

AMENDED IN ASSEMBLY APRIL 30, 2013

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

ASSEMBLY BILL

No. 1427

**Introduced by Committee on Local Government (Achadjian (Chair),
Levine (Vice Chair), Alejo, Bradford, Gordon, Melendez, Mullin,
and Waldron)**

April 1, 2013

An act to amend Sections 56044, 56048, 56332, 56757, 56866, 56870, 57026, 57077.1, and 57118 of the Government Code, relating to local government.

LEGISLATIVE COUNSEL'S DIGEST

AB 1427, as amended, Committee on Local Government. Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000.

Existing law, the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 (act), provides the sole and exclusive authority and procedure for the initiation, conduct, and completion of changes of organization and reorganization for cities and districts.

For purposes of the act, existing law defines an independent district or independent special district to include any special district having a legislative body all of whose members are elected by registered voters and landowners within the district, or whose members are appointed to fixed terms.

This bill would specify that the definition excludes any independent special district having a legislative body consisting, in whole or in part, of ex officio members who are officers of a county or another local agency or who are appointees of those officers other than those who are appointed to fixed terms.

The act specifies the procedures for selecting members for a local agency formation commission in each county. Existing law requires the independent special district selection committee to appoint 2 regular members and one alternate member to the commission. Existing law requires the appointed members to be elected or special district officers residing within the county.

This bill would require the appointed members to be elected or appointed members of the legislative body of an independent special district residing within the county.

The act prohibits a local agency formation commission from reviewing a reorganization that includes an annexation to any city in Santa Clara County of unincorporated territory that is within the urban service area of the city if the reorganization is initiated by resolution of the legislative body of the city and instead appoints the city council of that city as the conducting authority for the reorganization.

This bill would specify that these provisions apply to an annexation or a reorganization proposal.

The act requires petitions for a merger of a district which overlaps a city, or for the establishment of the district as a subsidiary district of the city, to be signed in a specified manner for a resident voter district. Existing law requires petitions for the dissolution of a district to be signed in a specified manner for a resident voter district.

This bill would instead prescribe the manner of signatures for a registered voter district.

The act requires the executive officer of the commission to give specified notice of the protest hearing to be held for a district formation. Existing law requires the notice to contain specified information including a statement of the time, date, and place of the protest hearing on the proposed change of organization or reorganization and requires the protest hearing to be held on a specific date if the uninhabited territory is proposed to be annexed to a city with specified residents and population.

This bill would delete the requirement that a protest hearing be held on a specific date for such an uninhabited territory and would otherwise make that uninhabited territory subject to the existing non-specific date requirement.

This bill would also make other technical and conforming changes and correct erroneous references.

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 56044 of the Government Code is
2 amended to read:

3 56044. “Independent district” or “independent special district”
4 includes any special district having a legislative body all of whose
5 members are elected by registered voters or landowners within the
6 district, or whose members are appointed to fixed terms, and
7 excludes any special district having a legislative body consisting,
8 in whole or in part, of ex officio members who are officers of a
9 county or another local agency or who are appointees of those
10 officers other than those who are appointed to fixed terms.
11 “Independent special district” does not include any district excluded
12 from the definition of district contained in Sections 56036 and
13 56036.6.

14 SEC. 2. Section 56048 of the Government Code is amended
15 to read:

16 56048. “Landowner” or “owner of land” means any of the
17 following:

18 (a) ~~Each~~ A person *or persons* shown as the owner of land on
19 the last equalized assessment roll prepared by the county at the
20 time the determination is required to be made pursuant to the
21 requirements of this division. Where that person ~~is~~ *or persons are*
22 no longer the owner, the landowner or owner of land is any person
23 *or persons* entitled to be shown as the owner of land on the next
24 equalized assessment roll.

25 (b) Where land is subject to a recorded written agreement of
26 sale, any person shown in the agreement as the purchaser.

27 (c) Any public agency owning land other than highways,
28 rights-of-way, easements, waterways, or canals.

29 SEC. 3. Section 56332 of the Government Code is amended
30 to read:

31 56332. (a) The independent special district selection committee
32 shall consist of the presiding officer of the legislative body of each
33 independent special district. However, if the presiding officer of
34 an independent special district is unable to attend a meeting of the
35 independent special district selection committee, the legislative
36 body of the district may appoint one of its members to attend the
37 meeting of the selection committee in the presiding officer’s place.
38 Those districts shall include districts located wholly within the

1 county and those containing territory within the county representing
 2 50 percent or more of the assessed value of taxable property of the
 3 district, as shown on the last equalized county assessment roll.
 4 Each member of the committee shall be entitled to one vote for
 5 each independent special district of which he or she is the presiding
 6 officer. Members representing a majority of the eligible districts
 7 shall constitute a quorum.

