

AMENDED IN SENATE AUGUST 23, 2000

AMENDED IN SENATE AUGUST 8, 2000

AMENDED IN ASSEMBLY MAY 16, 2000

AMENDED IN ASSEMBLY MAY 2, 2000

CALIFORNIA LEGISLATURE—1999–2000 REGULAR SESSION

ASSEMBLY BILL

No. 2779

Introduced by Assembly Member Cox

February 25, 2000

An act to amend Section 56845 of, and to add ~~Section~~ *Sections 56815, 56815.1, and 56845.1* to, the Government Code, relating to local agencies.

LEGISLATIVE COUNSEL'S DIGEST

AB 2779, as amended, Cox. Local agencies.

Under the Cortese-Knox Local Government Reorganization Act of 1985, a local agency formation commission may not approve a proposal that includes an incorporation unless it finds that revenues currently received by the transferor will accrue to the transferee and that expenditures currently made by the transferor that will be assumed by the transferee are substantially equal. However, the proposal may be approved if the commission finds that the county and all of the subject agencies agree to the proposed transfer or the negative fiscal effect of the proposal is mitigated pursuant to an agreement.

This bill would establish a procedure to resolve any issue or dispute raised by any party involved in a proposal that includes an incorporation regarding the accuracy of any fiscal data on which any mitigation condition is based. The bill would specify that for any incorporation approved by the voters on and after January 1, 2001, voter approval of terms and conditions, including, but not limited to, fiscal mitigation measures, which were found by the commission to constitute an agreement between incorporation proponents and the affected agency, shall constitute a binding contractual obligation of the new city and the parties to the agreement.

This bill would incorporate additional changes in Section 56845 of the Government Code proposed by AB 2838, that would become operative only if AB 2838 and this bill are both enacted and become effective on or before January 1, 2001, 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 56815 is added to the*
 2 *Government Code, to read:*
 3 *56815. (a) It is the intent of the Legislature that any*
 4 *proposal that includes an incorporation should result in a*
 5 *similar exchange of both revenue and responsibility for*
 6 *service delivery among the county, the proposed city, and*
 7 *other subject agencies. It is the further intent of the*
 8 *Legislature that an incorporation should not occur*
 9 *primarily for financial reasons.*
 10 *(b) The commission shall not approve a proposal that*
 11 *includes an incorporation unless it finds that the following*
 12 *two quantities are substantially equal:*
 13 *(1) Revenues currently received by the local agency*
 14 *transferring the affected territory that, but for the*
 15 *operation of this section, would accrue to the local agency*
 16 *receiving the affected territory.*
 17 *(2) Expenditures, including direct and indirect*
 18 *expenditures, currently made by the local agency*
 19 *transferring the affected territory for those services that*



1 will be assumed by the local agency receiving the affected
2 territory.

3 (c) Notwithstanding subdivision (b), the commission
4 may approve a proposal that includes an incorporation if
5 it finds either of the following:

6 (1) The county and all of the subject agencies agree to
7 the proposed transfer.

8 (2) The negative fiscal effect has been adequately
9 mitigated by tax sharing agreements, lump-sum
10 payments, payments over a fixed period of time, or any
11 other terms and conditions pursuant to Section 56844.

12 (d) Nothing in this section is intended to change the
13 distribution of growth on the revenues within the
14 affected territory unless otherwise provided in the
15 agreement or agreements specified in paragraph (2) of
16 subdivision (c).

17 (e) Any terms and conditions that mitigate the
18 negative fiscal effect of a proposal that contains an
19 incorporation shall be included in the commission
20 resolution making determinations adopted pursuant to
21 Section 56851 and the terms and conditions specified in
22 the questions pursuant to Section 57134.

23 (f) For any incorporation approved by the voters on or
24 after January 1, 2001, voter approval of terms and
25 conditions, including, but not limited to, fiscal mitigation
26 measures, which terms and conditions were found by the
27 commission to constitute an agreement by the
28 proponents of incorporation and the affected agency,
29 shall constitute a binding contractual obligation of the
30 affected new city and each party to the agreement to
31 comply with those terms and conditions.

32 SEC. 1.5. Section 56815.1 is added to the Government
33 Code, to read:

34 56815.1. If an issue or dispute is raised by any party
35 involved in a proposal that includes an incorporation
36 regarding the accuracy of any fiscal data, including
37 indirect and direct costs and proposed revenue, on which
38 any mitigation condition established pursuant to Sections
39 56810 and 56815 is based, then that issue or dispute shall
40 be resolved pursuant to this section. This section shall not



1 apply to any other dispute regarding any mitigation
2 condition established pursuant to Sections 56842 and
3 56845 and shall not serve to modify the procedures or
4 limitations applicable to any such other disputes.

