

AMENDED IN SENATE JUNE 29, 2011

AMENDED IN SENATE JUNE 20, 2011

AMENDED IN ASSEMBLY MARCH 23, 2011

CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

ASSEMBLY BILL

No. 781

**Introduced by Assembly Member John A. Pérez
(Principal coauthor: Assembly Member Smyth)**

February 17, 2011

An act to add Sections 26204, 34090.65, 57426, 61015, 61023, and 61102.5 to, and to add Article 7.5 (commencing with Section 65425) to Chapter 3 of Division 1 of Title 7 of, the Government Code, and to amend Sections 7284 and 7284.2 of the Revenue and Taxation Code, relating to local government.

LEGISLATIVE COUNSEL'S DIGEST

AB 781, as amended, John A. Pérez. Local government: counties: unincorporated areas.

(1) The Community Services District Law authorizes the organization and powers of a community services district, as specified, to provide for, among other things, the supply of water for any beneficial uses, fire protection services, police and law enforcement services, the financing of an area planning commission, the financing of a municipal advisory commission, and the acquisition, construction, improvement, and maintenance of streets or roads.

This bill would create a community services district in the unincorporated area of a county if that unincorporated area of the county was previously a city that was disincorporated by statute and had, immediately prior to disincorporation, provided fire protection, water,

telecommunications, gas, or electric utility services, or maintained streets or roads. The district would continue to provide those services within the territory in which the disincorporated city provided those services, and would be a successor in interest as to any contract entered into by the disincorporated city with respect to the provision of those services. The bill would, for a one-year period, limit the authority of the community services district to increase gas or electric utility rates within that territory.

The bill would direct that the community services district would become the employer of nonmanagerial employees who were employed by the disincorporated city to provide any of the services described above, in accordance with any existing memorandum of understanding or other labor relations agreement, and would protect those employees from discharge absent a showing of just cause for termination, except as specified.

The bill would specify that the board of supervisors for the county in which the disincorporated city was located would serve as the board of directors of the community services district.

The bill would require the district or the county, as specified, to become the custodian of records of the disincorporated city, and would prohibit any officer or employee of a city, or a consultant under contract to a city, that is subject to being disincorporated from destroying those records or causing their destruction.

(2) The Planning and Zoning Law requires the legislative body of each city and county to adopt a comprehensive, long-term general plan for the physical development of the city or county, as specified.

This bill would provide that, as of the effective date of the disincorporation of a city pursuant to statute, the general plan of the disincorporated city constitutes the general plan of the county for the territory of the disincorporated city, and that the zoning ordinances in effect immediately prior to the disincorporation of the city, together with any conditional use permits or any approved legal conforming uses, likewise apply, as specified. The bill would also provide that any use of land authorized under the general plan and zoning ordinances immediately preceding the effective date of the city's disincorporation would continue to be authorized for a period of not less than 10 years, as specified.

(3) Existing law, the Planning and Zoning Law, establishes a planning agency in each city and county with the powers necessary to provide for local planning in the city or county, as specified. Existing law

authorizes the board of supervisors of any county to establish, by resolution, a municipal advisory council for any unincorporated area in the county to advise the board on matters that relate to the unincorporated area, as specified.

This bill would require the board of supervisors of the county in which a city that has been disincorporated by statute was located, *within 45 days following the effective date of the disincorporation*, to establish a municipal advisory council and an area planning commission to operate within the territory of the disincorporated city, as specified. The bill would require the district to finance the operation of the municipal advisory council, and authorize the district to finance the operation of the area planning commission.

By increasing the duties of local agencies, this bill would impose a state-mandated local program.

(4) Existing law authorizes the legislative body of any city or county to adopt an ordinance that, among other things, regulates the use of buildings, structures, and land, and to regulate the location, height, bulk, number of stories, the size of buildings and structures, and the size and use of lots, yards, courts, and other open spaces.

