

ASSEMBLY BILL

No. 2910

Introduced by Committee on Local Government (Assembly Members Eggman (Chair), Waldron (Vice Chair), Alejo, Bonilla, Chiu, Cooley, Gordon, and Linder)

March 15, 2016

An act to amend Sections 56134, 56150, 56301, 56331, 56700.4, 56816, 56881, and 57130 of the Government Code, relating to local government.

LEGISLATIVE COUNSEL'S DIGEST

AB 2910, as introduced, Committee on Local Government. Local government: organization: omnibus bill.

(1) The Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 provides the exclusive authority and procedure for the initiation, conduct, and completion of changes of organization and reorganization for cities and districts, except as specified. Under existing law, with certain exceptions, a public agency is authorized to exercise new or extended services outside the public agency's jurisdictional boundaries pursuant to a fire protection contract only if the public agency receives written approval from the local agency formation commission in the affected county. Existing law defines the term "jurisdictional boundaries" for these purposes. Existing law, for these purposes, references a public agency's current service area.

This bill would revise these provisions to remove references to a public agency's current service area and instead include references to the public agency's jurisdictional boundaries. The bill would additionally make other technical changes.

(2) Existing law requires notices required by the act to be published, posted, or mailed pursuant to its provisions.

This bill would permit the use of electronic mail, if available to the recipient, or hand delivery, if notice is required to be mailed.

(3) Existing law states that the purpose of a local agency formation commission is, among other things, to efficiently provide government services.

This bill would instead provide that one of the purposes of a commission is to ensure the efficient provision of government services.

(4) Existing law establishes the membership of local agency formation commissions in each county, and authorizes appointment of a public member and an alternate public member.

This bill would require the public member and alternate public member to be residents of the affected county.

(5) Existing law requires a proponent of a change of organization or reorganization, of cities and districts, to file a notice of intention with the local agency formation commission prior to circulating a petition, as specified.

This bill would exempt from this requirement a petition signed by landowners if all parcels within the affected territory are vested under the same ownership.

(6) Existing law requires a city that is subject to disincorporation to ascertain information relating to the city's debt or contractual obligations and responsibilities, and provide a written statement to the local agency formation commission that includes, among other things, the amount of any tax levy or other obligation due to the city that is unpaid or has not been collected.

This bill would make a technical change to this provision.

(7) Existing law requires a local agency formation commission to adopt a resolution making determinations approving or disapproving a proposal, and requires the resolution for a proposal initiated by the commission to make a determination that a change of organization or reorganization that is authorized by the commission promotes public access and accountability for community services needs and financial resources.

This bill would make a technical change to this provision.

(8) Existing law requires notice of each change of organization or reorganization election to be given by publication, posting, and mailing, as specified. This bill would correct an incorrect cross reference in this provision.

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 56134 of the Government Code is
2 amended to read:

3 56134. (a) (1) For the purposes of this section, “fire protection
4 contract” means a contract or agreement for the exercise of new
5 or extended fire protection services outside a public agency’s
6 jurisdictional boundaries, as authorized by Chapter 4 (commencing
7 with Section 55600) of Part 2 of Division 2 of Title 5 of this code
8 or by Article 4 (commencing with Section 4141) of Chapter 1 of
9 Part 2 of Division 4 of the Public Resources Code, except those
10 contracts entered into pursuant to Sections 4143 and 4144 of the
11 Public Resources Code, that does either of the following:

12 (A) Transfers responsibility for providing services in more than
13 25 percent of the area within the jurisdictional boundaries of any
14 public agency affected by the contract or agreement.

15 (B) Changes the employment status of more than 25 percent of
16 the employees of any public agency affected by the contract or
17 agreement.

18 (2) A contract or agreement for the exercise of new or extended
19 fire protection services outside a public agency’s jurisdictional
20 boundaries, as authorized by Chapter 4 (commencing with Section
21 55600) of Part 2 of Division 2 of Title 5 of this code or Article 4
22 (commencing with Section 4141) of Chapter 1 of Part 2 of Division
23 4 of the Public Resources Code, except those contracts entered
24 into pursuant to Sections 4143 and 4144 of the Public Resources
25 Code, that, in combination with other contracts or agreements,
26 would produce the results described in subparagraph (A) or (B)
27 of paragraph (1) shall be deemed a fire protection contract for the
28 purposes of this section.

29 (3) For the purposes of this section, “jurisdictional boundaries”
30 shall include the territory or lands protected pursuant to a fire
31 protection contract entered into on or before December 31, 2015.
32 An extension of a fire protection contract entered into on or before
33 December 31, 2015, that would produce the results described in
34 subparagraph (A) or (B) of paragraph (1) shall be deemed a fire
35 protection contract for the purposes of this section.

