

**AB 852 (Mayes) on Disincorporation,
Press Release and Fact Sheet**

Attachment 2



AB 851 (Mayes R) Local government: organization: disincorporations.

Status

2/27/2015 - From printer. May be heard in committee March 29.

Summary

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 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 to a local agency formation commission, to also submit a plan for providing services within the affected territory, as specified. This bill would, in the case of a disincorporation or reorganization that includes a disincorporation, require the plan for services to include specific provisions, including, among others, an enumeration and description of the services currently provided by the city proposed for disincorporation and an outline of current retirement obligations, as specified. This bill contains other related provisions and other existing laws. (Based on text date 2/26/2015)

Bill Text

02/26/2015 Introduced [html](#) [pdf](#)

Analyses

Votes

History

02/27/2015 Feb. 27 From printer. May be heard in committee March 29.

02/26/2015 Feb. 26 Read first time. To print.

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ASSEMBLY BILL

No. 851

Introduced by Assembly Member Mayes

February 26, 2015

An act to amend Sections 56658, 56885.5, and 57405 of, to add Sections 56653.1, 56770, 56804, 56813, 56814, 56815, and 57426 to, and to repeal Sections 57401, 57402, 57404, 57409, 57410, 57416, 57417, 57423, and 57424 of, the Government Code, and to amend Section 99 of the Revenue and Taxation Code, relating to local government.

LEGISLATIVE COUNSEL'S DIGEST

AB 851, as introduced, Mayes. Local government: organization: disincorporations.

(1) 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 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 to a local agency formation commission, to also submit a plan for providing services within the affected territory, as specified.

This bill would, in the case of a disincorporation or reorganization that includes a disincorporation, require the plan for services to include specific provisions, including, among others, an enumeration and description of the services currently provided by the city proposed for disincorporation and an outline of current retirement obligations, as specified.

(2) The act requires a petitioner or legislative body desiring to initiate proceedings to submit an application to the executive officer of the local agency formation commission, and requires the local agency formation commission, with regard to an application that includes an incorporation, to immediately notify all affected local agencies and any applicable state agency, as specified.

This bill would extend that requirement to an application that includes a disincorporation.

(3) Existing law prohibits the commission from approving or conditionally approving a proposal for an incorporation unless the commission finds, among other things, that the proposal is consistent with the intent of the act, the incorporation is consistent with the spheres of influence of affected local agencies, and the proposed city is expected to receive revenues sufficient to provide public services and facilities and a reasonable reserve during the three fiscal years following incorporation.

This bill would additionally prohibit the commission from approving or conditionally approving a proposal that includes a disincorporation unless the commission finds, among other things, that the disincorporation is consistent with the intent of the act, the disincorporation will address necessary changes to spheres of influence of affected agencies, and the service responsibilities of the city proposed for disincorporation have been assigned, as specified.

(4) Existing law requires the executive officer of the commission to prepare a comprehensive fiscal analysis for any proposal that includes an incorporation, as specified.

This bill would additionally require the executive officer to prepare a comprehensive fiscal analysis for any proposal that includes a disincorporation, as specified.

(5) Existing law requires the commission to determine the amount of property tax revenue to be exchanged by the affected local agency for a proposal that includes the incorporation of a city, and sets forth the procedures to be followed in making that determination.

This bill would additionally require the commission to determine the amount of property tax revenue to be exchanged by the affected city and any successor agency or affected local agency for a proposal that includes a disincorporation of a city, and would set forth the procedures to be followed in making that determination.

The bill would additionally require the commission to determine, where the proposal includes the disincorporation of a city with the

assignment of property tax revenues to a successor agency, the increase of the appropriations limit for the successor agency or agencies, if the successor agency or agencies are existing entities, or the appropriations limit for a new special district, as specified.

The bill would state the intent of the Legislature that a proposal that includes a disincorporation of a city result in a determination that the debt or contractual obligations and responsibilities of the city being disincorporated be the responsibility of the same territory for repayment. The bill would require, prior to issuance of a certificate for filing for a proposal that includes a disincorporation, specified information relating to the debts and contractual obligations of the city being disincorporated.

(6) Existing law authorizes the commission, in approving a disincorporation of a city, the dissolution of a district, or the reorganization or consolidation of agencies that result in the dissolution of one or more districts or disincorporation of one or more cities, to make the approval conditional upon the agency being dissolved not approving any increase in compensation or benefits for specified officers of the agency, or appropriating, encumbering, expending, or otherwise obligating any revenue of the agency beyond that provided in the current budget at the time the dissolution is approved by the commission, unless it first finds that an emergency exists.

This bill would modify this provision to authorize the commission to make the approval conditional upon a condition prohibiting the district that is being dissolved or the city that is being disincorporated from approving any increase in compensation or benefits for specified officers of the agency, or appropriating, encumbering, expending, or otherwise obligating any revenue of the agency beyond that provided in the current budget at the time the dissolution is approved by the commission, unless it first finds that an emergency exists.

The act also authorizes the commission to require a single question appearing on the ballot upon issues of annexation and reorganization in any election at which the questions of annexation and district reorganization or incorporation and district reorganization are to be considered at the same time.

This bill would additionally apply these provisions to a disincorporation and district reorganization.

(7) Existing law requires every public officer of a city being disincorporated, prior to the effective date of the disincorporation, to turn the public property in his or her possession over to the board of supervisors.

This bill would repeal this provision.

(8) The act requires the commission, after ascertaining that the disincorporation has carried, to determine and certify in a written statement to the board of supervisors the indebtedness of the city, the amount of money in its treasury, and the amount of any tax levy or other obligation due the city that is unpaid or has not been collected.

This bill would repeal this provision.

(9) Existing law requires the board of supervisors to make specified determinations if the commission does not provide the board with a statement of those determinations.

This bill would repeal this provision.

(10) Existing law requires the tax collector to collect any tax that has been levied by a disincorporated city that remains uncollected when due and pay it into the county treasury.

This bill would provide that the tax collected and paid into the county treasury is on behalf of the designated successor agency or county to wind up affairs of the disincorporated city.