This bill would require the board of supervisors in a county in which a city that has been disincorporated by statute was located, ~~within 60~~ 90 days of the effective date of the disincorporation, to form an expedited permit process for permits related to business, development, and health and safety that is comparable to the permit process previously in place for the territory of the disincorporated city.

By increasing the duties of local governments, this bill would impose a state-mandated local program.

(5) Existing law authorizes the board of supervisors of any county to license, for revenue and regulation and to fix the license tax upon every kind of lawful business transacted in the unincorporated area of the county, as specified.

This bill would require the board of supervisors of a county in which a city that has been disincorporated pursuant to statute was located to maintain, at the then-existing rates, any business license tax of the disincorporated city that was in effect at the time of the disincorporation for a period of at least 5 years, as specified.

(6) Existing law authorizes the board of supervisors of any county to levy a utility user tax on the consumption of electricity, gas, water, sewer, telephone, telegraph, and cable television services in the unincorporated area of the county.

This bill would, upon the effective date of the disincorporation of a city pursuant to statute, exempt utility users within the territory of the disincorporated city from any existing county utility user tax, and would prohibit the board from levying a utility user tax on utility users within that territory for a period of 5 years following the effective date of the disincorporation. Following this 5-year period, the bill would prohibit the board from levying this tax unless the voters of the *unincorporated area of the* county vote to continue, increase, or decrease the tax on a ~~countywide~~ *uniform basis throughout the unincorporated area of the county*.

(7) Existing law governs the procedures and requirements for retention and destruction of specified records of a city.

This bill would prohibit any officer or employee of a city disincorporated by statute from destroying or authorizing the destruction of any record of the city.

(8) Existing law, the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000, requires the local agency formation commission to oversee the terms and conditions of the disincorporation of a city pursuant to that act.

This bill would authorize the local agency formation commission to commence oversight of the terms and conditions of the disincorporation of a city pursuant to statute upon receipt of specified notice from the board of supervisors of the county in which a city disincorporated by statute is located.

(9) 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 with regard to certain mandates no reimbursement is required by this act for a specified reason.

With regard to any other mandates, this bill would provide that, if the Commission on State Mandates determines that the bill contains costs so mandated by the state, reimbursement for those costs shall be made pursuant to the statutory provisions noted above.

(10) The bill would become operative only if ~~and when~~ AB 46 of the 2011–12 Regular Session is enacted and ~~becomes operative~~ *takes effect*.

Vote: majority. Appropriation: no. Fiscal committee: yes.

State-mandated local program: yes.

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

1 SECTION 1. Section 26204 is added to the Government Code,
2 to read:

3 26204. On and after the effective date of the disincorporation
4 of a city pursuant to Section 56668.6, the board of supervisors of
5 the affected county shall be the custodian of all records of the
6 disincorporated city except those records specified in paragraph
7 (5) of subdivision (c) of Section 61015.

8 SEC. 2. Section 34090.65 is added to the Government Code,
9 to read:

10 34090.65. Notwithstanding any other provision in this article
11 or any other provision of law, no officer or employee of a city, or
12 consultant under contract to such a city, that is subject to
13 disincorporation pursuant to Section 56668.6 shall destroy, or
14 authorize the destruction of, any record of the city.

15 SEC. 3. Section 57426 is added to the Government Code, to
16 read:

17 57426. Notwithstanding any other provision of law, once the
18 board of supervisors of a county notifies the commission that a
19 city within its jurisdiction will be disincorporated pursuant to
20 Section 56668.6, and that the board intends to allow the 90-day
21 period specified in that section to expire without action by the
22 board, the board and the commission may commence the actions
23 necessary to accomplish that disincorporation.

