

AMENDED IN SENATE MARCH 28, 2016

SENATE BILL

No. 1236

Introduced by Senator Hernandez

February 18, 2016

An act to ~~amend Section 34450 of~~ *add and repeal Sections 34096 and 36516.7 of the Government Code, and to add and repeal Section 1100.8 of the Public Contract Code*, relating to local government.

LEGISLATIVE COUNSEL'S DIGEST

SB 1236, as amended, Hernandez. Local government.

~~Existing law~~ *The California Constitution* authorizes any city or city and county to enact, amend, or repeal a charter for its own government, as specified. *A charter adopted pursuant to these provisions supersedes general laws of the state in regard to a municipal affair, and a city charter may specify various matters including, but not limited to, compensation of city employees.*

This bill would, until January 1, 2028, require a city that is incorporated to promote commerce and industry, is located wholly within the County of Los Angeles, and had no residentially zoned land within its boundaries as of January 1, 1992, to conduct audits pursuant to a specified procedure and provide annual disclosures of property owned by the city, as specified. By increasing the duties of local officials, this bill would impose a state-mandated local program. The bill would, until January 1, 2028, additionally prohibit a city meeting this description from permitting more than 5% of any cityowned housing to be occupied by a city employee or officer, or person who contracts with the city, or their family. The bill would provide that until January 1, 2028, the compensation for service on the city council of a city meeting this description may not exceed \$1,000 per month.

Existing law states that the Public Contract Code is the basis of all contracts between most public entities and their contractors and subcontractors. Existing law further states that, with regard to charter cities, the code applies unless there is an express exemption or a charter city ordinance or regulation that is in direct conflict with the code.

This bill would provide that until January 1, 2028, the Public Contract Code applies to a city that is incorporated to promote commerce and industry, is located wholly within the County of Los Angeles, and had no residentially zoned land within its boundaries as of January 1, 1992, as specified.

This bill would declare that its provisions are a matter of statewide concern, and not a municipal affair.

This bill would make legislative findings and declarations as to the necessity of a special statute for a city that is incorporated to promote commerce and industry, is located wholly within the County of Los Angeles, and had no residentially zoned land within its boundaries as of January 1, 1992.

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.

~~This bill would make a nonsubstantive change to this provision.~~

Vote: majority. Appropriation: no. Fiscal committee: ~~no~~-yes.
State-mandated local program: ~~no~~-yes.

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

- 1 *SECTION 1. The Legislature finds and declares all of the*
- 2 *following:*
- 3 *(a) The issue of corruption in small charter cities across the*
- 4 *state is an increasing and alarming trend, with no signs of slowing*
- 5 *or stopping.*
- 6 *(b) Small charter cities such as the City of Vernon, the City of*
- 7 *Bell, and the City of Industry have long histories of abuses of*
- 8 *power within city limits, going back decades. Those abuses include*
- 9 *inflated salaries for city officials, failing to establish minimum*

1 *qualifications for key positions, fiscally risky bond issuances,*
2 *misappropriation of public funds, city officials issuing loans to*
3 *themselves, failure to plan basic municipal responsibilities such*
4 *as energy purchases according to best practices, incorrectly*
5 *classifying employees to obtain higher, unearned retirement*
6 *benefits, forcing employees to work at will for the city council,*
7 *buying residential properties and renting them at below-market*
8 *rents to city workers, inadequate and self-serving contracting*
9 *policies, routine violations of conflict-of-interest policies, and little*
10 *or no restrictions on city-issued credit cards.*

11 *(c) The voter base in small charter cities is tightly managed by*
12 *city officials. The housing units within these cities are controlled*
13 *by city leaders and rented out to handpicked tenants at*
14 *below-market cost, thus keeping the voter base indebted to those*
15 *in power. Efforts to broaden the homeownership population have met*
16 *with resistance from city leaders, with officials in one city cutting*
17 *power to new residents in an effort to force them from their homes.*

18 *(d) Criminal charges have also been filed in some instances,*
19 *furthering the notion that these cities should not govern themselves.*
20 *Voter fraud, conspiracy, and misappropriation of public funds are*
21 *some of the charges that have been investigated, and are still being*
22 *investigated, in some cases.*

23 *(e) This corruption has taken a toll on voter trust, citizen*
24 *confidence, and taxpayer funds.*