(11) Existing law requires the board of supervisors of a county to cause taxes to be levied and collected from within the territory formerly included within a disincorporated city, if there is not sufficient money in the treasury of a disincorporated city to the credit of the special fund to pay any city indebtedness as it becomes due. Existing law provides that any taxes levied pursuant to this provision are to be assessed, levied, and collected in the same manner and at the same time as other county taxes, and are additional taxes upon the property included within the territory of the disincorporated city.

This bill would repeal these provisions.

(12) Existing law requires the board of supervisors to levy a special tax upon all property within the disincorporated city if the revenues from specified public utilities are not sufficient for the administration, conduct, or improvement of the public utility. Existing law requires all sums collected to be placed in a separate fund in the county treasury for the administration, conduct, and improvement of the public utility for which the tax is levied.

This bill would repeal these provisions.

(13) Existing law requires the board of supervisors to annually, at the time other county taxes are levied and collected, to levy and collect a special tax on the remainder of the territory of a disincorporated city sufficient to pay the balance of the debt, and pay that sum to the city

treasurer. Existing law requires the city treasurer to pay the bonded indebtedness as it becomes due with the proceeds of those taxes.

This bill would repeal these provisions.

(14) Existing law provides that on and after the effective date of a disincorporation, the territory of the disincorporated city, all inhabitants within the territory, and all persons formerly entitled to vote by reason of residing within the territory cease to be subject to the jurisdiction of the disincorporated city and have none of the rights or duties of inhabitants or voters of a city.

This bill would additionally provide that as of the effective date of a disincorporation, the general plan of the disincorporated city that was in effect immediately prior to the effective date of the disincorporation constitutes the community plan of the county for the territory of the disincorporated city, the zoning ordinances of the disincorporation that were in effect immediately prior to the effective date of the disincorporation constitute the zoning ordinances of the county for that territory, and any conditional use permit or legal nonconforming use that was in place immediately prior to the effective date of the disincorporation remains in force pursuant to the community plan and zoning ordinances. The bill would provide that any use of land that was authorized under the general plan and zoning ordinances immediately prior to the effective date of the disincorporation continues to be authorized, consistent with the requirements of that community plan and those zoning ordinances, for at least 10 years following the effective date of the disincorporation, as specified. The bill would additionally require the board of supervisors of the affected county to, within 90 days of the effective date of the disincorporation, adopt an expedited permit process relating to business, development, and health and safety permits for the territory of the disincorporated city, as specified.

(15) Existing law requires a county auditor to adjust the allocation of property tax revenues for local agencies whose service area or service responsibility may be altered by specified jurisdictional changes.

This bill would include a city disincorporation and dissolved district in those jurisdictional changes. By increasing the duties of the county auditor, this bill would impose a state-mandated local program.

(16) 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, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

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 56653.1 is added to the Government
2 Code, to read:

3 56653.1. In the case of a disincorporation or reorganization
4 that includes a disincorporation, the plan for services required by
5 subdivision (a) of Section 56653 shall include the following:

6 (a) An enumeration and description of the services currently
7 provided by the city proposed for disincorporation and an
8 identification of the entity or entities proposed to assume
9 responsibility for the services following completion of
10 disincorporation.

11 (b) An enumeration and description of each service proposed
12 to be discontinued, the current financing of the service or services,
13 and any method of financing proposed by the successor agency or
14 agencies.

15 (c) A delineation of any existing financing of services currently
16 provided to include, but not be limited to, bonds, assessments,
17 community facility district governance, general taxes, special taxes,
18 other charges, and joint powers authorities or agreements.

19 (d) An indication of any current bankruptcy proceeding,
20 including, but not limited to, status and exit plan.

21 (e) An indication of any current order by any agency,
22 department, office, or other division of the state, including but not
23 limited to, a cease and desist order or water prohibition order.

24 (f) An outline of current retirement obligations, actuarially
25 determined unfunded liability, and any documentation related to
26 termination of public retirement contract provisions.

27 (g) A written acknowledgment from each affected local agency
28 proposed to assume services from the city proposed for
29 disincorporation.

30 (h) Any other information that the executive officer may deem
31 necessary to fully consider the disincorporation proposal.

1 SEC. 2. Section 56658 of the Government Code is amended
2 to read:

3 56658. (a) Any petitioner or legislative body desiring to initiate
4 proceedings shall submit an application to the executive officer of
5 the principal county.

6 (b) (1) Immediately after receiving an application and before
7 issuing a certificate of filing, the executive officer shall give mailed
8 notice that the application has been received to each affected
9 agency, the county committee on school district organization, and
10 each school superintendent whose school district overlies the
11 affected territory. The notice shall generally describe the proposal
12 and the affected territory. The executive officer shall not be
13 required to give notice pursuant to this subdivision if a local agency
14 has already given notice pursuant to subdivision (c) of Section
15 56654.

16 (2) It is the intent of the Legislature that ~~an~~ *a proposal for*
17 ~~incorporation proposal or disincorporation~~ shall be processed in
18 a timely manner. With regard to an application that includes an
19 incorporation *or disincorporation*, the executive officer shall
20 immediately notify all affected local agencies and any applicable
21 state agencies by mail and request the affected agencies to submit
22 the required data to the commission within a reasonable timeframe
23 established by the executive officer. Each affected agency shall
24 respond to the executive officer within 15 days acknowledging
25 receipt of the request. Each affected local agency and the officers
26 and departments thereof shall submit the required data to the
27 executive officer within the timelines established by the executive
28 officer. Each affected state agency and the officers and departments
29 thereof shall submit the required data to the executive officer within
30 the timelines agreed upon by the executive officer and the affected
31 state departments.

32 (3) If a special district is, or as a result of a proposal will be,
33 located in more than one county, the executive officer of the
34 principal county shall immediately give the executive officer of
35 each other affected county mailed notice that the application has
36 been received. The notice shall generally describe the proposal
37 and the affected territory.

38 (c) Except when a commission is the lead agency pursuant to
39 Section 21067 of the Public Resources Code, the executive officer
40 shall determine within 30 days of receiving an application whether

1 the application is complete and acceptable for filing or whether
2 the application is incomplete.

3 (d) The executive officer shall not accept an application for
4 filing and issue a certificate of filing for at least 20 days after giving
5 the mailed notice required by subdivision (b). The executive officer
6 shall not be required to comply with this subdivision in the case
7 of an application which meets the requirements of Section 56662
8 or in the case of an application for which a local agency has already
9 given notice pursuant to subdivision (c) of Section 56654.