24 SEC. 4. Section 61015 is added to the Government Code, to
25 read:

26 61015. (a) (1) Notwithstanding any other provision of this
27 chapter, Chapter 1 (commencing with Section 61100) of Part 3,
28 or any other provision of law, if a city that was disincorporated
29 pursuant to Section 56668.6 provided fire protection, water,
30 telecommunications, gas, or electric utility services, or maintained
31 streets or roads, immediately prior to the effective date of the
32 disincorporation, upon the effective date of the disincorporation
33 a district is hereby created to serve as successor to the city with
34 respect to those services. The boundaries of the district shall be
35 coterminous with the boundaries of the disincorporated city.

36 (2) The district shall provide the services specified in paragraph
37 (1) within the same territory in which the disincorporated city

1 provided those services immediately prior to the effective date of
2 the disincorporation.

3 (b) (1) The local agency formation commission for the county
4 in which a city will be disincorporated pursuant to Section 56668.6
5 is located shall take all actions necessary to provide for the
6 formation of the district created pursuant to paragraph (1) of
7 subdivision (a), and to ensure that the district is formed and
8 becomes operative upon the effective date of the disincorporation
9 of the city.

10 (2) The local agency formation commission shall commence
11 the actions specified in this subdivision under any of the following
12 circumstances:

13 (A) Receipt of notice from the board of supervisors of the county
14 that the city has been disincorporated pursuant to Section 56668.6.

15 (B) Receipt of notice from the board of supervisors of the county
16 that the city will be disincorporated pursuant to Section 56668.6,
17 and that the board intends to allow the 90-day period specified in
18 that section to expire without action by the board.

19 (C) At any earlier time as the executive officer deems prudent.

20 (3) Notwithstanding any other provision of law, the local agency
21 formation commission may undertake the actions specified in this
22 subdivision prior to the effective date of disincorporation.

23 (4) *Except as otherwise specified in this section, on and after*
24 *the date a district becomes operative pursuant to this section,*
25 *nothing in this section shall affect the authority of the local agency*
26 *formation commission to act with respect to the district pursuant*
27 *to the Cortese-Knox-Hertzberg Local Government Reorganization*
28 *Act of 2000 (Division 3 (commencing with Section 56000) of Title*
29 *5).*

30 (5) *Upon the establishment of the district pursuant to this*
31 *section, the local agency formation commission may submit to the*
32 *board of supervisors an invoice for the costs associated with the*
33 *establishment of the district. Upon receipt of an invoice for the*
34 *costs associated with the establishment of the district, the board*
35 *of supervisors shall submit the invoice to the county auditor for*
36 *validation, and, upon validation, the board of supervisors shall*
37 *pay the amount requested to the local agency formation*
38 *commission from the special fund established pursuant to Section*
39 *57407.*

40 (4)

1 (6) The district shall be formed in accordance with all of the
2 following requirements:

3 (A) The board of supervisors of the county shall negotiate the
4 agreement required by *subdivision (a)* of Section 99 of the Revenue
5 and Taxation Code in good faith on behalf of all local agencies
6 affected by the disincorporation of the city and the creation of the
7 district pursuant to this section.

8 (B) Notwithstanding any other provision of law, ~~special parcel~~
9 taxes that were previously imposed for the benefit of the
10 disincorporated city and were in effect immediately prior to the
11 effective date of the disincorporation shall continue, and the
12 proceeds of those taxes shall be remitted to the district for uses
13 consistent with the purposes for which those taxes were adopted.

14 (C) ~~The sheriff of the county in which the disincorporated city~~
15 ~~is located shall provide law enforcement services on and after the~~
16 ~~effective date of the disincorporation.~~ The district created pursuant
17 to this section may use ~~special parcel~~ tax proceeds and other
18 available revenues to fund a higher level of law enforcement
19 services within its territory than is otherwise funded by the county
20 *on and after the effective date of the disincorporation.*

21 (5)

22 (7) The district may continue any franchise fees that were
23 previously levied by the disincorporated city for electric utility
24 service and were in effect immediately prior to the effective date
25 of the disincorporation. All other fees, charges, or rates imposed
26 in connection with the services specified in paragraph (1) of
27 subdivision (a) that were in effect immediately prior to the effective
28 date of the disincorporation shall continue, subject to modification
29 by the district.