5 (a) Not later than 14 months after the first July 1
6 following the effective date of an incorporation, or at an
7 earlier time established by mutual agreement of the
8 parties, the representatives of the parties shall meet to
9 review the accuracy of any disputed fiscal data, including
10 direct and indirect costs and proposed revenue on which
11 any mitigation condition that was included on the ballot
12 as part of the incorporation proposal was based. The
13 review of the disputed fiscal data shall last no longer than
14 60 days. If the parties are unable to reach agreement on
15 any disputed items within the 60-day period, the parties
16 shall mutually select a mediator, funded in equal portions
17 by those agencies, to mediate solutions between the
18 parties for an additional 60 days. If the parties are unable
19 to agree to a solution within that 60-day period, then each
20 party shall prepare a last, best, and final offer and submit
21 it to the mediator for an advisory opinion on the matter.

22 Proceedings under this subdivision shall be concluded
23 no more than 150 days after the initiation of discussions
24 between the affected agencies, unless one or more of the
25 periods specified in this subdivision is extended or waived
26 by the mutual agreement of the affected agencies. Any
27 agreement reached by the parties pursuant to this section
28 shall supersede any provision or condition included in the
29 incorporation proposal and shall take effect upon the date
30 agreed to by the parties. If the parties are unable to reach
31 agreement pursuant to the provision of this subdivision,
32 the parties shall have the option to exercise their
33 authority pursuant to subdivision (b).

34 (b) If the parties are unable to agree to a solution
35 pursuant to subdivision (a), either of the parties may file
36 an action to contest the accuracy of any fiscal data,
37 including costs, indirect costs, and proposed revenue on
38 which any mitigation condition that was included on the
39 ballot as part of the incorporation proposal was based. If
40 the court determines that any such data was inaccurate,



1 *it shall revise the mitigation condition to reflect what it*
2 *determines to be the correct fiscal data. The court shall*
3 *have no authority pursuant to this section to invalidate*
4 *the mitigation condition or modify it in any other respect.*
5 *Any action brought pursuant to this subdivision shall be*
6 *commenced within 90 days following the conclusion of*
7 *discussions between the parties pursuant to subdivision*
8 *(a).*

9 *(c) Any ballot measure approved by the voters after*
10 *January 1, 2001, that proposes an incorporation shall*
11 *require any future dispute regarding any cost, including*
12 *indirect costs, and revenues, which serve as the basis for*
13 *a transfer of costs and revenues pursuant to Sections 56810*
14 *and 56815, to be resolved pursuant to this section.*

15 SEC. 2. Section 56845 of the Government Code is
16 amended to read:

17 56845. (a) It is the intent of the Legislature that any
18 proposal that includes an incorporation should result in a
19 similar exchange of both revenue and responsibility for
20 service delivery among the county, the proposed city, and
21 other subject agencies. It is the further intent of the
22 Legislature that an incorporation should not occur
23 primarily for financial reasons.

24 (b) The commission shall not approve a proposal that
25 includes an incorporation unless it finds that the following
26 two quantities are substantially equal:

27 (1) Revenues currently received by the local agency
28 transferring the affected territory that, but for the
29 operation of this section, would accrue to the local agency
30 receiving the affected territory.

31 (2) Expenditures, *including direct and indirect*
32 *expenditures*, currently made by the local agency
33 transferring the affected territory for those services that
34 will be assumed by the local agency receiving the affected
35 territory.

36 (c) Notwithstanding subdivision (b), the commission
37 may approve a proposal that includes an incorporation if
38 it finds either of the following:

39 (1) The county and all of the subject agencies agree to
40 the proposed transfer.



1 (2) The negative fiscal effect has been adequately
2 mitigated by tax sharing agreements, lump-sum
3 payments, payments over a fixed period of time, or any
4 other terms and conditions pursuant to Section 56844.

5 (d) Nothing in this section is intended to change the
6 distribution of growth on the revenues within the
7 affected territory unless otherwise provided in the
8 agreement or agreements specified in paragraph (2) of
9 subdivision (c).

10 (e) Any terms and conditions that mitigate the
11 negative fiscal effect of a proposal that contains an
12 incorporation shall be included in the commission
13 resolution making determinations adopted pursuant to
14 Section 56851 and the terms and conditions specified in
15 the questions pursuant to Section 57134.