10 (e) If the appropriate fees have been paid, an application shall
11 be deemed accepted for filing if no determination has been made
12 by the executive officer within the 30-day period. An executive
13 officer shall accept for filing, and file, any application submitted
14 in the form prescribed by the commission and containing all of
15 the information and data required pursuant to Section 56652.

16 (f) When an application is accepted for filing, the executive
17 officer shall immediately issue a certificate of filing to the
18 applicant. A certificate of filing shall be in the form prescribed by
19 the executive officer and shall specify the date upon which the
20 proposal shall be heard by the commission. From the date of
21 issuance of a certificate of filing, or the date upon which an
22 application is deemed to have been accepted, whichever is earlier,
23 an application shall be deemed filed pursuant to this division.

24 (g) If an application is determined not to be complete, the
25 executive officer shall immediately transmit that determination to
26 the applicant specifying those parts of the application which are
27 incomplete and the manner in which they can be made complete.

28 (h) Following the issuance of the certificate of filing, the
29 executive officer shall proceed to set the proposal for hearing and
30 give published notice thereof as provided in this part. The date of
31 the hearing shall be not more than 90 days after issuance of the
32 certificate of filing or after the application is deemed to have been
33 accepted, whichever is earlier. Notwithstanding Section 56106,
34 the date for conducting the hearing, as determined pursuant to this
35 subdivision, is mandatory.

36 SEC. 3. Section 56770 is added to the Government Code, to
37 read:

38 56770. The commission shall not approve or conditionally
39 approve any proposal that includes a disincorporation, unless,

1 based on the entire record, the commission makes all of the
2 following determinations:

3 (a) The proposed disincorporation is consistent with the intent
4 of this division, including, but not limited to, the policies of
5 Sections 56001, 56300, 56301, and 56377 to provide for a
6 sustainable system for the delivery of services.

7 (b) The proposal has reviewed the municipal service reviews
8 and spheres of influence of the affected local agencies, and the
9 disincorporation will address the necessary changes to those
10 spheres of influence.

11 (c) It has reviewed the comprehensive fiscal analysis prepared
12 pursuant to Section 56804.

13 (d) It has reviewed the executive officer's report and
14 recommendation prepared pursuant to Section 56665, and the oral
15 or written testimony presented at its public hearing.

16 (e) The service responsibilities of the city proposed for
17 disincorporation have been assigned through terms and conditions
18 authorized by Sections 56885.5, 56886, and 57300, and Chapter
19 5 (commencing with Section 57400) of Part 5.

20 SEC. 4. Section 56804 is added to the Government Code, to
21 read:

22 56804. For any proposal that includes a disincorporation, the
23 executive officer shall prepare, or cause to be prepared by contract,
24 a comprehensive fiscal analysis. This analysis shall become part
25 of the report required pursuant to Section 56665. Data used for the
26 analysis shall be from the most recent fiscal year for which data
27 is available, preceding the issuances of the certificate of filing.
28 When data requested by the executive officer in the notice to
29 affected agencies, pursuant to paragraph (2) of subdivision (b) of
30 Section 56658, is unavailable, the analysis shall document the
31 source and methodology of the data used. The analysis shall review
32 and document each of the following:

33 (a) The direct and indirect costs incurred by the city proposed
34 for disincorporation for providing public services and facilities
35 during the three fiscal years immediately preceding the submittal
36 of the proposal for disincorporation.

37 (b) The ability of the entities proposed to assume the obligations
38 of the city being disincorporated and the related costs, including
39 all actual direct and indirect costs, in provision of existing services.

1 (c) When determining costs, the executive officer shall also
2 include all direct and indirect costs of any public services that are
3 proposed to be transferred to state agencies for delivery.

4 (d) The revenues of the city being disincorporated during the
5 three fiscal years immediately preceding the initiation of the
6 disincorporation proposal.

7 (e) Any other information and analysis needed to make the
8 findings required by Section 56770.

9 SEC. 5. Section 56813 is added to the Government Code, to
10 read:

11 56813. (a) If the proposal includes the disincorporation of a
12 city, as defined in Section 56034, the commission shall determine
13 the amount of property tax revenue to be exchanged by the affected
14 city and any successor agency or affected local agency pursuant
15 to this section.

16 (b) The commission shall notify the county auditor of the
17 proposal, the affected local agencies to be extinguished, and the
18 services proposed to be transferred to new jurisdictions, and
19 identify for the auditor the changes to occur.

20 (c) If the proposal would not transfer all of the service
21 responsibilities of the disincorporating city to the affected county
22 or to a single affected agency, the commission and the county
23 auditor shall do all of the following:

24 (1) The county auditor shall determine the proportion that the
25 amount of property tax revenue derived by the city being
26 disincorporated pursuant to subdivision (b) of Section 93 of the
27 Revenue and Taxation Code bears to the total amount of revenue
28 from all sources, available for general purposes, received by the
29 city being disincorporated in the prior fiscal year and provide their
30 response in compliance with paragraph (2) of subdivision (b) of
31 Section 56658. For purposes of making this determination and the
32 determination required by paragraph (3), "total amount of revenue
33 from all sources available for general purposes" means the total
34 amount of revenue which the city being disincorporating may use
35 on a discretionary basis for any purpose and does not include any
36 of the following:

37 (A) Revenue that, by statute, is required to be used for a specific
38 purpose.

1 (B) Revenue from fees, charges, or assessments that are levied
2 to specifically offset the cost of particular services and that do not
3 exceed the cost reasonably borne in providing these services.

4 (C) Revenue received from the federal government that is
5 required to be used for a specific purpose.

6 (2) The commission shall determine, based on information
7 submitted by the city being disincorporated, an amount equal to
8 the total net cost to that city during the prior fiscal year of providing
9 those services that an affected agency will assume within the area
10 subject to the proposal. For purposes of this paragraph, "total net
11 cost" means the total direct and indirect costs that were funded by
12 general purpose revenues of the city being disincorporated and
13 excludes any portion of the total cost that was funded by any
14 revenues of that agency that are specified in subparagraphs (A),
15 (B), and (C) of paragraph (1).