8 (b) The executive officer shall call and give written notice of
 9 all meetings of the members of the selection committee. A meeting
 10 shall be called and held under one of the following circumstances:

11 (1) Whenever the executive officer anticipates that a vacancy
 12 will occur within the next 90 days among the members or alternate
 13 member representing independent special districts on the
 14 committee.

15 (2) Whenever a vacancy exists among the members or alternate
 16 member representing independent special districts upon the
 17 commission.

18 (3) Upon receipt of a written request by one or more members
 19 of the selection committee representing districts having 10 percent
 20 or more of the assessed value of taxable property within the county,
 21 as shown on the last equalized county assessment roll.

22 (c) (1) If the executive officer determines that a meeting of the
 23 special district selection committee, for the purpose of selecting
 24 the special district representatives or for filling a vacancy, is not
 25 feasible, the executive officer may conduct the business of the
 26 committee in writing, as provided in this subdivision. The executive
 27 officer may call for nominations to be submitted in writing within
 28 30 days. At the end of the nominating period, the executive officer
 29 shall prepare and deliver, or send by certified mail, to each
 30 independent special district one ballot and voting instructions. If
 31 only one candidate is nominated for a vacant seat, that candidate
 32 shall be deemed selected, with no further proceedings.

33 (2) As an alternative to the delivery by certified mail, the
 34 executive officer, with the prior concurrence of the district, may
 35 transmit the ballot and voting instructions by electronic mail,
 36 provided that the executive officer shall retain written evidence of
 37 the receipt of that material.

38 (3) The ballot shall include the names of all nominees and the
 39 office for which each was nominated. The districts shall return the
 40 ballots to the executive officer by the date specified in the voting

1 instructions, which date shall be at least 30 days from the date on
2 which the executive officer mailed the ballots to the districts.

3 (4) If the executive officer has transmitted the ballot and voting
4 instructions by electronic mail, the districts may return the ballots
5 to the executive officer by electronic mail, provided that the
6 executive officer retains written evidence of the receipt of the
7 ballot.

8 (5) Any ballot received by the executive officer after the
9 specified date is invalid. The executive officer shall announce the
10 results of the election within seven days of the specified date.

11 (d) The selection committee shall appoint two regular members
12 and one alternate member to the commission. The members so
13 appointed shall be elected or appointed members of the legislative
14 body of an independent special district residing within the county
15 but shall not be members of the legislative body of a city or county.
16 If one of the regular district members is absent from a commission
17 meeting or disqualifies himself or herself from participating in a
18 meeting, the alternate district member may serve and vote in place
19 of the regular district member for that meeting. Service on the
20 commission by a regular district member shall not disqualify, or
21 be cause for disqualification of, the member from acting on
22 proposals affecting the special district on whose legislative body
23 the member serves. The special district selection committee may,
24 at the time it appoints a member or alternate, provide that the
25 member or alternate is disqualified from voting on proposals
26 affecting the district on whose legislative body the member serves.

27 (e) If the office of a regular district member becomes vacant,
28 the alternate member may serve and vote in place of the former
29 regular district member until the appointment and qualification of
30 a regular district member to fill the vacancy.

31 (f) For purposes of this section, “executive officer” means the
32 executive officer or designee as authorized by the commission.

33 SEC. 4. Section 56757 of the Government Code is amended
34 to read:

35 56757. (a) The commission shall not review an annexation or
36 a reorganization proposal that includes an annexation to any city
37 in Santa Clara County of unincorporated territory that is within
38 the urban service area of the city if the annexation or reorganization
39 proposal is initiated by resolution of the legislative body of the
40 city.