16 (f) For any incorporation approved by the voters on or
17 after January 1, 2001, voter approval of terms and
18 conditions, including, but not limited to, fiscal mitigation
19 measures, which terms and conditions were found by the
20 commission to constitute an agreement by the
21 proponents of incorporation and the affected agency,
22 shall constitute a binding contractual obligation of the
23 affected new city and each party to the agreement to
24 comply with those terms and conditions.

25 ~~SEC. 2.—~~

26 SEC. 3. Section 56845.1 is added to the Government
27 Code, to read:

28 56845.1. If an issue or dispute is raised by any party
29 involved in a proposal that includes an incorporation
30 regarding the accuracy of any fiscal data, including
31 indirect and direct costs and proposed revenue, on which
32 any mitigation condition established pursuant to Sections
33 56842 and 56845 is based, then that issue or dispute shall
34 be resolved pursuant to this section. This section shall not
35 apply to any other dispute regarding any mitigation
36 condition established pursuant to Sections 56842 and
37 56845 and shall not serve to modify the procedures or
38 limitations applicable to any such other disputes.

39 (a) Not later than 14 months after the first July 1
40 following the effective date of an incorporation, or at an



1 earlier time established by mutual agreement of the
2 parties, the representatives of the parties shall meet to
3 review the accuracy of any disputed fiscal data, including
4 direct and indirect costs and proposed revenue on which
5 any mitigation condition that was included on the ballot
6 as part of the incorporation proposal was based. The
7 review of the disputed fiscal data shall last no longer than
8 60 days. If the parties are unable to reach agreement on
9 any disputed items within the 60-day period, the parties
10 shall mutually select a mediator, funded in equal portions
11 by those agencies, to mediate solutions between the
12 parties for an additional 60 days. If the parties are unable
13 to agree to a solution within that 60-day period, then each
14 party shall prepare a last, best, and final offer and submit
15 it to the mediator for an advisory opinion on the matter.

16 Proceedings under this subdivision shall be concluded
17 no more than 150 days after the initiation of discussions
18 between the affected agencies, unless one or more of the
19 periods specified in this subdivision is extended or waived
20 by the mutual agreement of the affected agencies. Any
21 agreement reached by the parties pursuant to this section
22 shall supersede any provision or condition included in the
23 incorporation proposal and shall take effect upon the date
24 agreed to by the parties. If the parties are unable to reach
25 agreement pursuant to the provision of this subdivision,
26 the parties shall have the option to exercise their
27 authority pursuant to subdivision (b).

28 (b) If the parties are unable to agree to a solution
29 pursuant to subdivision (a), either of the parties may file
30 an action to contest the accuracy of any fiscal data,
31 including costs, indirect costs, and proposed revenue on
32 which any mitigation condition that was included on the
33 ballot as part of the incorporation proposal was based. If
34 the court determines that any such data was inaccurate,
35 it shall revise the mitigation condition to reflect what it
36 determines to be the correct fiscal data. The court shall
37 have no authority pursuant to this section to invalidate
38 the mitigation condition or modify it in any other respect.
39 Any action brought pursuant to this subdivision shall be
40 commenced within 90 days following the conclusion of



1 discussions between the parties pursuant to subdivision
2 (a).

3 (c) Any ballot measure approved by the voters after
4 January 1, 2001, that proposes an incorporation shall
5 require any future dispute regarding any cost, including
6 indirect costs, and revenues, which serve as the basis for
7 a transfer of costs and revenues pursuant to Sections 56842
8 and 56845, to be resolved pursuant to this section.

9 *SEC. 4. (a) Section 1 of this bill incorporates*
10 *amendments to Section 56845 of the Government Code*
11 *proposed by both this bill and AB 2838. AB 2838 proposes*
12 *to repeal Section 56845 and add similar provisions as*
13 *Section 56815 of the Government Code. Section 1 of this*
14 *bill shall only become operative if (1) both bills are*
15 *enacted and become effective on or before January 1,*
16 *2001, (2) each bill amends or repeals Section 56845 of the*
17 *Government Code, and (3) this bill is enacted after AB*
18 *2838, in which case Section 2 of this bill shall not become*
19 *operative.*

20 *(b) Section 1.5 of this bill, which adds Section 56815.1*
21 *to the Government Code, shall become operative only if*
22 *AB 2838 is enacted and becomes effective on or before*
23 *January 1, 2001, in which case Section 3 of this bill shall not*
24 *become operative.*