16 (3) For the services to be transferred to each affected local
17 agency, the commission shall multiply the amount determined
18 pursuant to paragraph (2) by the proportion determined pursuant
19 to paragraph (1) to derive the amount of property tax revenue used
20 to provide services by the city being disincorporated during the
21 prior fiscal year within the area subject to the proposal. The county
22 auditor shall adjust the amount so determined by the annual tax
23 increment pursuant to the procedures set forth in Chapter 6
24 (commencing with Section 95) of Part 0.5 of Division 1 of the
25 Revenue and Taxation Code, to the fiscal year in which the affected
26 agency receives its next allocation of property taxes.

27 (d) If the proposal for disincorporation would transfer all of the
28 service responsibilities of the city proposed for disincorporation,
29 other than those that are proposed to be discontinued, to a single
30 successor agency, the commission shall request the auditor to
31 determine the property tax revenue allocated to the city being
32 disincorporated by tax rate area, or portion thereof, and transmit
33 that information to the commission.

34 (e) The executive officer shall notify the auditor of the amount
35 determined pursuant to subdivision (c) or (d), as the case may be,
36 and, where applicable, the period of time within which and the
37 procedure by which the transfer of property tax revenues will be
38 effected pursuant to this section, at the time the executive officer
39 records a certificate of completion pursuant to Section 57203 for
40 any proposal described in subdivision (a), and the auditor shall

1 transfer that amount to the affected agency or agencies that will
2 assume the services as determined by the commission. Any
3 property tax not transferred to an affected agency pursuant to
4 subdivision (c) shall be transferred to the affected county.

5 (f) For purposes of this section, "prior fiscal year" means the
6 most recent fiscal year preceding the issuance of the certificate of
7 filing for which data is available on actual direct and indirect costs
8 and revenues needed to perform the calculations required by this
9 section.

10 (g) Any action brought by a city or district to contest any of the
11 determinations of the county auditor or the commission with regard
12 to the amount of property tax revenue to be exchanged by the
13 affected local agencies pursuant to this section shall be commenced
14 within three years of the effective date of the disincorporation.

15 SEC. 6. Section 56814 is added to the Government Code, to
16 read:

17 56814. If the proposal includes the disincorporation of a city,
18 as defined in Section 56034, with the assignment of property tax
19 revenues to a successor agency the commission shall make the
20 following determinations, as appropriate:

21 (a) The increase of the appropriations limit for the successor
22 agency, or agencies, if the successor agency or agencies is an
23 existing entity.

24 (b) The appropriations limit for a new special district through
25 a formation process as defined by Section 56810.

26 SEC. 7. Section 56815 is added to the Government Code, to
27 read:

28 56815. (a) It is the intent of the Legislature that any proposal
29 that includes the disincorporation of a city result in a determination
30 that the debt or contractual obligations and responsibilities of the
31 city being disincorporated shall be the responsibility of that same
32 territory for repayment. To ascertain this information, the following
33 shall be provided to the commission prior to the issuance of a
34 certificate of filing for a disincorporation proposal, pursuant to
35 Sections 56651 and 56658:

36 (1) The city shall provide a written statement that determines
37 and certifies all of the following:

38 (A) The indebtedness of the city.

39 (B) The amount of money in the city's treasury.

1 (C) The amount of any tax levy or other obligation due the city
2 that is unpaid or has not been collected.

3 (D) The amount of unfunded pension liability of all classes in
4 a public retirement system, and the liability for other
5 postemployment benefits.

6 (2) The county treasurer shall identify all taxes levied and
7 uncollected.

8 (3) A written statement of all redevelopment successor agency
9 designations and current balances and obligations.

10 (b) The commission shall not approve a proposal that includes
11 a disincorporation unless it makes the determinations required by
12 Section 56770.

13 SEC. 8. Section 56885.5 of the Government Code is amended
14 to read:

15 56885.5. (a) In any commission order giving approval to any
16 change of organization or reorganization, the commission may
17 make that approval conditional upon any of the following factors:

18 (1) Any of the conditions set forth in Section 56886.

19 (2) The initiation, conduct, or completion of proceedings for
20 another change of organization or a reorganization.

21 (3) The approval or disapproval, with or without election, as
22 may be provided by this division, of any resolution or ordinance
23 ordering that change of organization or reorganization.

24 (4) With respect to any commission determination to approve
25 the disincorporation of a city, the dissolution of a district, or the
26 reorganization or consolidation of agencies ~~which~~ *that* results in
27 the dissolution of one or more districts or the disincorporation of
28 one or more cities, a condition ~~prohibiting an agency that prohibits~~
29 *a district that is* being dissolved from taking any of the following
30 actions, unless it first finds that an emergency situation exists as
31 defined in Section 54956.5, *or if the governing body of the*
32 *successor agency or agencies, as designated by the commission,*
33 *approves:*

34 (A) Approving any increase in compensation or benefits for
35 members of the governing board, its officers, or the executive
36 officer of the agency.

37 (B) Appropriating, encumbering, expending, or otherwise
38 obligating, any revenue of the agency beyond that provided in the
39 current budget at the time the *commission approves the* dissolution
40 ~~is approved by the commission.~~ *or disincorporation.*

1 (b) If the commission so conditions its approval, the commission
2 may order that any further action pursuant to this division be
3 continued and held in abeyance for the period of time designated
4 by the commission, not to exceed six months from the date of that
5 conditional approval.

6 (c) The commission order may also provide that any election
7 called upon any change of organization or reorganization shall be
8 called, held, and conducted before, upon the same date as, or after
9 the date of any election to be called, held, and conducted upon any
10 other change of organization or reorganization.

11 (d) The commission order may also provide that in any election
12 at which the questions of annexation and district reorganization
13 ~~or or~~; incorporation and district reorganization, *or disincorporation*
14 *and district reorganization* are to be considered at the same time,
15 there shall be a single question appearing on the ballot upon the
16 issues of annexation and district reorganization or incorporation
17 and district reorganization.

