

Assembly Bill No. 2032

CHAPTER 163

An act to amend Sections 56804, 56816, 57405, and 57412 of the Government Code, relating to local government.

[Approved by Governor August 22, 2016. Filed with
Secretary of State August 22, 2016.]

LEGISLATIVE COUNSEL'S DIGEST

AB 2032, Linder. Change of organization: cities: disincorporation.

(1) Existing law, the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000, requires the executive officer of a local agency formation commission to prepare a comprehensive fiscal analysis for any proposal that includes a disincorporation, as specified. Existing law requires the comprehensive fiscal analysis to include, among other things, a review and documentation of specified costs associated with the proposed disincorporation.

This bill would additionally require the comprehensive fiscal analysis to include a review and documentation of all current and long-term liabilities of the city proposed for disincorporation and the potential financing mechanism or mechanisms to address any identified shortfalls and obligations, as specified.

(2) The act states the intent of the Legislature that a proposal that includes a disincorporation of a city result in a determination that the debt or contractual obligations and responsibilities of the city being disincorporated be the responsibility of the same territory for repayment. To ascertain this information, the act requires the city being disincorporated to provide a written statement that includes specified information relating to its debts and contractual obligations.

This bill would additionally require that statement to include the amount of any assessment due the city that is unpaid or uncollected.

(3) The act requires the county tax collector to collect a tax that has been levied by the disincorporated city that remains uncollected.

This bill would additionally require the county tax collector to collect an assessment that has been levied by the disincorporated city that remains uncollected. By imposing new duties on local officials, this bill would impose a state-mandated local program.

(4) The act requires the board of supervisors to provide for the collection of debts due to a city being disincorporated and to wind up its affairs, as specified.

This bill would instead require the governing board of the successor to provide for the collection of debts due to the city and to wind up its affairs, as specified.

(5) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

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

SECTION 1. Section 56804 of the Government Code is amended to read:

56804. For any proposal that includes a disincorporation, the executive officer shall prepare, or cause to be prepared by contract, a comprehensive fiscal analysis. This analysis shall become part of the report required pursuant to Section 56665. Data used for the analysis shall be from the most recent fiscal year for which data is available, preceding the issuances of the certificate of filing. When data requested by the executive officer in the notice to affected agencies, pursuant to paragraph (2) of subdivision (b) of Section 56658, is unavailable, the analysis shall document the source and methodology of the data used. The analysis shall review and document each of the following:

(a) The direct and indirect costs incurred by the city proposed for disincorporation for providing public services during the three fiscal years immediately preceding the submittal of the proposal for disincorporation.

(b) The direct and indirect costs incurred by the city proposed for disincorporation for current and proposed capital improvements, facilities, assets, and infrastructure.

(c) The sources of funding, if any, available to the entities proposed to assume the obligations of the city proposed for disincorporation.

(d) The anticipated costs, including all direct and indirect costs, to the entities proposed to assume the obligations of the city proposed for disincorporation in the provision of services to the area proposed for disincorporation.

(e) When determining costs, the executive officer shall also include all direct and indirect costs of any public services that are proposed to be transferred to state agencies for delivery.

(f) The revenues of the city proposed for disincorporation during the three fiscal years immediately preceding the initiation of the disincorporation proposal.

(g) All current and long-term liabilities, including, but not limited to, debt obligations, of the city proposed for disincorporation, including the balance of the restricted and unrestricted funds available to extinguish the obligations and liabilities.

(h) The potential financing mechanism or mechanisms to address any shortfalls and obligations for those responsibilities identified in this section, including, but not limited to, taxes or assessments.

(i) Any other information and analysis needed to make the findings required by Section 56770.

SEC. 2. Section 56816 of the Government Code is amended to read:

56816. (a) It is the intent of the Legislature that any proposal that includes the disincorporation of a city result in a determination that the debt or contractual obligations and responsibilities of the city being disincorporated shall be the responsibility of that same territory for repayment. To ascertain this information, the city shall provide a written statement that determines and certifies all of the following to the commission prior to the issuance of a certificate of filing for a disincorporation proposal, pursuant to Sections 56651 and 56658:

- (1) The indebtedness of the city.
- (2) The amount of money in the city’s treasury.
- (3) The amount of any tax levy, assessment, or other obligation due to the city that is unpaid or has not been collected.
- (4) The amount of current and future liabilities, both internal debt owed to other special or restricted funds or enterprise funds within the agency and external debt owed to other public agencies or outside lenders or that results from contractual obligations, which may include contracts for goods or services, retirement obligations, actuarially determined unfunded pension liability of all classes in a public retirement system, including any documentation related to the termination of public retirement contract provisions, and the liability for other postemployment benefits. The information required by this paragraph shall include any associated revenue stream for financing that may be or has been committed to that liability, including employee contributions.

(b) The city shall provide a written statement identifying the successor agency to the city’s former redevelopment agency, if any, pursuant to Section 34173 of the Health and Safety Code.

SEC. 3. Section 57405 of the Government Code is amended to read:

57405. If a tax or assessment has been levied by the disincorporated city and remains uncollected, the county tax collector shall collect it when due and pay it into the county treasury on behalf of the designated successor agency or county to wind up the affairs of the disincorporated city.

SEC. 4. Section 57412 of the Government Code is amended to read:

57412. The governing body of the successor shall provide for collection of debts due the city and wind up its affairs. Upon an order by the commission, the appropriate officer of the successor shall perform any act necessary for winding up the city affairs, with the same effect as if it had been performed by the proper city officer.

SEC. 5. If the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code.