- 1 (b) The city council shall be the conducting authority for the
2 annexation or reorganization proposal and the proceedings for the
3 annexation or reorganization proposal shall be initiated and
4 conducted as nearly as may be practicable in accordance with Part
5 4 (commencing with Section 57000).
- 6 (c) The city council, in adopting the resolution approving the
7 annexation or reorganization proposal, shall make all of the
8 following findings:
- 9 (1) That the unincorporated territory is within the urban service
10 area of the city as adopted by the commission.
- 11 (2) That the county surveyor has determined the boundaries of
12 the proposal to be definite and certain, and in compliance with the
13 road annexation policies of the commission. The city shall
14 reimburse the county for the actual costs incurred by the county
15 surveyor in making this determination.
- 16 (3) That the proposal does not split lines of assessment or
17 ownership.
- 18 (4) That the proposal does not create islands or areas in which
19 it would be difficult to provide municipal services.
- 20 (5) That the proposal is consistent with the adopted general plan
21 of the city.
- 22 (6) That the territory is contiguous to existing city limits.
- 23 (7) That the city has complied with all conditions imposed by
24 the commission for inclusion of the territory in the urban service
25 area of the city.
- 26 (d) All annexations or reorganizations which involve territory
27 for which the land use designation in the general plan of the city
28 has changed from the time that the urban service area of the city
29 was last adopted by the commission, and which are processed by
30 a city pursuant to this section shall be subject to an appeal to the
31 commission upon submission of a petition of appeal, signed by at
32 least 50 registered voters in the county.
- 33 (e) An appeal to the commission may also be made by
34 submission of a resolution of appeal adopted by the legislative
35 body of a special district solely for the purpose of determining
36 whether some or all of the territory contained in the annexation or
37 reorganization proposal should also be annexed or detached from
38 that special district.
- 39 (f) Any petition submitted under subdivision (d) or resolution
40 submitted under subdivision (e) shall be submitted to the executive

1 officer within 15 days of the adoption by the city council of the
2 resolution approving the annexation. The executive officer shall
3 schedule the hearing for the next regular meeting of the commission
4 as is practicable. The commission may set a reasonable appeal fee.

5 SEC. 5. Section 56866 of the Government Code is amended
6 to read:

7 56866. Petitions for a merger of a district which overlaps a
8 city, or for the establishment of the district as a subsidiary district
9 of the city, shall be signed as follows:

10 (a) For a registered voter district, by either of the following:

- 11 (1) Five percent of the registered voters of the district.
- 12 (2) Five percent of the registered voters residing within the
13 territory of the city outside the boundaries of the district.

14 (b) For a landowner-voter district, by either of the following:

- 15 (1) Five percent of the number of landowner-voters within the
16 district who also own not less than 5 percent of assessed value of
17 land within the district.
- 18 (2) Five percent of the registered voters residing within the
19 territory of the city outside the boundaries of the district.

20 SEC. 6. Section 56870 of the Government Code is amended
21 to read:

22 56870. Except as otherwise provided in Section 56871, petitions
23 for the dissolution of a district shall be signed as follows:

24 (a) For registered voter districts, by either of the following:

- 25 (1) Not less than 10 percent of the registered voters within the
26 district.
- 27 (2) Not less than 10 percent of the number of landowners within
28 the district who also own not less than 10 percent of the assessed
29 value of land within the district.

30 (b) For landowner-voter districts, by not less than 10 percent
31 of the number of landowner-voters within the district who also
32 own not less than 10 percent of the assessed value of land within
33 the district.

34 SEC. 7. Section 57026 of the Government Code is amended
35 to read:

36 57026. The notice required to be given by Section 57025 shall
37 contain all of the following information:

38 (a) A statement of the distinctive short form designation assigned
39 by the commission to the proposal.

1 (b) A statement of the manner in which, and by whom,
 2 proceedings were initiated. However, a reference to the proponents,
 3 if any, shall be sufficient where proceedings were initiated by a
 4 petition.

5 (c) A description of the exterior boundaries of the subject
 6 territory.

7 (d) A description of the particular change or changes of
 8 organization proposed for each of the subject districts or cities and
 9 new districts or new cities proposed to be formed, and any terms
 10 and conditions to be applicable. The description may include a
 11 reference to the commission’s resolution making determinations
 12 for a full and complete description of the change of organization
 13 or reorganization, and the terms and conditions.

14 (e) A statement of the reason or reasons for the change of
 15 organization or reorganization as set forth in the proposal submitted
 16 to the commission.

17 (f) A statement of the time, date, and place of the protest hearing
 18 on the proposed change of organization or reorganization.

19 (g) If the subject territory is inhabited and the change of
 20 organization or reorganization provides for the submission of
 21 written protests, a statement that any owner of land within the
 22 territory, or any registered voter residing within the territory, may
 23 file a written protest against the proposal with the executive officer
 24 of the commission at any time prior to the conclusion of the hearing
 25 by the commission on the proposal.

