

AMENDED IN SENATE MAY 30, 2007

AMENDED IN SENATE MAY 15, 2007

AMENDED IN SENATE MAY 2, 2007

SENATE BILL

No. 819

Introduced by Senators Hollingsworth and Kehoe
(Coauthor: Senator Harman)
(Coauthor: Assembly Member Caballero)

February 23, 2007

An act to amend Sections 56375 and 56826.5 of, and to amend and repeal Sections 56030, 56700, and ~~56886.5~~, *56886.5 of, the Government Code*, relating to local government entities.

LEGISLATIVE COUNSEL'S DIGEST

SB 819, as amended, Hollingsworth. Local government: consolidation.

Existing law, the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000, establishes procedures for the organization and reorganization of cities and special districts. With respect to the consolidation of special districts, until January 1, 2005, the law required all of the districts to have been formed pursuant to the same principal act. Existing law, until July 1, 2008, permits the consolidation of 2 or more special districts not formed pursuant to the same principal act if certain procedures are followed.

This bill would delete that July 1, 2008, expiration date on the authorization to consolidate 2 or more special districts not formed pursuant to the same principal act.

Existing law sets forth the various powers and duties of a local agency formation commission in reviewing and approving or disapproving

proposals for changes of organization or reorganization. Existing law authorizes a commission to initiate proposals for consolidation of districts, dissolution, merger, establishment of a subsidiary district, or a reorganization that includes any of those changes, and only under specified circumstances.

This bill would authorize a commission to initiate proposals for the formation of a new district or districts.

This bill would provide that its provisions would not affect any application for a change of organization or reorganization that the ~~Local Agency Formation Commission of San Bernardino County~~ *a local agency formation commission* has accepted for filing before January 1, 2008, or any litigation pending on January 1, 2008.

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 56030 of the Government Code, as
2 amended by Section 1 of Chapter 471 of the Statutes of 2004, is
3 amended to read:

4 56030. "Consolidation" means the uniting or joining of two or
5 more cities located in the same county into a single new successor
6 city or two or more districts into a single new successor district.

7 SEC. 2. Section 56030 of the Government Code, as added by
8 *Section 1.5 of Chapter 471 of the Statutes of 2004*, is repealed.

9 SEC. 3. Section 56375 of the Government Code is amended
10 to read:

11 56375. The commission shall have all of the following powers
12 and duties subject to any limitations upon its jurisdiction set forth
13 in this part:

14 (a) To review and approve or disapprove with or without
15 amendment, wholly, partially, or conditionally, proposals for
16 changes of organization or reorganization, consistent with written
17 policies, procedures, and guidelines adopted by the commission.
18 A commission shall have the authority to initiate only a (1)
19 consolidation of districts, as defined in Section 56036, (2)
20 dissolution, (3) merger, (4) establishment of a subsidiary district,
21 (5) formation of a new district or districts, or (6) a reorganization
22 that includes any of these changes of organization, if that change
23 of organization or reorganization is consistent with a

1 recommendation or conclusion of a study prepared pursuant to
2 Section 56378, 56425, or 56430 and the commission makes the
3 determinations specified in subdivision (b) of Section 56881.
4 However, a commission shall not have the power to disapprove
5 an annexation to a city, initiated by resolution, of contiguous
6 territory that the commission finds is any of the following:

7 (1) Surrounded or substantially surrounded by the city to which
8 the annexation is proposed or by that city and a county boundary
9 or the Pacific Ocean if the territory to be annexed is substantially
10 developed or developing, is not prime agricultural land as defined
11 in Section 56064, is designated for urban growth by the general
12 plan of the annexing city, and is not within the sphere of influence
13 of another city.

14 (2) Located within an urban service area that has been delineated
15 and adopted by a commission, which is not prime agricultural land,
16 as defined by Section 56064, and is designated for urban growth
17 by the general plan of the annexing city.

18 (3) An annexation or reorganization of unincorporated islands
19 meeting the requirements of Section 56375.3.

20 As a condition to the annexation of an area that is surrounded,
21 or substantially surrounded, by the city to which the annexation
22 is proposed, the commission may require, where consistent with
23 the purposes of this division, that the annexation include the entire
24 island of surrounded, or substantially surrounded, territory.

25 A commission shall not impose any conditions that would
26 directly regulate land use density or intensity, property
27 development, or subdivision requirements. When the development
28 purposes are not made known to the annexing city, the annexation
29 shall be reviewed on the basis of the adopted plans and policies
30 of the annexing city or county. A commission shall require, as a
31 condition to annexation, that a city prezone the territory to be
32 annexed or present evidence satisfactory to the commission that
33 the existing development entitlements on the territory are vested
34 or are already at buildout, and are consistent with the city's general
35 plan. However, the commission shall not specify how, or in what
36 manner, the territory shall be prezoned. The decision of the
37 commission with regard to a proposal to annex territory to a city
38 shall be based upon the general plan and prezoning of the city.

