

AMENDED IN SENATE AUGUST 26, 2015

AMENDED IN SENATE JUNE 30, 2015

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

Introduced by Assembly Member Dodd

February 19, 2015

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 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 and San Bernardino commissions.

This bill would incorporate additional changes to Section 56133 of the Government Code proposed by SB 239 that would become operative if this bill and SB 239 are both enacted and this bill is enacted last.

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

1 Public Utilities Code, that has filed a map and a statement of its
2 service capabilities with the commission.

3 (d) The executive officer, within 30 days of receipt of a request
4 for approval by a city or district to extend services outside its
5 jurisdictional boundary, shall determine whether the request is
6 complete and acceptable for filing or whether the request is
7 incomplete. If a request is determined not to be complete, the
8 executive officer shall immediately transmit that determination to
9 the requester, specifying those parts of the request that are
10 incomplete and the manner in which they can be made complete.
11 When the request is deemed complete, the executive officer shall
12 place the request on the agenda of the next commission meeting
13 for which adequate notice can be given but not more than 90 days
14 from the date that the request is deemed complete, unless the
15 commission has delegated approval of requests made pursuant to
16 this section to the executive officer. The commission or executive
17 officer shall approve, disapprove, or approve with conditions the
18 extended services. If the new or extended services are disapproved
19 or approved with conditions, the applicant may request
20 reconsideration, citing the reasons for reconsideration.

21 (e) This section does not apply to two or more public agencies
22 where the public service to be provided is an alternative to, or
23 substitute for, public services already being provided by an existing
24 public service provider and where the level of service to be
25 provided is consistent with the level of service contemplated by
26 the existing service provider.

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

29 (g) This section does not apply to the provision of surplus water
30 to agricultural lands and facilities, including, but not limited to,
31 incidental residential structures, for projects that serve conservation
32 purposes or that directly support agricultural industries. However,
33 prior to extending surplus water service to any project that will
34 support or induce development, the city or district shall first request
35 and receive written approval from the commission in the affected
36 county.

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

39 (i) This section does not apply to a local publicly owned electric
40 utility, as defined by Section 9604 of the Public Utilities Code,

1 providing electric services that do not involve the acquisition,
2 construction, or installation of electric distribution facilities by the
3 local publicly owned electric utility, outside of the utility's
4 jurisdictional boundary.

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

7 *SEC. 1.5. Section 56133 of the Government Code is amended*
8 *to read:*

9 56133. (a) A city or district may provide new or extended
10 services by contract or agreement outside its jurisdictional
11 ~~boundaries~~ *boundary* only if it first requests and receives written
12 approval from the ~~commission in the affected county.~~ *commission.*

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

17 (c) ~~The~~ *If consistent with adopted policy, the* commission may
18 authorize a city or district to provide new or extended services
19 outside its jurisdictional ~~boundaries~~ *boundary* and outside its sphere
20 of influence to respond to an existing or impending threat to the
21 ~~public health or safety of the public or the residents of the affected~~
22 ~~territory~~ *territory*, if both of the following requirements are met:

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

26 (2) The commission has notified any alternate service provider,
27 including any water corporation as defined in Section 241 of the
28 Public Utilities Code, ~~or sewer system corporation as defined in~~
29 ~~Section 230.6 of the Public Utilities Code,~~ that has filed a map and
30 a statement of its service capabilities with the commission.

31 (d) The executive officer, within 30 days of receipt of a request
32 for approval by a city or district ~~of a contract~~ to extend services
33 outside its jurisdictional boundary, shall determine whether the
34 request is complete and acceptable for filing or whether the request
35 is incomplete. If a request is determined not to be complete, the
36 executive officer shall immediately transmit that determination to
37 the requester, specifying those parts of the request that are
38 incomplete and the manner in which they can be made complete.
39 When the request is deemed complete, the executive officer shall
40 place the request on the agenda of the next commission meeting

1 for which adequate notice can be given but not more than 90 days
2 from the date that the request is deemed complete, unless the
3 commission has delegated approval of ~~those requests to~~ *made*
4 *pursuant to this section* to the executive officer. The commission
5 or executive officer shall approve, disapprove, or approve with
6 conditions the ~~contract for~~ extended services. If the ~~contract is new~~
7 *or extended services are* disapproved or approved with conditions,
8 the applicant may request reconsideration, citing the reasons for
9 reconsideration.