1 (b) Notwithstanding Section 56133, a public agency may provide
2 new or extended services pursuant to a fire protection contract
3 only if it first requests and receives written approval from the
4 commission in the affected county pursuant to the requirements
5 of this section.

6 (c) A request by a public agency for commission approval of
7 new or extended services provided pursuant to a fire protection
8 contract shall be made by the adoption of a resolution of application
9 as follows:

10 (1) In the case of a public agency that is not a state agency, the
11 application shall be initiated by the adoption of a resolution of
12 application by the legislative body of the public agency proposing
13 to provide new or extended services outside the public agency's
14 ~~current service area.~~ *jurisdictional boundaries.*

15 (2) In the case of a public agency that is a state agency, the
16 application shall be initiated by the director of the state agency
17 proposing to provide new or extended services outside the agency's
18 ~~current service area.~~ *jurisdictional boundaries* and be approved by
19 the Director of Finance.

20 (3) In the case of a public agency that is a local agency currently
21 under contract with a state agency for the provision of fire
22 protection services and proposing to provide new or extended
23 services by the expansion of the existing contract or agreement,
24 the application shall be initiated by the public agency that is a local
25 agency and be approved by the Director of Finance.

26 (d) The legislative body of a public agency or the director of a
27 state agency shall not submit a resolution of application pursuant
28 to this section unless both of the following occur:

- 29 (1) The public agency does either of the following:
 - 30 (A) Obtains and submits with the resolution a written agreement
 - 31 validated and executed by each affected public agency and
 - 32 recognized employee organization that represents firefighters of
 - 33 the existing and proposed service providers consenting to the
 - 34 proposed fire protection contract.
 - 35 (B) Provides, at least 30 days prior to the hearing held pursuant
 - 36 to paragraph (2), written notice to each affected public agency and
 - 37 recognized employee organization that represents firefighters of
 - 38 the existing and proposed service providers of the proposed fire
 - 39 protection contract and submits a copy of each written notice with

1 the resolution of application. The notice shall, at minimum, include
2 a full copy of the proposed contract.

3 (2) The public agency conducts an open and public hearing on
4 the resolution, conducted pursuant to the Ralph M. Brown Act
5 (Chapter 9 (commencing with Section 54950) of Part 1 of Division
6 2 of Title 5) or the Bagley-Keene Open Meeting Act (Article 9
7 (commencing with Section 11120) of Chapter 1 of Part 1 of
8 Division 3 of Title 2), as applicable.

9 (e) A resolution of application submitted pursuant to this section
10 shall be submitted with a plan which shall include all of the
11 following information:

12 (1) The total estimated cost to provide the new or extended fire
13 protection services in the affected territory.

14 (2) The estimated cost of the new or extended fire protection
15 services to customers in the affected territory.

16 (3) An identification of existing service providers, if any, of the
17 new or extended services proposed to be provided and the potential
18 fiscal impact to the customers of those existing providers.

19 (4) A plan for financing the exercise of the new or extended fire
20 protection services in the affected territory.

21 (5) Alternatives for the exercise of the new or extended fire
22 protection services in the affected territory.

23 (6) An enumeration and description of the new or extended fire
24 protection services proposed to be extended to the affected territory.

25 (7) The level and range of new or extended fire protection
26 services.

27 (8) An indication of when the new or extended fire protection
28 services can feasibly be extended to the affected territory.

29 (9) An indication of any improvements or upgrades to structures,
30 roads, sewer or water facilities, or other conditions the public
31 agency would impose or require within the affected territory if the
32 fire protection contract is completed.

33 (10) A determination, supported by documentation, that the
34 proposed fire protection contract meets the criteria established
35 pursuant to subparagraph (A) or (B) of paragraph (1) or paragraph
36 (2), as applicable, of subdivision (a).

