AMENDED IN ASSEMBLY APRIL 8, 2010

CALIFORNIA LEGISLATURE—2009–10 REGULAR SESSION

ASSEMBLY BILL No. 1859

Introduced by Assembly Member Norby

February 12, 2010

An act to ~~amend Section 56744 of~~ *amend Sections 56021 and 56375 of, and to add Section 56067.5 to,* the Government Code, relating to local government.

LEGISLATIVE COUNSEL'S DIGEST

AB 1859, as amended, Norby. Local government: ~~annexation.~~ *change of organization or reorganization.*

(1) Under Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 a local agency formation commission, among other things, approves or disapproves, in whole or part, changes of organization or reorganization, as specified. The act defines a "change of organization" to mean a city incorporation or disincorporation, a district formation or dissolution, an annexation, a consolidation, a merger, or a proposal for the exercise of new or different functions or classes of services, or divestiture of the power to provide particular functions or classes of services, within all or part of the jurisdictional boundaries of a special district.

This bill would include within a local agency formation commission's powers the power to approve, disapprove, or approve conditionally, a request by a redevelopment agency to establish, extend, or expand a project area. The bill would include within the definition of "change of organization" a proposal to establish, extend, or expand a project area, and would define the term "project area." By expanding a local

agency formation commission's duties, this bill would impose a state-mandated local program.

(2) 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 no reimbursement is required by this act for a specified reason.

~~Existing law authorizes the incorporation or annexation of territory to a city under specified circumstances, unless, as a result of that incorporation or annexation, incorporated territory is completely surrounded by that city or by territory of that city on one or more sides and the Pacific Ocean on the remaining sides.~~

~~This bill would make a technical, 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. Section 56021 of the Government Code is*
2 *amended to read:*
3 56021. "Change of organization" means any of the following:
4 (a) A city incorporation.
5 (b) A district formation.
6 (c) An annexation to, or detachment from, a city or district.
7 (d) A disincorporation of a city.
8 (e) A district dissolution.
9 (f) A consolidation of cities or special districts.
10 (g) A merger or establishment of a subsidiary district.
11 (h) A proposal for the exercise of new or different functions or
12 classes of services, or divestiture of the power to provide particular
13 functions or classes of services, within all or part of the
14 jurisdictional boundaries of a special district.
15 *(i) A proposal for the establishment, expansion, or extension of*
16 *a redevelopment agency's project area.*
17 *SEC. 2. Section 56067.5 is added to the Government Code, to*
18 *read:*
19 *56067.5. "Project area" means a redevelopment project*
20 *established, or proposed to be established, expanded, or extended,*

by a redevelopment agency for redevelopment purposes, pursuant to the Community Redevelopment Law (Part 1 (commencing with Section 33000) of Division 24 of the Health and Safety Code).

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

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

(a) (1) To review and approve or disapprove with or without amendment, wholly, partially, or conditionally, proposals for changes of organization or reorganization, *including a request to establish, expand, or extend a redevelopment agency's project area,* consistent with written policies, procedures, and guidelines adopted by the commission.

(2) The commission may initiate proposals for any of the following:

(A) The consolidation of a district, as defined in Section 56036.

(B) The dissolution of a district.

(C) A merger.

(D) The establishment of a subsidiary district.

(E) The formation of a new district or districts.

(F) A reorganization that includes any of the changes specified in subparagraph (A), (B), (C), (D), or (E).

(3) A commission may initiate a proposal described in paragraph (2) only if that change of organization or reorganization is consistent with a recommendation or conclusion of a study prepared pursuant to Section 56378, 56425, or 56430, and the commission makes the determinations specified in subdivision (b) of Section 56881.

(4) A commission shall not disapprove an annexation to a city, initiated by resolution, of contiguous territory that the commission finds is any of the following:

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

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

(C) An annexation or reorganization of unincorporated islands meeting the requirements of Section 56375.3.

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

(6) A commission shall not impose any conditions that would directly regulate land use density or intensity, property development, or subdivision requirements.

(7) The decision of the commission with regard to a proposal to annex territory to a city shall be based upon the general plan and prezoning of the city. When the development purposes are not made known to the annexing city, the annexation shall be reviewed on the basis of the adopted plans and policies of the annexing city or county. A commission shall require, as a condition to annexation, that a city prezone the territory to be annexed or present evidence satisfactory to the commission that the existing development entitlements on the territory are vested or are already at build-out, and are consistent with the city's general plan. However, the commission shall not specify how, or in what manner, the territory shall be prezoned.