18 SEC. 9. Section 57401 of the Government Code is repealed.

19 ~~57401. Prior to the effective date of the disincorporation, every~~
20 ~~public officer of the city shall turn over to the board of supervisors~~
21 ~~the public property in his or her possession.~~

22 SEC. 10. Section 57402 of the Government Code is repealed.

23 ~~57402. After ascertaining that disincorporation has carried, the~~
24 ~~commission shall determine and certify in a written statement to~~
25 ~~the board of supervisors the indebtedness of the city, the amount~~
26 ~~of money in its treasury, and the amount of any tax levy or other~~
27 ~~obligation due the city which is unpaid or has not been collected.~~

28 SEC. 11. Section 57404 of the Government Code is repealed.

29 ~~57404. If the commission does not provide the board of~~
30 ~~supervisors with the certified statement required by Section 57402,~~
31 ~~the board shall make the determinations provided for in that~~
32 ~~section.~~

33 SEC. 12. Section 57405 of the Government Code is amended
34 to read:

35 57405. If a tax has been levied by the disincorporated city and
36 remains uncollected, the county tax collector shall collect it when
37 due and pay it into the county treasury *on behalf of the designated*
38 *successor agency or county to wind up the affairs of the*
39 *disincorporated city.*

40 SEC. 13. Section 57409 of the Government Code is repealed.

1 57409. If there is not sufficient money in the treasury to the
2 credit of the special fund to pay any city indebtedness, the board
3 of supervisors shall cause to be levied, and there shall be collected
4 from the territory formerly included within the city, taxes sufficient
5 to pay the indebtedness as it becomes due.

6 SEC. 14. Section 57410 of the Government Code is repealed.

7 ~~57410. Any taxes levied pursuant to Section 57409 shall be~~
8 ~~assessed, levied, and collected in the same manner and at the same~~
9 ~~time as other county taxes, and are additional taxes upon the~~
10 ~~property included within the territory of the disincorporated city.~~

11 SEC. 15. Section 57416 of the Government Code is repealed.

12 ~~57416. If the revenues from any public utility referred to in~~
13 ~~Section 57415 are not sufficient for its administration, conduct, or~~
14 ~~improvement, the board of supervisors shall levy a special tax~~
15 ~~upon all property within the disincorporated city. The special tax~~
16 ~~shall be levied upon the assessed value of the property as shown~~
17 ~~by the equalized assessment roll in effect on the first day of March~~
18 ~~of that year, and collected in the same manner and form of other~~
19 ~~county taxes.~~

20 SEC. 16. Section 57417 of the Government Code is repealed.

21 ~~57417. All sums collected shall be placed in a separate fund~~
22 ~~in the county treasury for the administration, conduct, and~~
23 ~~improvement of the public utility for which the tax is levied.~~

24 SEC. 17. Section 57423 of the Government Code is repealed.

25 ~~57423. Annually, at the time other county taxes are levied and~~
26 ~~collected, the board of supervisors shall levy and collect a special~~
27 ~~tax on the remainder of the territory sufficient to pay the balance~~
28 ~~of the debt, and pay this sum to the city treasurer.~~

29 SEC. 18. Section 57424 of the Government Code is repealed.

30 ~~57424. With the proceeds of those taxes, the city treasurer shall~~
31 ~~pay the bonded indebtedness as it becomes due.~~

32 SEC. 19. Section 57426 is added to the Government Code, to
33 read:

34 57426. (a) As of the effective date of the disincorporation, all
35 of the following apply:

36 (1) The general plan of the disincorporated city that was in effect
37 immediately prior to the effective date of the disincorporation shall
38 constitute the community plan of the county for the territory of
39 the disincorporated city.

1 (2) The zoning ordinances of the disincorporated city that were
2 in effect immediately prior to the effective date of the
3 disincorporation shall constitute the zoning ordinances of the
4 county for that territory.

5 (3) Any conditional use permit or legal nonconforming use that
6 was in place immediately prior to the effective date of the
7 disincorporation shall remain in force pursuant to the community
8 plan and zoning ordinances.

9 (4) Any use of land that was authorized under the general plan
10 and zoning ordinances immediately prior to the effective date of
11 the disincorporation shall continue to be authorized, consistent
12 with the requirements of that community plan and those zoning
13 ordinances, for at least 10 years following the effective date of the
14 disincorporation, any longer period required by the California
15 Constitution or United States Constitution, or any longer period
16 to the extent permitted by the general plan and zoning ordinances
17 of the county applicable to that territory following that 10-year
18 period.

19 (b) The board of supervisors of the affected county shall, within
20 90 days of the effective date of disincorporation, adopt an expedited
21 permit process relating to business, development, and health and
22 safety permits for the territory of the disincorporated city that is
23 comparable to the permit process that existing in that city
24 immediately preceding disincorporation.

25 SEC. 20. Section 99 of the Revenue and Taxation Code is
26 amended to read:

27 99. (a) For the purposes of the computations required by this
28 chapter:

29 (1) In the case of a jurisdictional change, other than a city
30 incorporation, *city disincorporation*, or a formation of a district as
31 defined in Section 2215, the auditor shall adjust the allocation of
32 property tax revenue determined pursuant to Section 96 or 96.1,
33 or the annual tax increment determined pursuant to Section 96.5,
34 for local agencies whose service area or service responsibility
35 would be altered by the jurisdictional change, as determined
36 pursuant to subdivision (b) or (c).

37 (2) In the case of a city incorporation *or disincorporation*, the
38 auditor shall assign the allocation of property tax revenues
39 determined pursuant to Section 56810 of the Government Code
40 and the adjustments in tax revenues that may occur pursuant to

1 Section 56815 of the Government Code to the newly formed city
2 or district and shall make the adjustment as determined by Section
3 56810 in the allocation of property tax revenue determined pursuant
4 to Section 96 or 96.1 for each local agency whose service area or
5 service responsibilities would be altered by the incorporation.

6 (3) In the case of a formation of a district as defined in Section
7 2215, the auditor shall assign the allocation of property tax
8 revenues determined pursuant to Section 56810 of the Government
9 Code to the district and shall make the adjustment as determined
10 by Section 56810, *or for the disincorporated city or dissolved*
11 *district as determined by Section 56813*, in the allocation of
12 property tax revenue determined pursuant to Section 96 or 96.1
13 for each local agency whose service area or service responsibilities
14 would be altered by the ~~formation~~: *change of organization*.