26 (h) If the subject territory is uninhabited and the change of
 27 organization or reorganization provides for submission of written
 28 protests, a statement that any owner of land within the territory
 29 may file a written protest against the proposal with the executive
 30 officer of the commission at any time prior to the conclusion of
 31 the hearing by the commission on the proposal.

32 *SEC. 8. Section 57077.1 of the Government Code is amended*
 33 *to read:*

34 57077.1. (a) If a change of organization consists of a
 35 dissolution, the commission shall order the dissolution without
 36 confirmation of the voters, except if the proposal meets the
 37 requirements of subdivision (b), the commission shall order the
 38 ~~consolidation~~ *dissolution* subject to confirmation of the voters.

39 (b) The commission shall order the dissolution subject to the
 40 confirmation of the voters as follows:

1 (1) If the proposal was not initiated by the commission, and if
2 a subject agency has not objected by resolution to the proposal,
3 the commission has found that protests meet one of the following
4 protest thresholds:

5 (A) In the case of inhabited territory, protests have been signed
6 by either of the following:

7 (i) At least 25 percent of the number of landowners within the
8 affected territory who own at least 25 percent of the assessed value
9 of land within the territory.

10 (ii) At least 25 percent of the voters entitled to vote as a result
11 of residing within, or owning land within, the affected territory.

12 (B) In the case of a landowner-voter district, that the territory
13 is uninhabited and that protests have been signed by at least 25
14 percent of the number of landowners within the affected territory
15 owning at least 25 percent of the assessed value of land within the
16 territory.

17 (2) If the proposal was not initiated by the commission, and if
18 a subject agency has objected by resolution to the proposal, written
19 protests have been submitted as follows:

20 (A) In the case of inhabited territory, protests have been signed
21 by either of the following:

22 (i) At least 25 percent of the number of landowners within any
23 subject agency within the affected territory who own at least 25
24 percent of the assessed value of land within the territory.

25 (ii) At least 25 percent of the voters entitled to vote as a result
26 of residing within, or owning land within, any subject agency
27 within the affected territory.

28 (B) In the case of a landowner-voter district, that the territory
29 is uninhabited and protests have been signed by at least 25 percent
30 of the number of landowners within any subject agency within the
31 affected territory, owning at least 25 percent of the assessed value
32 of land within the subject agency.

33 (3) If the proposal was initiated by the commission, and
34 regardless of whether a subject agency has objected to the proposal
35 by resolution, written protests have been submitted that meet the
36 requirements of Section 57113.

37 (c) Notwithstanding subdivisions (a) and (b) and Section 57102,
38 if a change of organization consists of the dissolution of a district
39 that is consistent with a prior action of the commission pursuant

1 to Section 56378, 56425, or 56430, the commission may do either
2 of the following:

3 (1) If the dissolution is initiated by the district board,
4 immediately approve and order the dissolution without an election
5 or protest proceedings pursuant to this part.

6 (2) If the dissolution is initiated by an affected local agency, by
7 the commission pursuant to Section 56375, or by petition pursuant
8 to Section 56650, order the dissolution after holding at least one
9 noticed public hearing, and after conducting protest proceedings
10 in accordance with this part. Notwithstanding any other law, the
11 commission shall terminate proceedings if a majority protest exists
12 in accordance with Section 57078. If a majority protest is not
13 found, the commission shall order the dissolution without an
14 election.

15 ~~SEC. 8.~~

16 *SEC. 9.* Section 57118 of the Government Code is amended
17 to read:

18 57118. In any resolution ordering a change of organization or
19 reorganization subject to the confirmation of the voters, the
20 commission shall determine that an election will be held:

21 (a) Within the territory of each city or district ordered to be
22 incorporated, formed, disincorporated, dissolved or consolidated.

23 (b) Within the entire territory of each district ordered to be
24 merged with or established as a subsidiary district of a city, or both
25 within the district and within the entire territory of the city outside
26 the boundaries of the district.

27 (c) If the executive officer certifies a petition pursuant to Section
28 57108 or 57109, within the territory of the district ordered to be
29 merged with or established as a subsidiary district of a city.

30 (d) Within the territory ordered to be annexed or detached.

31 (e) If ordered by the commission pursuant to Section 56876 or
32 56759, both within the territory ordered to be annexed or detached
33 and within all or the part of the city or district which is outside of
34 the territory.

35 (f) If the election is required by Section subdivision (b) of
36 Section 57077.4, separately within the territory of each affected
37 district that has filed a petition meeting the requirements of
38 subdivision (b) of Section 57077.4.

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