

AB 2762
(Assembly Local Government Committee),
CALAFCO Letter of Support,
Assembly Bill

Attachment 6

**2013-2014
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25 March 2014

Honorable Katcho Achadjian, Chair
Assembly Local Government Committee
California State Assembly
State Capitol, Room 4098
Sacramento, CA 95814

RE: SUPPORT of AB 2762: Local Government Committee Omnibus Bill

Dear Assembly Member Achadjian:

The California Association of Local Agency Formation Commissions is pleased to sponsor and support the Assembly Local Government Committee Bill AB 2762 which makes technical, non-substantive changes to the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000.

This annual bill includes technical changes to the Act which governs the work of local agency formation commissions. These changes are necessary as commissions implement the Act and small inconsistencies are found or clarifications are needed to make the law as unambiguous as possible. AB 2762 makes several minor technical changes, corrects obsolete and incorrect code references, and makes minor updates to outdated sections. We are very grateful to the Commission staff and counsel, and your Committee staff who worked diligently on this language to ensure there is no substantive change, yet creates a significant increase in the clarity of the Act for all stakeholders.

This legislation helps insure the Cortese-Knox-Hertzberg Act remains a vital and practical law that is consistently applied around the state. We appreciate your Committee's authorship and support of this bill, and your support of the mission of local agency formation commissions. As always I am happy to provide any additional information needed.

Yours sincerely,



Pamela Miller
Executive Director

cc: Members, Assembly Local Government Committee
Misa Yokoi-Shelton, Associate Consultant, Assembly Local Government Committee
William Weber, Consultant, Assembly Republican Caucus

ASSEMBLY BILL

No. 2762

**Introduced by Committee on Local Government (Achadjian (Chair),
Levine (Vice Chair), Alejo, Gordon, Melendez, Mullin, Rendon,
and Waldron)**

March 24, 2014

An act to amend Sections 56100, 56653, 56668, 56886, and 57113 of, and to repeal Section 56101 of, the Government Code, relating to local government.

LEGISLATIVE COUNSEL'S DIGEST

AB 2762, as introduced, Committee on Local Government. Local government.

Existing law, the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000, provides the authority and procedures for the initiation, conduct, and completion of changes of organization and reorganization of cities and districts. The act does not apply to pending proceedings for a change or organization or reorganization for which the application was accepted for filing prior to January 1, 2001, as specified. The act authorizes these pending proceedings to be continued and completed under, and in accordance with, the law under which the proceedings were commenced.

This bill would repeal those provisions relating to pending proceedings for a change or organization or reorganization for which an application was accepted for filing prior to January 1, 2001, and make other conforming changes.

The act specifies that provisions governing the time within which an official or the commission is to act are, with specific exceptions, directory rather than mandatory.

This bill would make a technical amendment to that provision.

The act requires a local agency or school district that initiates proceedings for a change of local government organization or reorganization by submitting a resolution of application for a change of organization or reorganization to also submit a plan for providing services within the effected territory, as specified.

This bill would instead require, if a proposal for a change of organization or reorganization is submitted, that the applicant submit a plan for providing services within the effected territory.

The act specifies the factors that a local agency formation commission is required to consider in the review of a proposal for a change of organization or reorganization, including, among other things, a regional transportation plan, as specified, and its consistency with city or county general and specific plans.

This bill instead would require the local agency formation commission to consider, in the review of a proposal for a change of organization or reorganization, among other things, a regional transportation plan, and the consistency of the proposal for a change of organization or reorganization with city or county general and specific plans. By increasing the duties of a local agency formation commission, this bill would impose a state-mandated local program.

The act authorizes a change of organization or reorganization to provide for, or to be made subject to, one or more terms and conditions specified in the commission's resolution making determinations, in which case, the terms and conditions imposed constitute the exclusive terms and conditions for the change of organization or reorganization, notwithstanding other specified general provisions of law.

This bill instead would provide, that if a change or reorganization is made subject to terms and conditions, those terms and conditions shall prevail in the event of a conflict with other specified general provisions of law.

