36 (e) This section does not apply to ~~contracts or agreements solely~~
37 ~~involving~~ two or more public agencies where *the commission*
38 *determines* the public service to be provided is an alternative to,
39 or substitute for, public services already being provided by an
40 existing public service provider and where the level of service to

1 be provided is consistent with the level of service contemplated
2 by the existing service provider. ~~This~~

3 (f) ~~This~~ section does not apply to ~~contracts for~~ the transfer of
4 nonpotable or nontreated water. ~~This~~

5 (g) ~~This~~ section does not apply to ~~contracts or agreements solely~~
6 ~~involving~~ the provision of surplus water to agricultural lands and
7 facilities, including, but not limited to, incidental residential
8 structures, for projects that serve conservation purposes or that
9 directly support agricultural industries. However, prior to extending
10 surplus water service to any project that will support or induce
11 development, the city or district shall first request and receive
12 written approval from the commission in the affected county. ~~This~~

13 (h) ~~This~~ section does not apply to an extended service that a city
14 or district was providing on or before January 1, 2001. ~~This~~

15 (i) ~~This~~ section does not apply to a local publicly owned electric
16 utility, as defined by Section 9604 of the Public Utilities Code,
17 providing electric services that do not involve the acquisition,
18 construction, or installation of electric distribution facilities by the
19 local publicly owned electric utility, outside of the utility's
20 jurisdictional boundaries.

21 (j) *The commission in the county in which the extension of the*
22 *service is proposed shall have discretion to implement this section.*

23 SEC. 2. Section 56375 of the Government Code is amended
24 to read:

25 56375. The commission shall have all of the following powers
26 and duties subject to any limitations upon its jurisdiction set forth
27 in this part:

28 (a) (1) To review and approve with or without amendment,
29 wholly, partially, or conditionally, or disapprove proposals for
30 changes of organization or reorganization, consistent with written
31 policies, procedures, and guidelines adopted by the commission.

32 (2) The commission may initiate proposals by resolution of
33 application for any of the following:

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

35 (B) The dissolution of a district.

36 (C) A merger.

37 (D) The establishment of a subsidiary district.

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

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

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

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

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

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

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

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

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

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

1 at build-out, and are consistent with the city's general plan.
2 However, the commission shall not specify how, or in what
3 manner, the territory shall be rezoned.

4 ~~(8) (A) Except for those changes of organization or~~
5 ~~reorganization authorized under Section 56375.3, and except as~~
6 ~~provided by subparagraph (B), a commission shall not approve an~~
7 ~~annexation to a city of any territory greater than 10 acres, or as~~
8 ~~determined by commission policy, where there exists a~~
9 ~~disadvantaged unincorporated community that is contiguous to~~
10 ~~the area of proposed annexation, unless an application to annex~~
11 ~~the disadvantaged unincorporated community to the subject city~~
12 ~~has been filed with the executive officer.~~

13 ~~(B) An application to annex a contiguous disadvantaged~~
14 ~~community shall not be required if either of the following apply:~~

15 ~~(i) A prior application for annexation of the same disadvantaged~~
16 ~~community has been made in the preceding five years.~~

17 ~~(ii) The commission finds, based upon written evidence, that a~~
18 ~~majority of the residents within the affected territory are opposed~~
19 ~~to annexation.~~

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

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

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

34 (e) To approve the annexation of unincorporated territory
35 consistent with the planned and probable use of the property based
36 upon the review of general plan and rezoning designations. No
37 subsequent change may be made to the general plan for the annexed
38 territory or zoning that is not in conformance to the rezoning
39 designations for a period of two years after the completion of the
40 annexation, unless the legislative body for the city makes a finding

1 at a public hearing that a substantial change has occurred in
2 circumstances that necessitate a departure from the rezoning in
3 the application to the commission.

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

18 (g) To adopt written procedures for the evaluation of proposals,
19 including written definitions consistent with existing state law.
20 The commission may adopt standards for any of the factors
21 enumerated in Section 56668. Any standards adopted by the
22 commission shall be written.

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

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

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

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

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

39 (m) To waive the restrictions of Section 56744 if it finds that
40 the application of the restrictions would be detrimental to the

1 orderly development of the community and that the area that would
2 be enclosed by the annexation or incorporation is so located that
3 it cannot reasonably be annexed to another city or incorporated as
4 a new city.

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

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

17 (p) To authorize a city or district to provide new or extended
18 services outside its jurisdictional boundaries pursuant to Section
19 56133.

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

25 (r) To approve with or without amendment, wholly, partially,
26 or conditionally, or disapprove pursuant to this section the
27 annexation of territory served by a mutual water company formed
28 pursuant to Part 7 (commencing with Section 14300) of Division
29 3 of Title 1 of the Corporations Code that operates a public water
30 system to a city or special district. Any annexation approved in
31 accordance with this subdivision shall be subject to the state and
32 federal constitutional prohibitions against the taking of private
33 property without the payment of just compensation. This
34 subdivision shall not impair the authority of a public agency or
35 public utility to exercise eminent domain authority.

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