39 (b) With regard to a proposal for annexation or detachment of
40 territory to, or from, a city or district or with regard to a proposal

1 for reorganization that includes annexation or detachment, to
2 determine whether territory proposed for annexation or detachment,
3 as described in its resolution approving the annexation, detachment,
4 or reorganization, is inhabited or uninhabited.

5 (c) With regard to a proposal for consolidation of two or more
6 cities or districts, to determine which city or district shall be the
7 consolidated, successor city or district.

8 (d) To approve the annexation of unincorporated, noncontiguous
9 territory, subject to the limitations of Section 56742, located in the
10 same county as that in which the city is located, and that is owned
11 by a city and used for municipal purposes and to authorize the
12 annexation of the territory without notice and hearing.

13 (e) To approve the annexation of unincorporated territory
14 consistent with the planned and probable use of the property based
15 upon the review of general plan and rezoning designations. No
16 subsequent change may be made to the general plan for the annexed
17 territory or zoning that is not in conformance to the rezoning
18 designations for a period of two years after the completion of the
19 annexation, unless the legislative body for the city makes a finding
20 at a public hearing that a substantial change has occurred in
21 circumstances that necessitate a departure from the rezoning in
22 the application to the commission.

23 (f) With respect to the incorporation of a new city or the
24 formation of a new special district, to determine the number of
25 registered voters residing within the proposed city or special district
26 or, for a landowner-voter special district, the number of owners
27 of land and the assessed value of their land within the territory
28 proposed to be included in the new special district. The number
29 of registered voters shall be calculated as of the time of the last
30 report of voter registration by the county elections official to the
31 Secretary of State prior to the date the first signature was affixed
32 to the petition. The executive officer shall notify the petitioners of
33 the number of registered voters resulting from this calculation.
34 The assessed value of the land within the territory proposed to be
35 included in a new landowner-voter special district shall be
36 calculated as shown on the last equalized assessment roll.

37 (g) To adopt written procedures for the evaluation of proposals,
38 including written definitions not inconsistent with existing state
39 law. The commission may adopt standards for any of the factors

1 enumerated in Section 56668. Any standards adopted by the
2 commission shall be written.

3 (h) To adopt standards and procedures for the evaluation of
4 service plans submitted pursuant to Section 56653 and the initiation
5 of a change of organization or reorganization pursuant to
6 subdivision (a).

7 (i) To make and enforce regulations for the orderly and fair
8 conduct of hearings by the commission.

9 (j) To incur usual and necessary expenses for the
10 accomplishment of its functions.

11 (k) To appoint and assign staff personnel and to employ or
12 contract for professional or consulting services to carry out and
13 effect the functions of the commission.

14 (l) To review the boundaries of the territory involved in any
15 proposal with respect to the definiteness and certainty of those
16 boundaries, the nonconformance of proposed boundaries with lines
17 of assessment or ownership, and other similar matters affecting
18 the proposed boundaries.

19 (m) To waive the restrictions of Section 56744 if it finds that
20 the application of the restrictions would be detrimental to the
21 orderly development of the community and that the area that would
22 be enclosed by the annexation or incorporation is so located that
23 it cannot reasonably be annexed to another city or incorporated as
24 a new city.

25 (n) To waive the application of Section 25210.90 or Section
26 22613 of the Streets and Highways Code if it finds the application
27 would deprive an area of a service needed to ensure the health,
28 safety, or welfare of the residents of the area and if it finds that
29 the waiver would not affect the ability of a city to provide any
30 service. However, within 60 days of the inclusion of the territory
31 within the city, the legislative body may adopt a resolution
32 nullifying the waiver.

33 (o) If the proposal includes the incorporation of a city, as defined
34 in Section 56043, or the formation of a district, as defined in
35 Section 2215 of the Revenue and Taxation Code, the commission
36 shall determine the property tax revenue to be exchanged by the
37 affected local agencies pursuant to Section 56810.

38 (p) To authorize a city or district to provide new or extended
39 services outside its jurisdictional boundaries pursuant to Section
40 56133.

(q) To enter into an agreement with the commission for an adjoining county for the purpose of determining procedures for the consideration of proposals that may affect the adjoining county or where the jurisdiction of an affected agency crosses the boundary of the adjoining county.

SEC. 4. Section 56700 of the Government Code, as amended by Section 99 of Chapter 22 of the Statutes of 2005, is amended to read:

56700. (a) A proposal for a change of organization or a reorganization may be made by petition. The petition shall do all of the following:

(1) State that the proposal is made pursuant to this part.

(2) State the nature of the proposal and list all proposed changes of organization.

(3) Set forth a description of the boundaries of affected territory accompanied by a map showing the boundaries.