The act defines a landowner-voter district and prescribes certain voting thresholds for landowner-voter districts for elections associated with proposals initiated by a local agency formation commission.

This bill would make nonsubstantive, technical changes to these provisions.

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.

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 56100 of the Government Code is
2 amended to read:

3 56100. (a) Except as otherwise provided in Section ~~56036.5,~~
4 ~~56036.5 and~~ subdivision (b) of Section 56036.6, ~~and Section~~
5 ~~56101~~, this division provides the sole and exclusive authority and
6 procedure for the initiation, conduct, and completion of changes
7 of organization and reorganization for cities and districts. All
8 changes of organization and reorganizations shall be initiated,
9 conducted, and completed in accordance with, and as provided in,
10 this division.

11 (b) Notwithstanding any other ~~provision~~ of law, proceedings
12 for the formation of a district shall be conducted as authorized by
13 the principal act of the district proposed to be formed, except that
14 the commission shall serve as the conducting authority and the
15 procedural requirements of this division shall apply and shall
16 prevail in the event of conflict with the procedural requirements
17 of the principal act of the district. In the event of such a conflict,
18 the commission shall specify the procedural requirements that
19 apply, consistent with the requirements of this section.

20 SEC. 2. Section 56101 of the Government Code is repealed.

21 ~~56101. This division does not apply to any proceeding for a~~
22 ~~change of organization or reorganization for which the application~~
23 ~~shall have been accepted for filing by the executive officer pursuant~~
24 ~~to Section 56658 prior to January 1, 2001. These pending~~
25 ~~proceedings may be continued and completed under, and in~~
26 ~~accordance with, the provisions of law under which the proceedings~~
27 ~~were commenced. The repeals, amendments, and additions made~~
28 ~~by the act enacting this division shall not apply to any of those~~
29 ~~pending proceedings, and, the laws existing prior to January 1,~~
30 ~~2001, shall continue in full force and effect, as applied to those~~
31 ~~pending proceedings.~~

32 SEC. 3. Section 56106 of the Government Code is amended
33 to read:

1 56106. Any provisions in this division governing the time
2 within which an official or the commission is to act shall in all
3 instances, except for notice requirements and the requirements of
4 subdivision-(i) (h) of Section 56658 and subdivision (b) of Section
5 56895, be deemed directory, rather than mandatory.

6 SEC. 4. Section 56653 of the Government Code is amended
7 to read:

8 56653. (a) ~~Whenever~~ ~~If~~ a local agency or school district
9 ~~submits a resolution of application~~ *proposal* for a change of
10 organization or reorganization *is submitted* pursuant to this part,
11 the local agency *applicant* shall submit ~~with the resolution of~~
12 ~~application~~ a plan for providing services within the affected
13 territory.

14 (b) The plan for providing services shall include all of the
15 following information and any additional information required by
16 the commission or the executive officer:

17 (1) An enumeration and description of the services to be
18 extended to the affected territory.

19 (2) The level and range of those services.

20 (3) An indication of when those services can feasibly be
21 extended to the affected territory.

22 (4) An indication of any improvement or upgrading of structures,
23 roads, sewer or water facilities, or other conditions the local agency
24 would impose or require within the affected territory if the change
25 of organization or reorganization is completed.

26 (5) Information with respect to how those services will be
27 financed.

28 SEC. 5. Section 56668 of the Government Code is amended
29 to read:

30 56668. Factors to be considered in the review of a proposal
31 shall include, but not be limited to, all of the following:

32 (a) Population and population density; land area and land use;
33 per capita assessed valuation; topography, natural boundaries, and
34 drainage basins; proximity to other populated areas; the likelihood
35 of significant growth in the area, and in adjacent incorporated and
36 unincorporated areas, during the next 10 years.

37 (b) The need for organized community services; the present
38 cost and adequacy of governmental services and controls in the
39 area; probable future needs for those services and controls; probable
40 effect of the proposed incorporation, formation, annexation, or

1 exclusion and of alternative courses of action on the cost and
2 adequacy of services and controls in the area and adjacent areas.