37 (f) The applicant shall cause to be prepared by contract an
38 independent-comprehensive fiscal analysis to be submitted with
39 the application pursuant to this section. The analysis shall review
40 and document all of the following:

- 1 (1) A thorough review of the plan for services submitted by the
2 public agency pursuant to subdivision (e).
- 3 (2) How the costs of the existing service provider compare to
4 the costs of services provided in service areas with similar
5 populations and of similar geographic size that provide a similar
6 level and range of services and make a reasonable determination
7 of the costs expected to be borne by the public agency providing
8 new or extended fire protection services.
- 9 (3) Any other information and analysis needed to support the
10 findings required by subdivision (j).
- 11 (g) The clerk of the legislative body of a public agency or the
12 director of a state agency adopting a resolution of application
13 pursuant to this section shall file a certified copy of the resolution
14 with the executive officer.
- 15 (h) (1) The executive officer, within 30 days of receipt of a
16 public agency's request for approval of a fire protection contract,
17 shall determine whether the request is complete and acceptable
18 for filing or whether the request is incomplete. If a request does
19 not comply with the requirements of subdivision (d), the executive
20 officer shall determine that the request is incomplete. If a request
21 is determined incomplete, the executive officer shall immediately
22 transmit that determination to the requester, specifying those parts
23 of the request that are incomplete and the manner in which they
24 can be made complete. When the request is deemed complete, the
25 executive officer shall place the request on the agenda of the next
26 commission meeting for which adequate notice can be given but
27 not more than 90 days from the date that the request is deemed
28 complete.
- 29 (2) The commission shall approve, disapprove, or approve with
30 conditions the contract for new or extended services following the
31 hearing at the commission meeting, as provided in paragraph (1).
32 If the contract is disapproved or approved with conditions, the
33 applicant may request reconsideration, citing the reasons for
34 reconsideration.
- 35 (i) (1) The commission shall not approve an application for
36 approval of a fire protection contract unless the commission
37 determines that the public agency will have sufficient revenues to
38 carry out the exercise of the new or extended fire protection
39 services outside its ~~current area~~, *jurisdictional boundaries*, except
40 as specified in paragraph (2).

1 (2) The commission may approve an application for approval
2 of a fire protection contract where the commission has determined
3 that the public agency will not have sufficient revenue to provide
4 the proposed new or different functions or class of services, if the
5 commission conditions its approval on the concurrent approval of
6 sufficient revenue sources pursuant to Section 56886. In approving
7 a proposal, the commission shall provide that, if the revenue
8 sources pursuant to Section 56886 are not approved, the authority
9 of the public agency to provide new or extended fire protection
10 services shall not be exercised.

11 (j) The commission shall not approve an application for approval
12 of a fire protection contract unless the commission determines,
13 based on the entire record, all of the following:

14 (1) The proposed exercise of new or extended fire protection
15 services outside a public agency's ~~current service area~~
16 *jurisdictional boundaries* is consistent with the intent of this
17 division, including, but not limited to, the policies of Sections
18 56001 and 56300.

19 (2) The commission has reviewed the ~~comprehensive~~ fiscal
20 analysis prepared pursuant to subdivision (f).

21 (3) The commission has reviewed any testimony presented at
22 the public hearing.

23 (4) The proposed affected territory is expected to receive
24 revenues sufficient to provide public services and facilities and a
25 reasonable reserve during the three fiscal years following the
26 effective date of the contract or agreement between the public
27 agencies to provide the new or extended fire protection services.

28 (k) At least 21 days prior to the date of the hearing, the executive
29 officer shall give mailed notice of that hearing to each affected
30 local agency or affected county, and to any interested party who
31 has filed a written request for notice with the executive officer. In
32 addition, at least 21 days prior to the date of that hearing, the
33 executive officer shall cause notice of the hearing to be published
34 in accordance with Section 56153 in a newspaper of general
35 circulation that is circulated within the territory affected by the
36 proposal proposed to be adopted and shall post the notice of the
37 hearing on the commission's Internet Web site.

38 (l) The commission may continue from time to time any hearing
39 called pursuant to this section. The commission shall hear and
40 consider oral or written testimony presented by any affected local

1 agency, affected county, or any interested person who appears at
2 any hearing called and held pursuant to this section.

3 (m) This section shall not be construed to abrogate a public
4 agency’s obligations under the Meyers-Milias-Brown Act (Chapter
5 10 (commencing with Section 3500) of Division 4 of Title 1).

6 SEC. 2. Section 56150 of the Government Code is amended
7 to read:

8 56150. Unless the provision or context otherwise requires,
9 whenever this division requires notice to be published, posted, or
10 mailed, the notice shall be published, posted, or mailed as provided
11 in this chapter. *The requirement for mailed notice to be given*
12 *pursuant to this division may be satisfied by providing the notice*
13 *by electronic mail, if available to the recipient, or by hand delivery.*
14 Unless the provision or context otherwise requires, whenever this
15 division requires notice to be given that notice shall also be given
16 in electronic format on a website provided by the commission, to
17 the extent that the commission maintains a website.

