

AMENDED IN ASSEMBLY APRIL 18, 2016

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

**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 amended, 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)~~

(2) 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~~ *encourage* the efficient provision of government services.

~~(4)~~

(3) 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)~~

(4) 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)~~

(5) 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)~~

(6) 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)

(7) Existing law requires notice of each change of organization or reorganization election to be given by publication, posting, and mailing, as specified. ~~This~~

*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)

1 of paragraph (1) shall be deemed a fire protection contract for the  
 2 purposes of this section.

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

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

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

19 (1) In the case of a public agency that is not a state agency, the  
 20 application shall be initiated by the adoption of a resolution of  
 21 application by the legislative body of the public agency proposing  
 22 to provide new or extended services outside the public agency’s  
 23 current jurisdictional boundaries.

24 (2) In the case of a public agency that is a state agency, the  
 25 application shall be initiated by the director of the state agency  
 26 proposing to provide new or extended services outside the agency’s  
 27 current jurisdictional boundaries and be approved by the Director  
 28 of Finance.

29 (3) In the case of a public agency that is a local agency currently  
 30 under contract with a state agency for the provision of fire  
 31 protection services and proposing to provide new or extended  
 32 services by the expansion of the existing contract or agreement,  
 33 the application shall be initiated by the public agency that is a local  
 34 agency and be approved by the Director of Finance.

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

38 (1) The public agency does either of the following:

39 (A) Obtains and submits with the resolution a written agreement  
 40 validated and executed by each affected public agency and

1 recognized employee organization that represents firefighters of  
2 the existing and proposed service providers consenting to the  
3 proposed fire protection contract.

4 (B) Provides, at least 30 days prior to the hearing held pursuant  
5 to paragraph (2), written notice to each affected public agency and  
6 recognized employee organization that represents firefighters of  
7 the existing and proposed service providers of the proposed fire  
8 protection contract and submits a copy of each written notice with  
9 the resolution of application. The notice shall, at minimum, include  
10 a full copy of the proposed contract.

11 (2) The public agency conducts an open and public hearing on  
12 the resolution, conducted pursuant to the Ralph M. Brown Act  
13 (Chapter 9 (commencing with Section 54950) of Part 1 of Division  
14 2 of Title 5) or the Bagley-Keene Open Meeting Act (Article 9  
15 (commencing with Section 11120) of Chapter 1 of Part 1 of  
16 Division 3 of Title 2), as applicable.

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

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

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

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

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

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

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

33 (7) The level and range of new or extended fire protection  
34 services.

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

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

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

5 (f) The applicant shall cause to be prepared by contract an  
6 independent fiscal analysis to be submitted with the application  
7 pursuant to this section. The analysis shall review and document  
8 all of the following:

9 (1) A thorough review of the plan for services submitted by the  
10 public agency pursuant to subdivision (e).

11 (2) How the costs of the existing service provider compare to  
12 the costs of services provided in service areas with similar  
13 populations and of similar geographic size that provide a similar  
14 level and range of services and make a reasonable determination  
15 of the costs expected to be borne by the public agency providing  
16 new or extended fire protection services.

17 (3) Any other information and analysis needed to support the  
18 findings required by subdivision (j).

19 (g) The clerk of the legislative body of a public agency or the  
20 director of a state agency adopting a resolution of application  
21 pursuant to this section shall file a certified copy of the resolution  
22 with the executive officer.

23 (h) (1) The executive officer, within 30 days of receipt of a  
24 public agency's request for approval of a fire protection contract,  
25 shall determine whether the request is complete and acceptable  
26 for filing or whether the request is incomplete. If a request does  
27 not comply with the requirements of subdivision (d), the executive  
28 officer shall determine that the request is incomplete. If a request  
29 is determined incomplete, the executive officer shall immediately  
30 transmit that determination to the requester, specifying those parts  
31 of the request that are incomplete and the manner in which they  
32 can be made complete. When the request is deemed complete, the  
33 executive officer shall place the request on the agenda of the next  
34 commission meeting for which adequate notice can be given but  
35 not more than 90 days from the date that the request is deemed  
36 complete.