(4) Set forth any proposed terms and conditions.

(5) State the reason or reasons for the proposal.

(6) State whether the petition is signed by registered voters or owners of land.

(7) Designate up to three persons as chief petitioners, setting forth their names and mailing addresses.

(8) Request that proceedings be taken for the proposal pursuant to this part.

(9) State whether the proposal is consistent with the sphere of influence of any affected city or affected district.

(b) A petition for a proposal for a change of organization or a reorganization that includes the consolidation of two or more special districts not formed pursuant to the same principal act, in addition to the requirements set forth in subdivision (a), shall do either of the following:

(1) Designate the district that shall be the successor and specify under which principal act the successor shall conduct itself.

(2) State that the proposal requires the formation of a new district and includes a plan for services prepared pursuant to Section 56653.

SEC. 5. Section 56700 of the Government Code, as amended by Section 100 of Chapter 22 of the Statutes of 2005, is repealed.

SEC. 6. Section 56826.5 of the Government Code is amended to read:

56826.5. (a) A proposal for reorganization that includes the consolidation of two or more special districts not formed pursuant to the same principal act shall only be approved by the commission if both the following conditions are met:

(1) The commission is able to designate a successor or successors, or form a new district or districts, authorized by their respective principal acts to deliver all of the services provided by the consolidating districts at the time of consolidation.

(2) The commission makes the determinations specified in subdivision (b) of Section 56881.

(b) If a proposal for reorganization that includes the consolidation of two or more special districts not formed pursuant to the same principal act is initiated by the commission pursuant to subdivision (a) of Section 56375, it shall only be approved if the commission has prepared a study pursuant to Section 56378 or the written statement of determinations specified in subdivision (a) of Section 56430, and all of the following conditions are met:

(1) Each of the services provided by the districts subject to the proposal will be provided by a successor or successors, or by the formation of a new district authorized under a principal act to deliver the services. The commission may designate a successor other than the districts subject to the proposal only if the successor is currently providing the same service provided by one or more of the districts subject to the proposal. The commission shall not designate a city as a successor unless the city contains 70 percent or more of the area of land within one of the districts subject to the proposal, or the combined territory of two or more of the districts subject to the proposal, within its boundaries, and 70 percent or more of the number of registered voters of the district or the combined districts who reside within the boundaries of the city.

(2) The public services costs of the proposal that the commission is authorizing are likely to be less than or substantially similar to the costs of alternative means of providing the service.

(3) The proposal that the commission is approving promotes public access and accountability for community services needs and financial resources.

SEC. 7. Section 56886.5 of the Government Code, as amended by Section 4 of Chapter 471 of the Statutes of 2004, is amended to read:

1 56886.5. (a) If a proposal includes the formation of a district
2 or the incorporation of a city, the commission shall determine
3 whether existing agencies can feasibly provide the needed service
4 or services in a more efficient and accountable manner. If a new
5 single-purpose local agency is deemed necessary, the commission
6 shall consider reorganization with other single-purpose local
7 agencies that provide related services.

8 (b) If a proposal includes the consolidation of two or more
9 special districts not formed pursuant to the same principal act, the
10 commission shall determine whether any service provided at that
11 time could be discontinued due to a lack of authority under the
12 principal act of the successor. If a new single-purpose local agency
13 is deemed necessary to provide the needed service or services, the
14 commission shall consider the formation of a new district that is
15 authorized to provide the service or services.

16 SEC. 8. Section 56886.5 of the Government Code, as added
17 by *Section 5.5 of Chapter 471 of the Statutes of 2004*, is repealed.

18 ~~SEC. 9. The provisions of this act shall not affect any~~
19 ~~application for a change of organization or reorganization that the~~
20 ~~Local Agency Formation Commission of San Bernardino County~~
21 ~~has accepted for filing before January 1, 2008.~~

22 ~~SEC. 10. The Legislature finds and declares that, due to the~~
23 ~~unique circumstances regarding local agency formation issues in~~
24 ~~the County of San Bernardino, a general statute cannot be made~~
25 ~~applicable within the meaning of Section 16 of Article IV of the~~
26 ~~California Constitution. Therefore, the special legislation contained~~
27 ~~in Section 9 of this act is necessarily applicable only to the County~~
28 ~~of San Bernardino.~~

29 *SEC. 9. (a) The provisions of this act do not apply to any*
30 *proceeding for a change of organization or reorganization for*
31 *which the application has been accepted for filing by the executive*
32 *officer of a local agency formation commission pursuant to Section*
33 *56658 of the Government Code prior to January 1, 2008. These*
34 *pending proceedings may be continued and completed under, and*
35 *in accordance with, the provisions of law under which the*
36 *proceedings were commenced.*

37 *(b) The provisions of this act shall not affect any litigation*
38 *pending on January 1, 2008.*

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