18 SEC. 3. Section 56301 of the Government Code is amended
19 to read:

20 56301. Among the purposes of a commission are discouraging
21 urban sprawl, preserving open-space and prime agricultural lands,
22 ~~efficiently providing~~ *ensuring the efficient provision of* government
23 services, and encouraging the orderly formation and development
24 of local agencies based upon local conditions and circumstances.
25 One of the objects of the commission is to make studies and to
26 obtain and furnish information which will contribute to the logical
27 and reasonable development of local agencies in each county and
28 to shape the development of local agencies so as to advantageously
29 provide for the present and future needs of each county and its
30 communities. When the formation of a new government entity is
31 proposed, a commission shall make a determination as to whether
32 existing agencies can feasibly provide the needed service or
33 services in a more efficient and accountable manner. If a new
34 single-purpose agency is deemed necessary, the commission shall
35 consider reorganization with other single-purpose agencies that
36 provide related services.

37 SEC. 4. Section 56331 of the Government Code is amended
38 to read:

39 56331. When appointing a public member pursuant to Sections
40 56325, 56326, 56326.5, 56327, 56328, 56328.5, and 56329, the

1 commission may also appoint one alternate public member who
2 may serve and vote in place of a regular public member who is
3 absent or who disqualifies himself or herself from participating in
4 a meeting of the commission. *The public member and the alternate*
5 *public member shall be residents of the affected county.*

6 If the office of a regular public member becomes vacant, the
7 alternate member may serve and vote in place of the former regular
8 public member until the appointment and qualification of a regular
9 public member to fill the vacancy.

10 No person appointed as a public member or alternate public
11 member pursuant to this chapter shall be an officer or employee
12 of the county or any city or district with territory in the county,
13 provided, however, that any officer or employee serving on January
14 1, 1994, may complete the term for which he or she was appointed.

15 SEC. 5. Section 56700.4 of the Government Code is amended
16 to read:

17 56700.4. (a) Before circulating any petition for change of
18 organization, the proponent shall file with the executive officer a
19 notice of intention that shall include the name and mailing address
20 of the proponent and a written statement, not to exceed 500 words
21 in length, setting forth the reasons for the proposal. The notice
22 shall be signed by a representative of the proponent, and shall be
23 in substantially the following form:

24
25 Notice of Intent to Circulate Petition

26
27 Notice is hereby given of the intention to circulate a petition
28 proposing to ____.

29 The reasons for the proposal are:

30 (b) After the filing required pursuant to subdivision (a), the
31 petition may be circulated for signatures.

32 (c) Upon receiving the notice, the executive officer shall notify
33 affected local agencies.

34 (d) The notice requirements of this section shall apply in addition
35 to any other applicable notice requirements.

36 (e) *This section shall not apply to any petition signed by*
37 *landowners if all parcels within the affected territory are vested*
38 *under the same ownership.*

39 SEC. 6. Section 56816 of the Government Code is amended
40 to read:

1 56816. (a) It is the intent of the Legislature that any proposal
 2 that includes the disincorporation of a city result in a determination
 3 that the debt or contractual obligations and responsibilities of the
 4 city being disincorporated shall be the responsibility of that same
 5 territory for repayment. To ascertain this information, the city shall
 6 provide a written statement that determines and certifies all of the
 7 following to the commission prior to the issuance of a certificate
 8 of filing for a disincorporation proposal, pursuant to Sections 56651
 9 and 56658:

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

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

29 SEC. 7. Section 56881 of the Government Code is amended
 30 to read:

31 56881. The resolution making determinations shall also do all
 32 of the following:

- 33 (a) Make any of the findings or determinations authorized or
 34 required pursuant to Section 56375.
- 35 (b) For any proposal initiated by the commission pursuant to
 36 subdivision (a) of Section 56375, make both of the following
 37 determinations:
 - 38 (1) Public service costs of a proposal that the commission is
 39 authorizing are likely to be less than or substantially similar to the
 40 costs of alternative means of providing the service.

1 (2) A change—~~or~~ of organization or reorganization that is
2 authorized by the commission promotes public access and
3 accountability for community services needs and financial
4 resources.

5 (c) If applicable, assign a distinctive short-term designation to
6 the affected territory and a description of the territory.

7 (d) Initiate protest proceedings pursuant to Part 4 (commencing
8 with Section 57000) in compliance with the resolution.

9 SEC. 8. Section 57130 of the Government Code is amended
10 to read:

11 57130. The elections official shall cause notice of each change
12 of organization or reorganization election to be given by
13 publication, posting, and mailing as provided in Chapter—~~1~~ 2
14 (commencing with Section 57025) of Part 4.