

AMENDED IN SENATE JUNE 16, 2015

AMENDED IN ASSEMBLY MAY 18, 2015

AMENDED IN ASSEMBLY MAY 5, 2015

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

**ASSEMBLY BILL**

**No. 402**

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**Introduced by Assembly Member Dodd**

February 19, 2015

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An act to amend Section 56133 of, and to add and repeal Section 56133.5 of, the Government Code, relating to local agency formation.

LEGISLATIVE COUNSEL'S DIGEST

AB 402, as amended, Dodd. Local agency services: contracts.

The Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 governs the procedures for the formation and change of organization of cities and special districts. Existing law permits a city or district to provide extended services, as defined, outside its jurisdictional boundaries only if it first requests and receives written approval from the local agency formation commission in the affected county. Under existing law, the commission may authorize a city or district to provide new or extended services outside both its jurisdictional boundaries and its sphere of influence under specified circumstances, including when responding to an impending threat to the public health or safety of the residents in the affected territory where specified requirements are met.

This bill would revise the circumstances under which the commission may authorize a city or district to provide new or extended services. This bill would additionally establish a pilot program, until January 1, 2021, for the ~~Napa, Sonoma, Napa~~ and San Bernardino commissions

that would permit those commissions to authorize a city or district to provide new or extended services outside both its jurisdictional boundaries and its sphere of influence under specified circumstances.

This bill would make legislative findings and declarations as to the necessity of a special statute for the ~~Napa, Sonoma, Napa~~ and San Bernardino commissions.

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 boundary only if it first requests and receives written approval  
6 from the commission.

7 (b) The commission may authorize a city or district to provide  
8 new or extended services outside its jurisdictional boundary but  
9 within its sphere of influence in anticipation of a later change of  
10 organization.

11 (c) If consistent with adopted policy, the commission may  
12 authorize a city or district to provide new or extended services  
13 outside its jurisdictional boundary and outside its sphere of  
14 influence to respond to an existing or impending threat to the health  
15 or safety of the public or the residents of the affected territory, if  
16 both of the following requirements are met:

17 (1) The entity applying for approval has provided the  
18 commission with documentation of a threat to the health and safety  
19 of the public or the affected residents.

20 (2) The commission has notified any alternate service provider,  
21 including any water corporation as defined in Section 241 of the  
22 Public Utilities Code, that has filed a map and a statement of its  
23 service capabilities with the commission.

24 (d) The executive officer, within 30 days of receipt of a request  
25 for approval by a city or district to extend services outside its  
26 jurisdictional boundary, shall determine whether the request is  
27 complete and acceptable for filing or whether the request is  
28 incomplete. If a request is determined not to be complete, the  
29 executive officer shall immediately transmit that determination to

1 the requester, specifying those parts of the request that are  
2 incomplete and the manner in which they can be made complete.  
3 When the request is deemed complete, the executive officer shall  
4 place the request on the agenda of the next commission meeting  
5 for which adequate notice can be given but not more than 90 days  
6 from the date that the request is deemed complete, unless the  
7 commission has delegated approval of requests made pursuant to  
8 this section to the executive officer. The commission or executive  
9 officer shall approve, disapprove, or approve with conditions the  
10 extended services. If the new or extended services are disapproved  
11 or approved with conditions, the applicant may request  
12 reconsideration, citing the reasons for reconsideration.

13 (e) This section does not apply to two or more public agencies  
14 where the public service to be provided is an alternative to, or  
15 substitute for, public services already being provided by an existing  
16 public service provider and where the level of service to be  
17 provided is consistent with the level of service contemplated by  
18 the existing service provider.

19 (f) This section does not apply to the transfer of nonpotable or  
20 nontreated water.

21 (g) This section does not apply to the provision of surplus water  
22 to agricultural lands and facilities, including, but not limited to,  
23 incidental residential structures, for projects that serve conservation  
24 purposes or that directly support agricultural industries. However,  
25 prior to extending surplus water service to any project that will  
26 support or induce development, the city or district shall first request  
27 and receive written approval from the commission in the affected  
28 county.

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

31 (i) This section does not apply to a local publicly owned electric  
32 utility, as defined by Section 9604 of the Public Utilities Code,  
33 providing electric services that do not involve the acquisition,  
34 construction, or installation of electric distribution facilities by the  
35 local publicly owned electric utility, outside of the utility's  
36 jurisdictional boundary.

37 (j) This section applies only to the commission of the county in  
38 which the extension of service is proposed.

39 SEC. 2. Section 56133.5 is added to the Government Code, to  
40 read:

1 56133.5. (a) A pilot program is hereby established for the  
 2 ~~Napa, Sonoma, Napa~~ and San Bernardino commissions. If  
 3 consistent with adopted policy, ~~Napa, Sonoma, the Napa~~ and San  
 4 Bernardino commissions may authorize a city or district to provide  
 5 new or extended services outside its jurisdictional boundary and  
 6 outside its sphere of influence to support existing or planned uses  
 7 involving public or private properties, subject to approval at a  
 8 noticed public hearing in which the commission makes all of the  
 9 following determinations:

10 (1) The extension of service or services deficiency was identified  
 11 and evaluated in a review of municipal services prepared pursuant  
 12 to Section 56430.

13 (2) The extension of service will not result in adverse impacts  
 14 on open space or agricultural lands or have growth inducing  
 15 impacts.

16 (3) A later change of organization involving the subject territory  
 17 and its affected agency is not feasible under this division or  
 18 desirable based on the adopted policies of the commission.

19 (b) Subdivision (d) of Section 56133 shall apply to any request  
 20 for new or extended services pursuant to this section.

21 (c) For purposes of this section, “planned use” means any project  
 22 that is included in an approved specific plan.

23 (d) ~~The Napa, Sonoma, Napa~~ and San Bernardino commissions  
 24 shall submit a report to the Legislature on their participation in the  
 25 pilot program, including how many requests for extension of  
 26 services were received pursuant to this section and the action by  
 27 the commission to approve, disapprove, or approve with conditions.  
 28 The report required to be submitted pursuant to this subdivision  
 29 shall be submitted in compliance with Section 9795 of the  
 30 Government Code.

31 (e) This section shall remain in effect only until January 1, 2021,  
 32 and as of that date is repealed.

33 SEC. 3. The Legislature finds and declares that a special law  
 34 is necessary and that a general law cannot be made applicable  
 35 within the meaning of Section 16 of Article IV of the California  
 36 Constitution because of the unique circumstances in ~~Napa, Sonoma,~~  
 37 *Napa* and San Bernardino.

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