25 *(f) In January 2016, an audit was released by the Controller*
26 *highlighting the lack of administrative and internal accounting*
27 *controls. Out of the 79 control elements evaluated by the*
28 *Controller, 85 percent was found to be inadequate. Of the ethical*
29 *components evaluated, none were found to be adequate.*

30 *(g) Historically, cities with small population size were not*
31 *authorized to adopt a charter for local governance. However, in*
32 *1970, the Constitution was amended to authorize any city to adopt*
33 *a charter. Since then, California's citizens have seen one after*
34 *another small charter city become mired in corruption and the*
35 *leaders of these cities enrich themselves at the expense of the*
36 *California taxpayer. Ensuring that our citizens, no matter where*
37 *they live, have an open, honest, and transparent government is a*
38 *matter of statewide concern, and not a municipal affair, and as a*
39 *result the Legislature has the authority and the responsibility to*
40 *impose heightened governing requirements. Therefore, the*

1 *Legislature finds and declares that the provisions of this act are*
2 *not a municipal affair, as that term is used in Section 5 of Article*
3 *XI of the California Constitution, but are instead a matter of*
4 *statewide concern.*

5 *SEC. 2. Section 34096 is added to the Government Code, to*
6 *read:*

7 *34096. Notwithstanding any other law, all of the following*
8 *shall apply to a city that is incorporated to promote commerce*
9 *and industry, is located wholly within the County of Los Angeles,*
10 *and had no residentially zoned land within its boundaries as of*
11 *January 1, 1992:*

12 *(a) No more than 5 percent of the city's total city-owned housing*
13 *may be occupied by any of the following persons:*

14 *(1) Employees or officers of the city, including the family of*
15 *employees or officers of the city.*

16 *(2) Persons that contract with the city, including employees of*
17 *persons or companies that contract with the city, and including*
18 *the family of persons who contract with the city and the family of*
19 *employees of persons or companies that contract with the city.*

20 *(b) The city shall make an annual disclosure of all property*
21 *owned by the city, wherever that property is situated.*

22 *(c) The city shall conduct an annual audit that utilizes internal*
23 *control components and elements based on the guidelines*
24 *established by the Government Accountability Office's Internal*
25 *Control Management and Evaluation Tool. The city shall*
26 *substantially comply with those guidelines.*

27 *(d) This section shall remain in effect only until January 1, 2028,*
28 *and as of that date is repealed.*

29 *SEC. 3. Section 36516.7 is added to the Government Code, to*
30 *read:*

31 *36516.7. (a) Notwithstanding any other law, the compensation*
32 *for service on the city council of a city that is incorporated to*
33 *promote commerce and industry, is located wholly within the*
34 *County of Los Angeles, and had no residentially zoned land within*
35 *its boundaries as of January 1, 1992, shall not exceed \$1,000 per*
36 *month.*

37 *(b) This section shall remain in effect only until January 1, 2028,*
38 *and as of that date is repealed.*

39 *SEC. 4. Section 1100.8 is added to the Public Contract Code,*
40 *to read:*

1 1100.8. (a) Notwithstanding Section 1100.7, this code shall
2 apply to contracts entered into by a city that is incorporated to
3 promote commerce and industry, is located wholly within the
4 County of Los Angeles, and had no residentially zoned land within
5 its boundaries as of January 1, 1992, including, but not limited
6 to, contracts for the provision of waste collection and management
7 services.

8 (b) This section shall remain in effect only until January 1, 2028,
9 and as of that date is repealed.

10 SEC. 5. The Legislature finds and declares that a special law
11 is necessary and that a general law cannot be made applicable
12 within the meaning of Section 16 of Article IV of the California
13 Constitution because of the concerns related to the governance of
14 a city that is incorporated to promote commerce and industry, is
15 located wholly within the County of Los Angeles, and had no
16 residentially zoned land within its boundaries as of January 1,
17 1992.

18 SEC. 6. If the Commission on State Mandates determines that
19 this act contains costs mandated by the state, reimbursement to
20 local agencies and school districts for those costs shall be made
21 pursuant to Part 7 (commencing with Section 17500) of Division
22 4 of Title 2 of the Government Code.

23 ~~SECTION 1. Section 34450 of the Government Code is~~
24 ~~amended to read:~~

25 ~~34450. Any city or city and county may enact, amend, or repeal~~
26 ~~a charter for its own government pursuant to this article or Article~~
27 ~~3 (commencing with Section 9255) of Chapter 3 of Division 9 of~~
28 ~~the Elections Code.~~