3 “Services,” as used in this subdivision, refers to governmental
4 services whether or not the services are services which would be
5 provided by local agencies subject to this division, and includes
6 the public facilities necessary to provide those services.

7 (c) The effect of the proposed action and of alternative actions,
8 on adjacent areas, on mutual social and economic interests, and
9 on the local governmental structure of the county.

10 (d) The conformity of both the proposal and its anticipated
11 effects with both the adopted commission policies on providing
12 planned, orderly, efficient patterns of urban development, and the
13 policies and priorities in Section 56377.

14 (e) The effect of the proposal on maintaining the physical and
15 economic integrity of agricultural lands, as defined by Section
16 56016.

17 (f) The definiteness and certainty of the boundaries of the
18 territory, the nonconformance of proposed boundaries with lines
19 of assessment or ownership, the creation of islands or corridors of
20 unincorporated territory, and other similar matters affecting the
21 proposed boundaries.

22 (g) A regional transportation plan adopted pursuant to Section
23 ~~65080, and its consistency with city or county general and specific~~
24 ~~plans 65080.~~

25 *(h) Consistency with city or county general and specific plans.*

26 ~~(h)~~

27 (i) The sphere of influence of any local agency which may be
28 applicable to the proposal being reviewed.

29 ~~(i)~~

30 (j) The comments of any affected local agency or other public
31 agency.

32 ~~(j)~~

33 (k) The ability of the newly formed or receiving entity to provide
34 the services which are the subject of the application to the area,
35 including the sufficiency of revenues for those services following
36 the proposed boundary change.

37 ~~(k)~~

38 (l) Timely availability of water supplies adequate for projected
39 needs as specified in Section 65352.5.

40 ~~(l)~~

1 (m) The extent to which the proposal will affect a city or cities
 2 and the county in achieving their respective fair shares of the
 3 regional housing needs as determined by the appropriate council
 4 of governments consistent with Article 10.6 (commencing with
 5 Section 65580) of Chapter 3 of Division 1 of Title 7.

6 ~~(m)~~

7 (n) Any information or comments from the landowner or owners,
 8 voters, or residents of the affected territory.

9 ~~(n)~~

10 (o) Any information relating to existing land use designations.

11 ~~(o)~~

12 (p) The extent to which the proposal will promote environmental
 13 justice. As used in this subdivision, “environmental justice” means
 14 the fair treatment of people of all races, cultures, and incomes with
 15 respect to the location of public facilities and the provision of
 16 public services.

17 SEC. 6. Section 56886 of the Government Code is amended
 18 to read:

19 56886. Any change of organization or reorganization may
 20 provide for, or be made subject to one or more of, the following
 21 terms and conditions. If a change of organization or reorganization
 22 is made subject to one or more of the following terms and
 23 conditions in the commission’s resolution making determinations,
 24 the terms and conditions imposed shall ~~constitute the exclusive~~
 25 ~~terms and conditions for the change of organization or~~
 26 ~~reorganization, notwithstanding~~ *prevail in the event of a conflict*
 27 *between a specific term and condition authorized pursuant to this*
 28 *section and any of the general provisions of Part 5 (commencing*
 29 *with Section 57300). However, none of the following terms and*
 30 *conditions shall directly regulate land use, property development,*
 31 *or subdivision requirements:*

32 (a) The payment of a fixed or determinable amount of money,
 33 either as a lump sum or in installments, for the acquisition, transfer,
 34 use or right of use of all or any part of the existing property, real
 35 or personal, of any city, county, or district.

36 (b) The levying or fixing and the collection of any of the
 37 following, for the purpose of providing for any payment required
 38 pursuant to subdivision (a):

39 (1) Special, extraordinary, or additional taxes or assessments.

1 (2) Special, extraordinary, or additional service charges, rentals,
2 or rates.