(8) With regard to a proposal to establish, expand, or extend a redevelopment project area, the commission shall only have the power to review a redevelopment agency's proposal for financial soundness, and to approve or deny the request, or to require a specified pass-through funding level as a condition to approval. The commission shall have no power to review or consider a finding of blight. Nothing in this act shall be construed to affect judicial review of a finding of blight.

(b) With regard to a proposal for annexation or detachment of territory to, or from, a city or district or with regard to a proposal for reorganization that includes annexation or detachment, to determine whether territory proposed for annexation or detachment,

as described in its resolution approving the annexation, detachment, or reorganization, is inhabited or uninhabited.

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

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

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

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

(g) To adopt written procedures for the evaluation of proposals, including written definitions consistent with existing state law. The commission may adopt standards for any of the factors enumerated in Section 56668. Any standards adopted by the commission shall be written.

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

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

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

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

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

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

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

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

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

~~SECTION 1. Section 56744 of the Government Code is amended to read:~~

~~56744. Unless otherwise determined by the commission pursuant to subdivision (m) of Section 56375, territory shall not be incorporated into, or annexed to, a city pursuant to this division if, as a result of that incorporation or annexation, any unincorporated territory is completely surrounded by that city or by territory of that city on one or more sides and the Pacific Ocean on the remaining sides.~~

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Rollings-McDonald, Kathleen

From: Bill Chiat [wchiat@calafco.org]

Sent: Friday, April 09, 2010 8:33 AM

To: Clark Alsop; Roger Anderson; Kris Berry; Bob Braitman; Scott Browne; William Chiat; Carole Cooper; Paula de Sousa; Harry Ehrlich; SR Jones; Gay Jones; Jerome Keene; Steve Lucas; Ted Novelli; Neelima Palacherla; Mona Palacios; Rollings-McDonald, Kathleen; Allen Settle; Keene Simonds; George J. Spiliotis; Lou Ann Texeira; Chris Tooker; Susan Wilson

Cc: Clark Alsop; Roger Anderson; William Chiat; Bill Connelly; Jerry Gladbach; Mary Jane Griego; Kay Hosmer; Gay Jones; George Lange; Ted Novelli; Sepi Richardson; Dennise Rushing; Cathy Schlottmann; Allen Settle; Stephen Souza; Chris Tooker; Susan Wilson

Subject: AB 1859 (Norby) Redevelopment Agency Project Areas

Dear Legislative Committee and Board Members: As anticipated, AB 1859 was amended by Mr. Norby to expand LAFCo authority to cover redevelopment agencies. The amendments were posted last night. The bill would require LAFCo approval, disapproval or conditional approval of any formation, change in boundary or expansion of a redevelopment agency (RDA) project area. It limits LAFCo review of the RDA's proposal to "financial soundness" without defining what that means. There also is no effective date, nor clarity on whether LAFCo would review all existing RDA project areas. You can download the amended bill by clicking: **AB 1859**.

Leg. Counsel determined this is a new state mandate, although language in the bill states that no reimbursement is required since the RDA has the ability to levey a fee to pay for the LAFCo review. The bill has been dual referred to the Assembly Finance and Local Government committees. The bill has been set for hearing on 21 April at Assembly Local Government.

Obviously CALAFCO was not consulted, although Assembly staff encouraged the author to contact us. None of the other key stakeholders -- League of Cities, CSAC, Cal RDA Assn -- were involved either. Expect this will have a tough fight.

Besides a myriad of (logistical, process, political) problems with adding this authority, this would appear to conflict with CALAFCO Legislative Policy 1.3, opposing the addition of any new authority which dilutes LAFCo ability to meet its primary mission.

We have two options: 1) Oppose it outright -- which may put us in the forefront of the opposition and we should consult with the author and peers first; or 2) Put a watch on it and let the League and CSAC battle the bill; we can oppose it when it gets to the Senate. Appreciate your feedback by e-mail or at the staff workshop. Obviously it will be a topic for both the Legislative Committee on the 30th and the Board meeting on the 14th. BC

Bill Chiat
Executive Director

California Association of Local Agency Formation Commissions
1215 K Street, Suite 1650
Sacramento, CA 95814
916/442-6536

www.calafco.org