30 (c) All of the following provisions shall apply to the district
31 created pursuant to this section:

32 (1) On and after the effective date of the disincorporation of the
33 city pursuant to Section 56668.6, all of the following shall apply:

34 (A) The district shall be the employer of those persons who
35 were employed by the disincorporated city *as of January 1, 2011,*
36 *in a nonmanagerial capacity and continued to be employed*
37 *immediately prior to the effective date of the disincorporation in*
38 *a nonmanagerial capacity, to provide any of the city services*
39 *specified in paragraph (1) of subdivision (a).*

(B) The district shall be bound by any memorandum of understanding or other labor relations agreement that was entered into by the city pursuant to Chapter 10 (commencing with Section 3500) of Division 4 of Title 1 and was in effect immediately prior to the effective date of the disincorporation unless and until the terms of that agreement are altered pursuant to that chapter. This paragraph shall apply only to the employees described in subparagraph (A).

(C) All employees of the district described in subparagraph (A) shall be protected from discharge absent a showing of just cause for termination unless and until a different rule is established under a memorandum of understanding or other labor relations agreement entered into pursuant to Chapter 10 (commencing with Section 3500) of Division 4 of Title 1 between the district and the employees, or between the district and designated representatives of the employees.

(D) Not later than 90 days following the creation of the district, the board of directors shall review the employment, and the classifications, compensation, and other terms of employment, of all persons who were employed in a managerial position on or after January 1, 2011, and remained employed by the disincorporated city immediately prior to the effective date of the disincorporation, and, based on that review, shall determine whether to continue the employment of each of those persons.

(E) Neither the disincorporation of the city pursuant to Section 56668.6; the succession of the district to assets, liabilities, rights, privileges, permits, authorizations, agreements, and contracts with respect to the provision of the services specified in paragraph (1) of subdivision (a); nor any other provision of the section shall be deemed to modify, abrogate, or otherwise affect any labor relations agreement in effect immediately prior to the effective date of the disincorporation if a party to that labor relations agreement was, immediately prior to the disincorporation of the city, a party to a contract with the disincorporated city for any of the services specified in paragraph (1) of subdivision (a).

(2) Any contract, including, but not limited to, any labor, professional services, or financing contract, that was in effect immediately prior to the effective date of the disincorporation of the city pursuant to Section 56668.6 and related to the provision of any of the services specified in paragraph (1) of subdivision (a)

1 within the territory of, or on behalf of, a city disincorporated
2 pursuant to that section, shall be deemed, on and after the effective
3 date of the disincorporation, to refer to the district created pursuant
4 to this section rather than to the city.

5 (3) The district shall not enter into a contract with any municipal
6 corporation, municipal utility district, public utility district,
7 irrigation district, electric corporation, gas corporation, or water
8 corporation to provide water, telecommunications, gas, or electric
9 utility services if immediately prior to the effective date of the
10 disincorporation those services were provided by the
11 disincorporated city, unless the municipal advisory council
12 established pursuant to subdivision (d) of Section 65425 consents
13 to the contract and the contract does not conflict with any
14 obligation of the district under subparagraph (B) of paragraph (1).

15 (4) All assets, liabilities, rights, privileges, permits,
16 authorizations, agreements, and contracts of the disincorporated
17 city with respect to the provision of the services specified in
18 paragraph (1) of subdivision (a) shall vest in the district on the
19 effective date of the disincorporation of the city pursuant to Section
20 56668.6.

21 (5) On and after the effective date of the disincorporation of the
22 city pursuant to Section 56668.6, the district shall be the custodian
23 of all records of the disincorporated city that relate to the provision
24 of the services specified in paragraph (1) of subdivision (a).