3 (3) Both taxes or assessments and service charges, rentals, or
4 rates.

5 (c) The imposition, exemption, transfer, division, or
6 apportionment, as among any affected cities, affected counties,
7 affected districts, and affected territory of liability for payment of
8 all or any part of principal, interest, and any other amounts which
9 shall become due on account of all or any part of any outstanding
10 or then authorized but thereafter issued bonds, including revenue
11 bonds, or other contracts or obligations of any city, county, district,
12 or any improvement district within a local agency, and the levying
13 or fixing and the collection of any (1) taxes or assessments, or (2)
14 service charges, rentals, or rates, or (3) both taxes or assessments
15 and service charges, rentals, or rates, in the same manner as
16 provided in the original authorization of the bonds and in the
17 amount necessary to provide for that payment.

18 (d) If, as a result of any term or condition made pursuant to
19 subdivision (c), the liability of any affected city, affected county,
20 or affected district for payment of the principal of any bonded
21 indebtedness is increased or decreased, the term and condition
22 may specify the amount, if any, of that increase or decrease which
23 shall be included in, or excluded from, the outstanding bonded
24 indebtedness of that entity for the purpose of the application of
25 any statute or charter provision imposing a limitation upon the
26 principal amount of outstanding bonded indebtedness of the entity.

27 (e) The formation of a new improvement district or districts or
28 the annexation or detachment of territory to, or from, any existing
29 improvement district or districts.

30 (f) The incurring of new indebtedness or liability by, or on behalf
31 of, all or any part of any local agency, including territory being
32 annexed to any local agency, or of any existing or proposed new
33 improvement district within that local agency. The new
34 indebtedness may be the obligation solely of territory to be annexed
35 if the local agency has the authority to establish zones for incurring
36 indebtedness. The indebtedness or liability shall be incurred
37 substantially in accordance with the laws otherwise applicable to
38 the local agency.

39 (g) The issuance and sale of any bonds, including authorized
40 but unissued bonds of a local agency, either by that local agency

1 or by a local agency designated as the successor to any local agency
2 which is extinguished as a result of any change of organization or
3 reorganization.

4 (h) The acquisition, improvement, disposition, sale, transfer, or
5 division of any property, real or personal.

6 (i) The disposition, transfer, or division of any moneys or funds,
7 including cash on hand and moneys due but uncollected, and any
8 other obligations.

9 (j) The fixing and establishment of priorities of use, or right of
10 use, of water, or capacity rights in any public improvements or
11 facilities or any other property, real or personal. However, none
12 of the terms and conditions ordered pursuant to this subdivision
13 shall modify priorities of use, or right of use, to water, or capacity
14 rights in any public improvements or facilities that have been fixed
15 and established by a court or an order of the State Water Resources
16 Control Board.

17 (k) The establishment, continuation, or termination of any office,
18 department, or board, or the transfer, combining, consolidation,
19 or separation of any offices, departments, or boards, or any of the
20 functions of those offices, departments, or boards, if, and to the
21 extent that, any of those matters is authorized by the principal act.

22 (l) The employment, transfer, or discharge of employees, the
23 continuation, modification, or termination of existing employment
24 contracts, civil service rights, seniority rights, retirement rights,
25 and other employee benefits and rights.

26 (m) The designation of a city, county, or district, as the successor
27 to any local agency that is extinguished as a result of any change
28 of organization or reorganization, for the purpose of succeeding
29 to all of the rights, duties, and obligations of the extinguished local
30 agency with respect to enforcement, performance, or payment of
31 any outstanding bonds, including revenue bonds, or other contracts
32 and obligations of the extinguished local agency.

33 (n) The designation of (1) the method for the selection of
34 members of the legislative body of a district or (2) the number of
35 those members, or (3) both, where the proceedings are for a
36 consolidation, or a reorganization providing for a consolidation or
37 formation of a new district and the principal act provides for
38 alternative methods of that selection or for varying numbers of
39 those members, or both.