15 (b) Upon the filing of an application or a resolution pursuant to
16 the Cortese-Knox-Hertzberg Local Government Reorganization
17 Act of 2000 (Division 3 (commencing with Section 56000) of Title
18 5 of the Government Code), but prior to the issuance of a certificate
19 of filing, the executive officer shall give notice of the filing to the
20 assessor and auditor of each county within which the territory
21 subject to the jurisdictional change is located. This notice shall
22 specify each local agency whose service area or responsibility will
23 be altered by the jurisdictional change.

24 (1) (A) The county assessor shall provide to the county auditor,
25 within 30 days of the notice of filing, a report which identifies the
26 assessed valuations for the territory subject to the jurisdictional
27 change and the tax rate area or areas in which the territory exists.

28 (B) The auditor shall estimate the amount of property tax
29 revenue generated within the territory that is the subject of the
30 jurisdictional change during the current fiscal year.

31 (2) The auditor shall estimate what proportion of the property
32 tax revenue determined pursuant to paragraph (1) is attributable
33 to each local agency pursuant to Sections 96.1 and 96.5.

34 (3) Within 45 days of notice of the filing of an application or
35 resolution, the auditor shall notify the governing body of each local
36 agency whose service area or service responsibility will be altered
37 by the jurisdictional change of the amount of, and allocation factors
38 with respect to, property tax revenue estimated pursuant to
39 paragraph (2) that is subject to a negotiated exchange.

1 (4) Upon receipt of the estimates pursuant to paragraph (3), the
2 local agencies shall commence negotiations to determine the
3 amount of property tax revenues to be exchanged between and
4 among the local agencies. Except as otherwise provided, this
5 negotiation period shall not exceed 60 days. If a local agency
6 involved in these negotiations notifies the other local agencies, the
7 county auditor, and the local agency formation commission in
8 writing of its desire to extend the negotiating period, the negotiating
9 period shall be 90 days.

10 The exchange may be limited to an exchange of property tax
11 revenues from the annual tax increment generated in the area
12 subject to the jurisdictional change and attributable to the local
13 agencies whose service area or service responsibilities will be
14 altered by the proposed jurisdictional change. The final exchange
15 resolution shall specify how the annual tax increment shall be
16 allocated in future years.

17 (5) In the event that a jurisdictional change would affect the
18 service area or service responsibility of one or more special
19 districts, the board of supervisors of the county or counties in which
20 the districts are located shall, on behalf of the district or districts,
21 negotiate any exchange of property tax revenues. Prior to entering
22 into negotiation on behalf of a district for the exchange of property
23 tax revenue, the board shall consult with the affected district. The
24 consultation shall include, at a minimum, notification to each
25 member and executive officer of the district board of the pending
26 consultation and provision of adequate opportunity to comment
27 on the negotiation.

28 (6) Notwithstanding any other provision of law, the executive
29 officer shall not issue a certificate of filing pursuant to Section
30 56658 of the Government Code until the local agencies included
31 in the property tax revenue exchange negotiation, within the
32 negotiation period, present resolutions adopted by each such county
33 and city whereby each county and city agrees to accept the
34 exchange of property tax revenues.

35 (7) In the event that the commission modifies the proposal or
36 its resolution of determination, any local agency whose service
37 area or service responsibility would be altered by the proposed
38 jurisdictional change may request, and the executive officer shall
39 grant, 30 days for the affected agencies, pursuant to paragraph (4),
40 to renegotiate an exchange of property tax revenues.

1 Notwithstanding the time period specified in paragraph (4), if the
2 resolutions required pursuant to paragraph (6) are not presented
3 to the executive officer within the 30-day period, all proceedings
4 of the jurisdictional change shall automatically be terminated.

5 (8) In the case of a jurisdictional change that consists of a city's
6 qualified annexation of unincorporated territory, an exchange of
7 property tax revenues between the city and the county shall be
8 determined in accordance with subdivision (e) if that exchange of
9 revenues is not otherwise determined pursuant to either of the
10 following:

11 (A) Negotiations completed within the applicable period or
12 periods as prescribed by this subdivision.

13 (B) A master property tax exchange agreement among those
14 local agencies, as described in subdivision (d).

15 For purposes of this paragraph, a qualified annexation of
16 unincorporated territory means an annexation, as so described, for
17 which an application or a resolution was filed on or after January
18 1, 1998, and on or before January 1, 2015.

19 (9) No later than the date on which the certificate of completion
20 of the jurisdictional change is recorded with the county recorder,
21 the executive officer shall notify the auditor or auditors of the
22 exchange of property tax revenues and the auditor or auditors shall
23 make the appropriate adjustments as provided in subdivision (a).

24 (c) Whenever a jurisdictional change is not required to be
25 reviewed and approved by a local agency formation commission,
26 the local agencies whose service area or service responsibilities
27 would be altered by the proposed change, shall give notice to the
28 State Board of Equalization and the assessor and auditor of each
29 county within which the territory subject to the jurisdictional
30 change is located. This notice shall specify each local agency
31 whose service area or responsibility will be altered by the
32 jurisdictional change and request the auditor and assessor to make
33 the determinations required pursuant to paragraphs (1) and (2) of
34 subdivision (b). Upon notification by the auditor of the amount
35 of, and allocation factors with respect to, property tax subject to
36 exchange, the local agencies, pursuant to the provisions of
37 paragraphs (4) and (6) of subdivision (b), shall determine the
38 amount of property tax revenues to be exchanged between and
39 among the local agencies. Notwithstanding any other provision of
40 law, no such jurisdictional change shall become effective until

1 each county and city included in these negotiations agrees, by
2 resolution, to accept the negotiated exchange of property tax
3 revenues. The exchange may be limited to an exchange of property
4 tax revenue from the annual tax increment generated in the area
5 subject to the jurisdictional change and attributable to the local
6 agencies whose service area or service responsibilities will be
7 altered by the proposed jurisdictional change. The final exchange
8 resolution shall specify how the annual tax increment shall be
9 allocated in future years. Upon the adoption of the resolutions
10 required pursuant to this section, the adopting agencies shall notify
11 the auditor who shall make the appropriate adjustments as provided
12 in subdivision (a). Adjustments in property tax allocations made
13 as the result of a city or library district withdrawing from a county
14 free library system pursuant to Section 19116 of the Education
15 Code shall be made pursuant to Section 19116 of the Education
16 Code, and this subdivision shall not apply.