37 (2) The commission shall approve, disapprove, or approve with  
38 conditions the contract for new or extended services following the  
39 hearing at the commission meeting, as provided in paragraph (1).  
40 If the contract is disapproved or approved with conditions, the

1 applicant may request reconsideration, citing the reasons for  
2 reconsideration.

3 (i) (1) The commission shall not approve an application for  
4 approval of a fire protection contract unless the commission  
5 determines that the public agency will have sufficient revenues to  
6 carry out the exercise of the new or extended fire protection  
7 services outside its jurisdictional boundaries, except as specified  
8 in paragraph (2).

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

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

22 (1) The proposed exercise of new or extended fire protection  
23 services outside a public agency's jurisdictional boundaries is  
24 consistent with the intent of this division, including, but not limited  
25 to, the policies of Sections 56001 and 56300.

26 (2) The commission has reviewed the fiscal analysis prepared  
27 pursuant to subdivision (f).

28 (3) The commission has reviewed any testimony presented at  
29 the public hearing.

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

35 (k) At least 21 days prior to the date of the hearing, the executive  
36 officer shall give mailed notice of that hearing to each affected  
37 local agency or affected county, and to any interested party who  
38 has filed a written request for notice with the executive officer. In  
39 addition, at least 21 days prior to the date of that hearing, the  
40 executive officer shall cause notice of the hearing to be published

1 in accordance with Section 56153 in a newspaper of general  
2 circulation that is circulated within the territory affected by the  
3 proposal proposed to be adopted and shall post the notice of the  
4 hearing on the commission’s Internet Web site.

5 (l) The commission may continue from time to time any hearing  
6 called pursuant to this section. The commission shall hear and  
7 consider oral or written testimony presented by any affected local  
8 agency, affected county, or any interested person who appears at  
9 any hearing called and held pursuant to this section.

10 (m) This section shall not be construed to abrogate a public  
11 agency’s obligations under the Meyers-Milias-Brown Act (Chapter  
12 10 (commencing with Section 3500) of Division 4 of Title 1).

13 ~~SEC. 2. Section 56150 of the Government Code is amended~~  
14 ~~to read:~~

15 ~~56150. Unless the provision or context otherwise requires,~~  
16 ~~whenever this division requires notice to be published, posted, or~~  
17 ~~mailed, the notice shall be published, posted, or mailed as provided~~  
18 ~~in this chapter. The requirement for mailed notice to be given~~  
19 ~~pursuant to this division may be satisfied by providing the notice~~  
20 ~~by electronic mail, if available to the recipient, or by hand delivery.~~  
21 ~~Unless the provision or context otherwise requires, whenever this~~  
22 ~~division requires notice to be given that notice shall also be given~~  
23 ~~in electronic format on a website provided by the commission, to~~  
24 ~~the extent that the commission maintains a website.~~

25 ~~SEC. 3.~~

26 ~~SEC. 2. Section 56301 of the Government Code is amended~~  
27 ~~to read:~~

28 56301. Among the purposes of a commission are discouraging  
29 urban sprawl, preserving open-space and prime agricultural lands,  
30 ~~ensuring~~ *encouraging* the efficient provision of government  
31 services, and encouraging the orderly formation and development  
32 of local agencies based upon local conditions and circumstances.  
33 One of the objects of the commission is to make studies and to  
34 obtain and furnish information which will contribute to the logical  
35 and reasonable development of local agencies in each county and  
36 to shape the development of local agencies so as to advantageously  
37 provide for the present and future needs of each county and its  
38 communities. When the formation of a new government entity is  
39 proposed, a commission shall make a determination as to whether  
40 existing agencies can feasibly provide the needed service or



1 services in a more efficient and accountable manner. If a new  
2 single-purpose agency is deemed necessary, the commission shall  
3 consider reorganization with other single-purpose agencies that  
4 provide related services.

5 ~~SEC. 4.~~

6 SEC. 3. Section 56331 of the Government Code is amended  
7 to read:

8 56331. When appointing a public member pursuant to Sections  
9 56325, 56326, 56326.5, 56327, 56328, 56328.5, and 56329, the  
10 commission may also appoint one alternate public member who  
11 may serve and vote in place of a regular public member who is  
12 absent or who disqualifies himself or herself from participating in  
13 a meeting of the commission. The public member and the alternate  
14 public member shall be residents of the affected county.