1 (o) The initiation, conduct, or completion of proceedings on a
2 proposal made under, and pursuant to, this division.

3 (p) The fixing of the effective date or dates of any change of
4 organization, subject to the limitations of Section 57202.

5 (q) Any terms and conditions authorized or required by the
6 principal act with respect to any change of organization.

7 (r) The continuation or provision of any service provided at that
8 time, or previously authorized to be provided by an official act of
9 the local agency.

10 (s) The levying of assessments, including the imposition of a
11 fee pursuant to Section 50029 or 66484.3 or the approval by the
12 voters of general or special taxes. For the purposes of this section,
13 imposition of a fee as a condition of the issuance of a building
14 permit does not constitute direct regulation of land use, property
15 development, or subdivision requirements.

16 (t) The extension or continuation of any previously authorized
17 charge, fee, assessment, or tax by the local agency or a successor
18 local agency in the affected territory.

19 (u) The transfer of authority and responsibility among any
20 affected cities, affected counties, and affected districts for the
21 administration of special tax and special assessment districts,
22 including, but not limited to, the levying and collecting of special
23 taxes and special assessments, including the determination of the
24 annual special tax rate within authorized limits; the management
25 of redemption, reserve, special reserve, and construction funds;
26 the issuance of bonds which are authorized but not yet issued at
27 the time of the transfer, including not yet issued portions or phases
28 of bonds which are authorized; supervision of construction paid
29 for with bond or special tax or assessment proceeds; administration
30 of agreements to acquire public facilities and reimburse advances
31 made to the district; and all other rights and responsibilities with
32 respect to the levies, bonds, funds, and use of proceeds that would
33 have applied to the local agency that created the special tax or
34 special assessment district.

35 (v) Any other matters necessary or incidental to any of the terms
36 and conditions specified in this section. If a change of organization,
37 reorganization, or special reorganization provides for, or is made
38 subject to one or more of, the terms and conditions specified in
39 this section, those terms and conditions shall be deemed to be the
40 exclusive terms and conditions for the change of organization,

1 reorganization, or special reorganization, and shall control over
2 any general provisions of Part 5 (commencing with Section 57300).

3 SEC. 7. Section 57113 of the Government Code is amended
4 to read:

5 57113. Notwithstanding Section 57102, 57108, or 57111, for
6 any proposal that was initiated by the commission pursuant to
7 subdivision (a) of Section 56375, the commission shall forward
8 the change of organization or reorganization for confirmation by
9 the voters if the commission finds either of the following:

10 (a) In the case of inhabited territory, protests have been signed
11 by either of the following:

12 (1) At least 10 percent of the number of landowners within any
13 subject agency within the affected territory who own at least 10
14 percent of the assessed value of land within the territory. However,
15 if the number of landowners within a subject agency is less than
16 300, the protests shall be signed by at least 25 percent of the
17 landowners who own at least 25 percent of the assessed value of
18 land within the territory of the subject agency.

19 (2) At least 10 percent of the voters entitled to vote as a result
20 of residing within, or owning land within, any subject agency
21 within the affected territory. However, if the number of voters
22 entitled to vote within a subject agency is less than 300, the protests
23 shall be signed by at least 25 percent of the voters entitled to vote.

24 (b) In the case of a landowner-voter district, ~~that~~ the territory
25 is uninhabited and protests have been signed by at least 10 percent
26 of the number of landowners within any subject agency within the
27 affected territory, ~~owning~~ *who own* at least 10 percent of the
28 assessed value of land within the territory. However, if the number
29 of ~~voters~~ *landowners* entitled to vote within a subject agency is
30 less than 300, protests shall be signed by at least 25 percent of the
31 ~~voters~~ *landowners* entitled to vote.

32 SEC. 8. No reimbursement is required by this act pursuant to
33 Section 6 of Article XIII B of the California Constitution because
34 a local agency or school district has the authority to levy service
35 charges, fees, or assessments sufficient to pay for the program or
36 level of service mandated by this act, within the meaning of Section
37 17556 of the Government Code.