17 (d) With respect to adjustments in the allocation of property
18 taxes pursuant to this section, a county and any local agency or
19 agencies within the county may develop and adopt a master
20 property tax transfer agreement. The agreement may be revised
21 from time to time by the parties subject to the agreement.

22 (e) (1) An exchange of property tax revenues that is required
23 by paragraph (8) of subdivision (b) to be determined pursuant to
24 this subdivision shall be determined in accordance with all of the
25 following:

26 (A) The city and the county shall mutually select a third-party
27 consultant to perform a comprehensive, independent fiscal analysis,
28 funded in equal portions by the city and the county, that specifies
29 estimates of all tax revenues that will be derived from the annexed
30 territory and the costs of city and county services with respect to
31 the annexed territory. The analysis shall be completed within a
32 period not to exceed 30 days, and shall be based upon the general
33 plan or adopted plans and policies of the annexing city and the
34 intended uses for the annexed territory. If, upon the completion of
35 the analysis period, no exchange of property tax revenues is agreed
36 upon by the city and the county, subparagraph (B) shall apply.

37 (B) The city and the county shall mutually select a mediator,
38 funded in equal portions by those agencies, to perform mediation
39 for a period not to exceed 30 days. If, upon the completion of the

1 mediation period, no exchange of property tax revenues is agreed
2 upon by the city and the county, subparagraph (C) shall apply.

3 (C) The city and the county shall mutually select an arbitrator,
4 funded in equal portions by those agencies, to conduct an advisory
5 arbitration with the city and the county for a period not to exceed
6 30 days. At the conclusion of this arbitration period, the city and
7 the county shall each present to the arbitrator its last and best offer
8 with respect to the exchange of property tax revenues. The
9 arbitrator shall select one of the offers and recommend that offer
10 to the governing bodies of the city and the county. If the governing
11 body of the city or the county rejects the recommended offer, it
12 shall do so during a public hearing, and shall, at the conclusion of
13 that hearing, make written findings of fact as to why the
14 recommended offer was not accepted.

15 (2) Proceedings under this subdivision shall be concluded no
16 more than 150 days after the auditor provides the notification
17 pursuant to paragraph (3) of subdivision (b), unless one of the
18 periods specified in this subdivision is extended by the mutual
19 agreement of the city and the county. Notwithstanding any other
20 provision of law, except for those conditions that are necessary to
21 implement an exchange of property tax revenues determined
22 pursuant to this subdivision, the local agency formation
23 commission shall not impose any fiscal conditions upon a city's
24 qualified annexation of unincorporated territory that is subject to
25 this subdivision.

26 (f) Except as otherwise provided in subdivision (g), for the
27 purpose of determining the amount of property tax to be allocated
28 in the 1979–80 fiscal year and each fiscal year thereafter for those
29 local agencies that were affected by a jurisdictional change which
30 was filed with the State Board of Equalization after January 1,
31 1978, but on or before January 1, 1979. The local agencies shall
32 determine by resolution the amount of property tax revenues to be
33 exchanged between and among the affected agencies and notify
34 the auditor of the determination.

35 (g) For the purpose of determining the amount of property tax
36 to be allocated in the 1979–80 fiscal year and each fiscal year
37 thereafter, for a city incorporation that was filed pursuant to
38 Sections 54900 to 54904 after January 1, 1978, but on or before
39 January 1, 1979, the amount of property tax revenue considered
40 to have been received by the jurisdiction for the 1978–79 fiscal

1 year shall be equal to two-thirds of the amount of property tax
2 revenue projected in the final local agency formation commission
3 staff report pertaining to the incorporation multiplied by the
4 proportion that the total amount of property tax revenue received
5 by all jurisdictions within the county for the 1978–79 fiscal year
6 bears to the total amount of property tax revenue received by all
7 jurisdictions within the county for the 1977–78 fiscal year. Except,
8 however, in the event that the final commission report did not
9 specify the amount of property tax revenue projected for that
10 incorporation, the commission shall by October 10 determine
11 pursuant to Section 54790.3 of the Government Code the amount
12 of property tax to be transferred to the city.

13 The provisions of this subdivision shall also apply to the
14 allocation of property taxes for the 1980–81 fiscal year and each
15 fiscal year thereafter for incorporations approved by the voters in
16 June 1979.

17 (h) For the purpose of the computations made pursuant to this
18 section, in the case of a district formation that was filed pursuant
19 to Sections 54900 to 54904, inclusive, of the Government Code
20 after January 1, 1978, but before January 1, 1979, the amount of
21 property tax to be allocated to the district for the 1979–80 fiscal
22 year and each fiscal year thereafter shall be determined pursuant
23 to Section 54790.3 of the Government Code.

24 (i) For the purposes of the computations required by this chapter,
25 in the case of a jurisdictional change, other than a change requiring
26 an adjustment by the auditor pursuant to subdivision (a), the auditor
27 shall adjust the allocation of property tax revenue determined
28 pursuant to Section 96 or 96.1 or its predecessor section, or the
29 annual tax increment determined pursuant to Section 96.5 or its
30 predecessor section, for each local school district, community
31 college district, or county superintendent of schools whose service
32 area or service responsibility would be altered by the jurisdictional
33 change, as determined as follows:

34 (1) The governing body of each district, county superintendent
35 of schools, or county whose service areas or service responsibilities
36 would be altered by the change shall determine the amount of
37 property tax revenues to be exchanged between and among the
38 affected jurisdictions. This determination shall be adopted by each
39 affected jurisdiction by resolution. For the purpose of negotiation,
40 the county auditor shall furnish the parties and the county board

1 of education with an estimate of the property tax revenue subject
2 to negotiation.

3 (2) In the event that the affected jurisdictions are unable to agree,
4 within 60 days after the effective date of the jurisdictional change,
5 and if all the jurisdictions are wholly within one county, the county
6 board of education shall, by resolution, determine the amount of
7 property tax revenue to be exchanged. If the jurisdictions are in
8 more than one county, the State Board of Education shall, by
9 resolution, within 60 days after the effective date of the
10 jurisdictional change, determine the amount of property tax to be
11 exchanged.

12 (3) Upon adoption of any resolution pursuant to this subdivision,
13 the adopting jurisdictions or State Board of Education shall notify
14 the county auditor who shall make the appropriate adjustments as
15 provided in subdivision (a).