10 (e) *This section does not apply to any of the following:*

11 (1) *Two or more public agencies where the public service to be*
12 *provided is an alternative to, or substitute for, public services*
13 *already being provided by an existing public service provider and*
14 *where the level of service to be provided is consistent with the level*
15 *of service contemplated by the existing service provider.*

16 (2) *The transfer of nonpotable or nontreated water.*

17 (e)

18 (3) ~~This section does not apply to contracts or agreements solely~~
19 ~~involving two or more public agencies where the public service~~
20 ~~to be provided is an alternative to, or substitute for, public services~~
21 ~~already being provided by an existing public service provider and~~
22 ~~where the level of service to be provided is consistent with the~~
23 ~~level of service contemplated by the existing service provider. This~~
24 ~~section does not apply to contracts for the transfer of nonpotable~~
25 ~~or nontreated water. This section does not apply to contracts or~~
26 ~~agreements solely involving the~~ *The provision of surplus water to*
27 *agricultural lands and facilities, including, but not limited to,*
28 *incidental residential structures, for projects that serve conservation*
29 *purposes or that directly support agricultural industries. However,*
30 *prior to extending surplus water service to any project that will*
31 *support or induce development, the city or district shall first request*
32 *and receive written approval from the commission in the affected*
33 *county. This section does not apply to an extended service that a*
34 *city or district was providing on or before January 1, 2001. This*
35 *section does not apply to a local publicly owned electric utility,*
36 *as defined by Section 9604 of the Public Utilities Code, providing*
37 *electric services that do not involve the acquisition, construction,*
38 *or installation of electric distribution facilities by the local publicly*
39 *owned electric utility, outside of the utility's jurisdictional*
40 *boundaries.*

1 (4) An extended service that a city or district was providing on
2 or before January 1, 2001.

3 (5) A local publicly owned electric utility, as defined by Section
4 9604 of the Public Utilities Code, providing electric services that
5 do not involve the acquisition, construction, or installation of
6 electric distribution facilities by the local publicly owned electric
7 utility, outside of the utility’s jurisdictional boundary.

8 (6) A fire protection contract, as defined in subdivision (a) of
9 Section 56134.

10 (f) This section applies only to the commission of the county in
11 which the extension of service is proposed.

12 SEC. 2. Section 56133.5 is added to the Government Code, to
13 read:

14 56133.5. (a) A pilot program is hereby established for the
15 Napa and San Bernardino commissions. If consistent with adopted
16 policy, the Napa and San Bernardino commissions may authorize
17 a city or district to provide new or extended services outside its
18 jurisdictional boundary and outside its sphere of influence to
19 support existing or planned uses involving public or private
20 properties, subject to approval at a noticed public hearing in which
21 the commission makes all of the following determinations:

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

25 (2) The extension of service will not result in either (1) adverse
26 impacts on open space or agricultural lands or (2) growth inducing
27 impacts.

28 (3) A sphere of influence change involving the subject territory
29 and its affected agency is not feasible under this division or
30 desirable based on the adopted policies of the commission.

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

33 (c) For purposes of this section, “planned use” means any project
34 that is included in an approved specific plan as of July 1, 2015.

35 (d) The Napa and San Bernardino commissions shall submit a
36 report before January 1, 2020, to the Legislature on their
37 participation in the pilot program, including how many requests
38 for extension of services were received pursuant to this section
39 and the action by the commission to approve, disapprove, or
40 approve with conditions. The report required to be submitted

1 pursuant to this subdivision shall be submitted in compliance with
2 Section 9795 of the Government Code.

3 *(e) The pilot program established pursuant to this section shall*
4 *be consistent with Chapter 8.5 (commencing with Section 1501)*
5 *of the Public Utilities Code.*

6 ~~(e)~~

7 *(f) This section shall remain in effect only until January 1, 2021,*
8 *and as of that date is repealed.*

9 SEC. 3. The Legislature finds and declares that a special law
10 is necessary and that a general law cannot be made applicable
11 within the meaning of Section 16 of Article IV of the California
12 Constitution because of the unique circumstances in Napa and San
13 Bernardino.

14 *SEC. 4. Section 1.5 of this bill incorporates amendments to*
15 *Section 56133 of the Government Code proposed by both this bill*
16 *and Senate Bill 239. It shall only become operative if (1) both bills*
17 *are enacted and become effective on or before January 1, 2016,*
18 *(2) each bill amends Section 56133 of the Government Code, and*
19 *(3) this bill is enacted after Senate Bill 239, in which case Section*
20 *1 of this bill shall not become operative.*