15 If the office of a regular public member becomes vacant, the  
16 alternate member may serve and vote in place of the former regular  
17 public member until the appointment and qualification of a regular  
18 public member to fill the vacancy.

19 No person appointed as a public member or alternate public  
20 member pursuant to this chapter shall be an officer or employee  
21 of the county or any city or district with territory in the county,  
22 provided, however, that any officer or employee serving on January  
23 1, 1994, may complete the term for which he or she was appointed.

24 ~~SEC. 5.~~

25 SEC. 4. Section 56700.4 of the Government Code is amended  
26 to read:

27 56700.4. (a) Before circulating any petition for change of  
28 organization, the proponent shall file with the executive officer a  
29 notice of intention that shall include the name and mailing address  
30 of the proponent and a written statement, not to exceed 500 words  
31 in length, setting forth the reasons for the proposal. The notice  
32 shall be signed by a representative of the proponent, and shall be  
33 in substantially the following form:

34

35 Notice of Intent to Circulate Petition

36

37 Notice is hereby given of the intention to circulate a petition  
38 proposing to \_\_\_\_.

39

The reasons for the proposal are:

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

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

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

7 (e) This section shall not apply to any petition signed by  
8 landowners if all parcels within the affected territory are vested  
9 under the same ownership.

10 ~~SEC. 6.~~

11 *SEC. 5.* Section 56816 of the Government Code is amended  
12 to read:

13 56816. (a) It is the intent of the Legislature that any proposal  
14 that includes the disincorporation of a city result in a determination  
15 that the debt or contractual obligations and responsibilities of the  
16 city being disincorporated shall be the responsibility of that same  
17 territory for repayment. To ascertain this information, the city shall  
18 provide a written statement that determines and certifies all of the  
19 following to the commission prior to the issuance of a certificate  
20 of filing for a disincorporation proposal, pursuant to Sections 56651  
21 and 56658:

- 22 (1) The indebtedness of the city.
- 23 (2) The amount of money in the city’s treasury.
- 24 (3) The amount of any tax levy or other obligation due to the  
25 city that is unpaid or has not been collected.
- 26 (4) The amount of current and future liabilities, both internal  
27 debt owed to other special or restricted funds or enterprise funds  
28 within the agency and external debt owed to other public agencies  
29 or outside lenders or that results from contractual obligations,  
30 which may include contracts for goods or services, retirement  
31 obligations, actuarially determined unfunded pension liability of  
32 all classes in a public retirement system, including any  
33 documentation related to the termination of public retirement  
34 contract provisions, and the liability for other postemployment  
35 benefits. The information required by this paragraph shall include  
36 any associated revenue stream for financing that may be or has  
37 been committed to that liability, including employee contributions.
- 38 (b) The city shall provide a written statement identifying the  
39 successor agency to the city’s former redevelopment agency, if  
40 any, pursuant to Section 34173 of the Health and Safety Code.

1 ~~SEC. 7.~~

2 *SEC. 6.* Section 56881 of the Government Code is amended  
3 to read:

4 56881. The resolution making determinations shall also do all  
5 of the following:

6 (a) Make any of the findings or determinations authorized or  
7 required pursuant to Section 56375.

8 (b) For any proposal initiated by the commission pursuant to  
9 subdivision (a) of Section 56375, make both of the following  
10 determinations:

11 (1) Public service costs of a proposal that the commission is  
12 authorizing are likely to be less than or substantially similar to the  
13 costs of alternative means of providing the service.

14 (2) A change of organization or reorganization that is authorized  
15 by the commission promotes public access and accountability for  
16 community services needs and financial resources.

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

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

21 ~~SEC. 8.~~

22 *SEC. 7.* Section 57130 of the Government Code is amended  
23 to read:

24 57130. The elections official shall cause notice of each change  
25 of organization or reorganization election to be given by  
26 publication, posting, and mailing as provided in Chapter 2  
27 (commencing with Section 57025) of Part 4.

O