25 (6) At its first meeting, the board of directors shall adopt all
26 necessary or appropriate ordinances of the city disincorporated
27 pursuant to Section 56668.6 pertaining to the provision of the
28 services specified in paragraph (1) of subdivision (a).

29 (7) (A) Except as required to satisfy bond covenants or other
30 contractual obligations that relate to the provision of gas or electric
31 utility services within the territory of the disincorporated city for
32 which the district is the successor obligor, the district shall not
33 increase gas or electric utility rates last established by the
34 disincorporated city for at least one year following the creation of
35 the district, unless all of the following conditions are satisfied:

36 (i) Within nine months of the creation of the district, the board
37 of directors has requested an independent auditor to complete a
38 financial and programmatic audit of the gas or electric utility, as
39 applicable, and the independent auditor has reported the findings
40 to the district.

(ii) Following the reporting of the audit conducted pursuant to clause (i), the board of directors and the municipal advisory council established pursuant to subdivision (d) of Section 65425 have each held at least one public hearing on the results of the audit.

(iii) The board of directors makes a finding, based on substantial evidence in the record before it, that a fiscal emergency exists which requires an increase in gas or electric utility rates, as applicable, during the first year following the creation of the district.

(B) Subsequent to the one-year period described in subparagraph (A), the board of directors may increase gas or electric utility rates, provided the district has provided the rate increase proposal to the municipal advisory council established pursuant to subdivision (d) of Section 65425 for review at least 30 days prior to the effective date of the increase and complied with applicable provisions of Article XIII C of the California Constitution with respect to the increase.

(C) This paragraph shall not be construed to limit the authority of the district to decrease gas or electric utility rates.

(8) The district may finance land use planning within the district conducted by the area planning commission established pursuant to subdivision (c) of Section 65425.

(9) The district shall finance the operations of the municipal advisory council established pursuant to subdivision (d) of Section 65425.

(d) As used in this section, the following terms have the following meanings:

(1) "Disincorporated city" means a city that was disincorporated pursuant to Section 56668.6.

(2) "Fire protection services" means those services described in subdivision (d) of Section 61100.

(3) "Record" means any writing described in subdivision (e) of Section 6252.

(4) "Street or road maintenance" means those services described in subdivision (l) of Section 61100.

(5) "Telecommunications service" means those services described in paragraph (53) of Section 153 of Title 47 of the United States Code.

(6) "Water services" means those services described in subdivision (a) of Section 61100.

1 SEC. 5. Section 61023 is added to the Government Code, to
2 read:

3 ~~61023. Notwithstanding Sections 61022 and 61027 or any~~
4 ~~other provision of this division law,~~ the board of supervisors of
5 the county in which a city that was disincorporated pursuant to
6 Section 56668.6 is located shall serve as the board of directors of
7 any district created pursuant to Section 61015.

8 SEC. 6. Section 61102.5 is added to the Government Code, to
9 read:

10 61102.5. Notwithstanding Sections 61102 and 61106, a district
11 created pursuant to Section 61015 may acquire, construct, own,
12 operate, control, or use facilities to supply its customers with gas
13 or electric utility service, purchase and distribute any of those
14 services, and may function as a scheduling coordinator and
15 participate in the California Independent System Operator market.
16 For these purposes, the board of directors may issue revenue bonds
17 pursuant to Section 61127 and other applicable law.

18 SEC. 7. Article 7.5 (commencing with Section 65425) is added
19 to Chapter 3 of Division 1 of Title 7 of the Government Code, to
20 read:

21
22 Article 7.5. Local Planning for Certain Unincorporated Areas
23

24 65425. Upon the disincorporation of a city pursuant to Section
25 56668.6, all of the following shall occur:

26 (a) As of the effective date of the disincorporation, the general
27 plan of the disincorporated city that was in effect immediately
28 prior to the effective date of the disincorporation shall constitute
29 the general plan of the county for the territory of the
30 disincorporated city; the zoning ordinances of the disincorporated
31 city that were in effect immediately prior to the effective date of
32 the disincorporation shall constitute the zoning ordinances of the
33 county for that territory; and any conditional use permit or legal
34 nonconforming use that was in place immediately prior to the
35 effective date of the disincorporation shall remain in force pursuant
36 to the general plan and zoning ordinances. Any use of land that
37 was authorized under the general plan and zoning ordinances
38 immediately prior to the effective date of the disincorporation shall
39 continue to be authorized, consistent with the requirements of that
40 general plan and those zoning ordinances, for a period of 10 years

1 from the effective date of the disincorporation, any longer period
2 required by the California Constitution or United States
3 Constitution, or any longer period to the extent permitted by the
4 general plan and zoning ordinances of the county applicable to
5 that territory following that 10-year period.

6 (b) The general plan, zoning ordinances, and permits described
7 in subdivision (a) shall not be amended for a period of 10 years
8 following the effective date of the disincorporation without the
9 consent of the municipal advisory council established pursuant to
10 this section. This subdivision shall not apply to an amendment
11 required by law that is presented for hearing before the area
12 planning commission established pursuant to this section, after
13 written notice to the municipal advisory council.

14 (c) (1) The board of supervisors of the affected county shall,
15 *within 45 days following the effective date of the disincorporation*,
16 establish an area planning commission in accordance with Article
17 1 (commencing with Section 65100) to advise the county as to
18 land use planning for the territory of the community services
19 district created pursuant to Section 61015.

20 (2) (A) The area planning commission shall be comprised of
21 five members appointed by the board of supervisors. One of the
22 five members shall be appointed as a representative of the
23 environmental justice community and shall be a resident of the
24 affected county. The remaining four persons appointed shall be
25 one of the following:

26 (i) A resident of the community services district created pursuant
27 to Section 61015.

28 (ii) Both a resident of the affected county and an owner,
29 shareholder, or employee of a business operating from a fixed
30 location within the territory of the community services district.

31 (B) For purposes of this paragraph, the term “representative of
32 the environmental justice community” means a person who is an
33 advocate for “environmental justice” as that term is defined in
34 subdivision (e) of Section 65040.12.

35 (3) The board of supervisors shall provide for the procedures
36 of the area planning commission, and shall specify the terms of
37 office and the standards of ethical conduct for the members of the
38 commission.

39 (d) (1) The board of supervisors of the affected county shall,
40 *within 45 days following the effective date of the disincorporation*,

1 establish a municipal advisory council in accordance with Part 1
2 (commencing with Section 31010) of Division 4 of Title 3 to serve
3 the territory of the community services district created pursuant
4 to Section 61015.

5 (2) The municipal advisory council shall be comprised of five
6 members appointed by the board of supervisors. All of the persons
7 appointed shall be one of the following:

8 (A) A resident of the community services district created
9 pursuant to Section 61015.

10 (B) Both a resident of the affected county and an owner,
11 shareholder, or employee of a business operating from a fixed
12 location within the territory of the community services district.

13 (3) The board of supervisors shall provide for the procedures
14 of the council, and shall specify the terms of office and the
15 standards of ethical conduct for the members of the council.

16 ~~(e) It is the intent of the Legislature that the members appointed~~
17 ~~to the area planning commission pursuant to subdivision (c) and~~
18 ~~the municipal advisory council pursuant to subdivision (d) be~~
19 ~~geographically representative of the population within the~~
20 ~~community services district and the affected county.~~

21 *(e) The board of supervisors is encouraged to appoint persons*
22 *to the area planning commission and the municipal advisory*
23 *council who do not serve simultaneously on both the area planning*
24 *commission and the municipal advisory council.*

25 ~~(f) Within 60 90 days of the effective date of the~~
26 ~~disincorporation of the city, the board of supervisors of the affected~~
27 ~~county, in consultation with the municipal advisory council~~
28 ~~established pursuant to this section, shall adopt an expedited permit~~
29 ~~process relating to business, development, and health and safety~~
30 ~~permits for the territory of the disincorporated city that is~~
31 ~~comparable to the permit process that existed in that city~~
32 ~~immediately preceding the disincorporation.~~

