

Assembly Bill No. 1427

CHAPTER 87

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

[Approved by Governor August 12, 2013. Filed with
Secretary of State August 12, 2013.]

LEGISLATIVE COUNSEL'S DIGEST

AB 1427, 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.

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

SECTION 1. Section 56044 of the Government Code is amended to read:

56044. “Independent district” or “independent special district” includes any special district having a legislative body all of whose members are elected by registered voters or landowners within the district, or whose members are appointed to fixed terms, and excludes any 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. “Independent special district” does not include any district excluded from the definition of district contained in Sections 56036 and 56036.6.

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

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

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

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

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

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

56332. (a) The independent special district selection committee shall consist of the presiding officer of the legislative body of each independent special district. However, if the presiding officer of an independent special district is unable to attend a meeting of the independent special district selection committee, the legislative body of the district may appoint one of its members to attend the meeting of the selection committee in the presiding officer's place. Those districts shall include districts located wholly within the county and those containing territory within the county representing 50 percent or more of the assessed value of taxable property of the district, as shown on the last equalized county assessment roll. Each member of the committee shall be entitled to one vote for each independent special district of which he or she is the presiding officer. Members representing a majority of the eligible districts shall constitute a quorum.

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

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

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

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

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

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

(3) The ballot shall include the names of all nominees and the office for which each was nominated. The districts shall return the ballots to the executive officer by the date specified in the voting instructions, which date shall be at least 30 days from the date on which the executive officer mailed the ballots to the districts.

(4) If the executive officer has transmitted the ballot and voting instructions by electronic mail, the districts may return the ballots to the

executive officer by electronic mail, provided that the executive officer retains written evidence of the receipt of the ballot.

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

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

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

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

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

56757. (a) The commission shall not review an annexation or a reorganization proposal 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 annexation or reorganization proposal is initiated by resolution of the legislative body of the city.

(b) The city council shall be the conducting authority for the annexation or reorganization proposal and the proceedings for the annexation or reorganization proposal shall be initiated and conducted as nearly as may be practicable in accordance with Part 4 (commencing with Section 57000).

(c) The city council, in adopting the resolution approving the annexation or reorganization proposal, shall make all of the following findings:

(1) That the unincorporated territory is within the urban service area of the city as adopted by the commission.

(2) That the county surveyor has determined the boundaries of the proposal to be definite and certain, and in compliance with the road annexation policies of the commission. The city shall reimburse the county for the actual costs incurred by the county surveyor in making this determination.

(3) That the proposal does not split lines of assessment or ownership.

(4) That the proposal does not create islands or areas in which it would be difficult to provide municipal services.

(5) That the proposal is consistent with the adopted general plan of the city.

(6) That the territory is contiguous to existing city limits.

(7) That the city has complied with all conditions imposed by the commission for inclusion of the territory in the urban service area of the city.

(d) All annexations or reorganizations which involve territory for which the land use designation in the general plan of the city has changed from the time that the urban service area of the city was last adopted by the commission, and which are processed by a city pursuant to this section shall be subject to an appeal to the commission upon submission of a petition of appeal, signed by at least 50 registered voters in the county.

(e) An appeal to the commission may also be made by submission of a resolution of appeal adopted by the legislative body of a special district solely for the purpose of determining whether some or all of the territory contained in the annexation or reorganization proposal should also be annexed or detached from that special district.

(f) Any petition submitted under subdivision (d) or resolution submitted under subdivision (e) shall be submitted to the executive officer within 15 days of the adoption by the city council of the resolution approving the annexation. The executive officer shall schedule the hearing for the next regular meeting of the commission as is practicable. The commission may set a reasonable appeal fee.

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

56866. 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, shall be signed as follows:

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

(1) Five percent of the registered voters of the district.

(2) Five percent of the registered voters residing within the territory of the city outside the boundaries of the district.

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

(1) Five percent of the number of landowner-voters within the district who also own not less than 5 percent of assessed value of land within the district.

(2) Five percent of the registered voters residing within the territory of the city outside the boundaries of the district.

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

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

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

(1) Not less than 10 percent of the registered voters within the district.

(2) Not less than 10 percent of the number of landowners within the district who also own not less than 10 percent of the assessed value of land within the district.

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

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

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

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

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

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

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

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

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

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

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

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

57077.1. (a) If a change of organization consists of a dissolution, the commission shall order the dissolution without confirmation of the voters, except if the proposal meets the requirements of subdivision (b), the commission shall order the dissolution subject to confirmation of the voters.

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

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

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

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

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

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

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

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

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

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

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

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

(c) Notwithstanding subdivisions (a) and (b) and Section 57102, if a change of organization consists of the dissolution of a district that is consistent with a prior action of the commission pursuant to Section 56378, 56425, or 56430, the commission may do either of the following:

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

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

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

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

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

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

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

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

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

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