16 (j) For purposes of subdivision (i), the annexation by a
17 community college district of territory within a county not
18 previously served by a community college district is an alteration
19 of service area. The community college district and the county
20 shall negotiate the amount, if any, of property tax revenues to be
21 exchanged. In these negotiations, there shall be taken into
22 consideration the amount of revenue received from the timber
23 yield tax and forest reserve receipts by the community college
24 district in the area not previously served. In no event shall the
25 property tax revenue to be exchanged exceed the amount of
26 property tax revenue collected prior to the annexation for the
27 purposes of paying tuition expenses of residents enrolled in the
28 community college district, adjusted each year by the percentage
29 change in population and the percentage change in the cost of
30 living, or per capita personal income, whichever is lower, less the
31 amount of revenue received by the community college district in
32 the annexed area from the timber yield tax and forest reserve
33 receipts.

34 (k) At any time after a jurisdictional change is effective, any of
35 the local agencies party to the agreement to exchange property tax
36 revenue may renegotiate the agreement with respect to the current
37 fiscal year or subsequent fiscal years, subject to approval by all
38 local agencies affected by the renegotiation.

39 SEC. 21. If the Commission on State Mandates determines
40 that this act contains costs mandated by the state, reimbursement

- 1 to local agencies and school districts for those costs shall be made
- 2 pursuant to Part 7 (commencing with Section 17500) of Division
- 3 4 of Title 2 of the Government Code.

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Assembly California Legislature



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ASSEMBLYMAN CHAD MAYES INTRODUCES BILL TO CLARIFY AND MODERNIZE PROCEDURES FOR MUNICIPAL DISINCORPORATION

Sacramento – Today Assemblyman Chad Mayes (R-Yucca Valley) introduced AB 851 to modernize the procedures for municipal disincorporation. In light of a variety of economic hurdles faced by local cities, AB 851 clarifies the legal and economic responsibilities of LAFCOs – the local entities that receive and process proposals and applications for municipal disincorporation.

Although the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 expanded the role of Local Agency Formation Commissions (LAFCOs), the actual statute that addresses municipal disincorporation has not been updated since 1963 and does not reflect the unintended consequences of recent economic policies.

Specifically, the longer-term effects of the recession, the demise of redevelopment agencies, and the elimination of motor vehicle in-lieu fees for newly incorporated cities with SB 89 (2011, Committee of Budget and Fiscal Review) have had a substantial financial impact on cities throughout the State. In many instances this domino effect causes the threat of insolvency to cities. Many of those cities find themselves considering disincorporation as an option.

“Unfortunately, it’s become too common to witness cities staring at the threat of insolvency. AB 851 ensures compliance with the mandates of Propositions 13 and 218 and clarifies the expectation for assignment of responsibility for debt that will continue in existence prior to disincorporation.

“To recognize the changes to our economy and how governments are funded, it’s time to modernize the process by establishing the responsibilities of LAFCOs in preparing a Comprehensive Fiscal Analysis for disincorporation, determining the transfer of property tax revenues previously received by the proposed disincorporating City, and determining how any debts will be transferred to a successor agency or agencies.

“By no means is this the flashiest bill before the legislature but its passage will protect taxpayers and ensure continued services to our communities and that’s what I’m here to do,” said Mayes.

CALAFCO, the statewide association of LAFCOs, developed the proposal through its board’s Legislative Committee and is sponsoring AB 851.

Assemblyman Chad Mayes is the former Mayor of Yucca Valley and most recently served as Chief of Staff to the Chair of the San Bernardino County Board of Supervisors. Mayes serves as the Chief Republican Whip on the Floor of the State Assembly.

AB 851 (Mayes) Fact Sheet

Disincorporation Statutory Changes

SUMMARY

Assembly Bill 851 would update sections of the Cortese-Knox-Hertzberg Local Government Reorganization Act (the "Act") related to disincorporations of cities.

BACKGROUND

The Cortese-Knox-Hertzberg Reorganization Act establishes a Local Agency Formation Commission (LAFCO) in each California County to oversee proposed changes of organization for cities and districts throughout the state. LAFCOs also receive and process proposals and applications for disincorporations of cities.

A city can be disincorporated either through State legislative statute or by going through a local process. Prior to the Act, seventeen cities have disincorporated, each of which ended up reincorporating at a later time. Since the inception of the Act, only two cities have disincorporated. The City of Hornitos was disincorporated by State statute in 1973, and the City of Cabazon in 1972 went through the disincorporation process prescribed in the Act.

PROBLEM

Much has changed in State law since 1972 when the statutes were last used and there is no current precedent for a disincorporation. Following recent financial events affecting California cities, which include the long-term effects of the recession, the demise of redevelopment agencies, and the elimination of motor vehicle in-lieu fees for newly incorporated cities, several cities are at risk of disincorporation.

The statutes addressing disincorporation have not been updated since the inception of LAFCOs in 1963. Under existing law, the intended procedure for dispensing with debt and unfunded liabilities is not in compliance with Propositions 13 and 218. This could result in the county at large being responsible for the debts and unfunded liabilities of a city that has disincorporated.

SOLUTION

AB 851 brings the sections of the Act into full compliance with the mandates of Propositions 13 and 218. Changes proposed by the legislation include:

- Clarifying the expectation for assignment of responsibility for debt that will continue in existence after disincorporation
- Establishing the parameters and requirements for the submission of the Plan for Service for a disincorporation proposal
- Establishing the responsibilities of LAFCOs in preparing a Comprehensive Fiscal Analysis for disincorporations; the determination of the transfer of property tax revenues previously received by the proposed disincorporating City; and the determination of the transfer of debt to a successor agency or agencies.
- Retaining the existing authority of LAFCOs to impose terms and conditions on a proposed disincorporation as well as the election requirements necessary for approval of disincorporation.

This bill is not intended to promote the use of the disincorporation process, nor is it intended to encourage cities to consider this as an option to relieve their fiscal emergencies. The ultimate success

or failure of a proposal for disincorporation would remain with the registered voters of the City proposed to be disincorporated. The process of taking the final decision to a vote of the people will not change. Furthermore, this bill does not impose new taxes.

SUPPORT

- CALAFCO (sponsor)

FOR MORE INFORMATION

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