33 (g) Notwithstanding Chapter 1 (commencing with Section
34 33000) of Part 1 of Division 24 of the Health and Safety Code, or
35 any other provision of law, the board of supervisors of the affected
36 county shall serve as the legislative body of any redevelopment
37 agency that was formed with respect to all or part of the territory
38 of a city that was disincorporated pursuant to Section 56668.6 and
39 was in existence immediately prior to the effective date of the
40 disincorporation.

(h) For purposes of this article, the term “affected county” means the county in which a city that was disincorporated pursuant to Section 56668.6 was located.

SEC. 8. Section 7284 of the Revenue and Taxation Code is amended to read:

7284. (a) The board of supervisors of any county may license, for revenue and regulation, and fix the license tax upon, every kind of lawful business transacted in the unincorporated area of the county, including shows, exhibitions, and games. The board may provide for collection of the license tax by suit or otherwise.

(b) Any board of supervisors that imposes a license tax pursuant to subdivision (a) upon a business operating both within and outside the board’s taxing jurisdiction shall levy the tax so that the measure of tax fairly reflects that proportion of the taxed activity actually carried on within the taxing jurisdiction.

(c) The board of supervisors of the county in which a city that was disincorporated pursuant to Section 56668.6 of the Government Code was located shall maintain, for a period of at least five years, any business license tax that was imposed by the disincorporated city and was in effect immediately prior to the effective date of the disincorporation, at the rates that were in effect on that date, *including any methods then in effect that applied to adjust those rates*. The board of supervisors shall not levy any additional business license tax on the territory of the disincorporated city during that five-year period.

SEC. 9. Section 7284.2 of the Revenue and Taxation Code is amended to read:

7284.2. (a) (1) The board of supervisors of any county may levy a utility user tax on the consumption of electricity, gas, water, sewer, telephone, telegraph, and cable television services in the unincorporated area of the county.

(2) Notwithstanding paragraph (1), upon the effective date of the disincorporation of a city pursuant to Section 56668.6 of the Government Code, no existing county utility user tax shall apply to utility users within the territory of that disincorporated city. The board of supervisors of the affected county shall not levy a utility user tax on utility users within the territory of that disincorporated city for a period of five years following the effective date of the disincorporation. Following the expiration of the five-year period, the board of supervisors shall not levy a utility user tax on utility

users within the territory of the disincorporated city unless the voters of the *unincorporated area of the* county, including the voters located within the territory of the disincorporated city, vote to continue, increase, or decrease the utility user tax on a ~~countywide basis~~ *uniform basis throughout the unincorporated area of the county* in accordance with Article XIII C of the California Constitution.

(b) For purposes of this section, “gas” shall not be construed as referring to the consumption of compressed natural gas dispensed by a gas compressor, within a local jurisdiction, that is separately metered and is dedicated to providing compressed natural gas as a motor vehicle fuel for use by the local agency or public transit operator.

(c) For purposes of this section, “local jurisdiction” means any city, county, city and county, including any chartered city, county, or city and county, district, or public or municipal corporation.

(d) For purposes of this section “public transit operator” means a local or regional transit agency or a joint powers agency operating bus transportation service as defined pursuant to Article 1 (commencing with Section 99200) of Chapter 4 of Part 11 of Division 10 of the Public Utilities Code.

SEC. 10. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because a local agency or school district has the authority to levy service charges, fees, or assessments sufficient to pay for the program or level of service mandated by this act, within the meaning of Section 17556 of the Government Code.

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

SEC. 11. This act shall become operative only if ~~and when~~ Assembly Bill 46 of the 2011–12 Regular Session of the Legislature is enacted ~~and becomes operative~~ *and takes effect*.