SB 239 (Hertzberg)
Local Government Extended Services - Copy of Bill

Attachment 2

SB 239 (Hertzberg D) Local services: contracts: fire protection services.

Status

3/27/2015 - Set for hearing April 15.

Calendar:

4/15/2015 9:30 a.m. - Room 112 SENATE GOVERNANCE AND FINANCE, HERTZBERG, Chair

Summary

Existing law prescribes generally the powers and duties of the local agency formation commission in each county with respect to the review approval or disapproval of proposals for changes of organization or reorganization of cities and special districts within that county. Existing law establishes commission proceedings to consider the exercise of new or different functions or services, or the divestiture of the power to provide particular functions or services, by special districts. This bill would establish commission proceedings to consider the exercise of new or extended fire protection services outside a public agency's current service area by contract or agreement. The bill would require the legislative body of a public agency to adopt a resolution and submit the resolution along with a plan for services, as provided. The bill would require that a proposal by a state agency be initiated by the director of the agency with the approval of the Governor. The bill would require, prior to adopting the resolution or submitting the proposal, the public agency to enter into a written agreement for the performance of new or extended fire protection services with each affected public agency and recognized employee organization representing firefighters in the affected area and to conduct a public hearing on the resolution. The bill would provide that a proposal for a change of organization that involves the exercise of new or extended fire protection services outside a public agency's current service area by contract or agreement may be initiated only by these proceedings. This bill contains other related provisions and other existing laws. (Based on text date 3/23/2015)

Bill Text

03/23/2015 Amended html pdf
02/17/2015 Introduced html pdf

Analyses

Votes

History

03/27/2015 Mar. 27 Set for hearing April 15.

03/23/2015 Mar. 23 From committee with author's amendments. Read second time and amended. Re-referred to Com. on GOV. & F.

02/26/2015 Feb. 26 Referred to Com. on GOV. & F.

02/18/2015 Feb. 18 From printer. May be acted upon on or after March 20.

02/17/2015 Feb. 17 Introduced. Read first time. To Com. on RLS. for assignment. To print.

4/8/2015 12:40:28 PM

AMENDED IN SENATE MARCH 23, 2015

SENATE BILL No. 239

Introduced by Senator Hertzberg

February 17, 2015

An act to amend ~~Section 56133 of~~ *Sections 56021, 56654, 56824.10, and 56824.12 of, to add Section 56800.5 to, and to add Article 1.6 (commencing with Section 56824.20) to Chapter 5 of Part 3 of Division 3 of Title 5 of,* the Government Code, relating to ~~local government.~~ *local services.*

LEGISLATIVE COUNSEL'S DIGEST

SB 239, as amended, Hertzberg. ~~Cities and districts: extended services.~~ *Local services: contracts: fire protection services.*

Existing law prescribes generally the powers and duties of the local agency formation commission in each county with respect to the review approval or disapproval of proposals for changes of organization or reorganization of cities and special districts within that county. Existing law establishes commission proceedings to consider the exercise of new or different functions or services, or the divestiture of the power to provide particular functions or services, by special districts.

This bill would establish commission proceedings to consider the exercise of new or extended fire protection services outside a public agency's current service area by contract or agreement. The bill would require the legislative body of a public agency to adopt a resolution and submit the resolution along with a plan for services, as provided. The bill would require that a proposal by a state agency be initiated by the director of the agency with the approval of the Governor. The bill would require, prior to adopting the resolution or submitting the proposal, the public agency to enter into a written agreement for the

performance of new or extended fire protection services with each affected public agency and recognized employee organization representing firefighters in the affected area and to conduct a public hearing on the resolution. The bill would provide that a proposal for a change of organization that involves the exercise of new or extended fire protection services outside a public agency's current service area by contract or agreement may be initiated only by these proceedings.

The bill would require the commission to approve or disapprove the proposal as specified. The bill would require the commission to consider, among other things, to review a comprehensive fiscal analysis prepared by the executive officer in accordance with specified requirements.

The California Constitution requires local agencies, for the purpose of ensuring public access to the meetings of public bodies and the writings of public officials and agencies, to comply with a statutory enactment that amends or enacts laws relating to public records or open meetings and contains findings demonstrating that the enactment furthers the constitutional requirements relating to this purpose.

This bill would make legislative findings to that effect.

~~The Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 authorizes a city or district to provide new or extended services by contract or agreement outside its jurisdictional boundaries if the city or district requests and receives permission to do so from the local agency formation commission in the affected county. Existing law authorizes the commission to authorize a city or district to provide new or extended services outside its jurisdictional boundaries but within its sphere of influence in anticipation of a later change of organization, or outside its sphere of influence to respond to an existing or impending threat to the public health or safety of the residents of the affected territory, under specified circumstances. Existing law requires the executive officer of the local agency formation commission, within 30 days of receipt of a request for approval by a city or district of a contract to extend services outside its jurisdictional boundary, to determine whether the request is complete and acceptable for filing, as specified.~~

~~This bill would extend the period within which the executive officer is required to make that determination to 45 days.~~

Vote: majority. Appropriation: no. Fiscal committee: ~~no~~ *yes*. State-mandated local program: no.

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 a city.
7 (d) An annexation to a district.
8 (e) A detachment from a city.
9 (f) A detachment from a district.
10 (g) A disincorporation of a city.
11 (h) A district dissolution.
12 (i) A consolidation of cities.
13 (j) A consolidation of special districts.
14 (k) A merger of a city and a district.
15 *(l)* Establishment of a subsidiary district.
16 (m) The exercise of new or different functions or classes of
17 services, or divestiture of the power to provide particular functions
18 or classes of services, within all or part of the jurisdictional
19 boundaries of a special district as provided in Article 1.5
20 (commencing with Section 56824.10) of Chapter 5 of Part 3 of
21 this division.
22 *(n) The exercise of new or extended fire protection services*
23 *outside a public agency's current service area by contract or*
24 *agreement, as authorized by Chapter 4 (commencing with Section*
25 *55600) of Part 2 of Division 2 of Title 5 of this code or Article 4*
26 *(commencing with Section 4141) of Chapter 1 of Part 2 of Division*
27 *4 of the Public Resources Code, as provided in Article 1.6*
28 *(commencing with Section 56824.20) of Chapter 5 of Part 3 of*
29 *Division 3 of Title 5 of this code.*
30 *SEC. 2. Section 56654 of the Government Code is amended to*
31 *read:*
32 56654. (a) A proposal for a change of organization or a
33 reorganization may be made by the adoption of a resolution of
34 application by the legislative body of an affected local agency,
35 except as provided in subdivision (b).
36 (b) *(1)* Notwithstanding Section 56700, a proposal for a change
37 of organization that involves the exercise of new or different
38 functions or classes of services, or the divestiture of the power to

provide particular functions or classes of services, within all or part of the jurisdictional boundaries of a special district, shall only be initiated by the legislative body of that special district in accordance with ~~Sections 56824.10, 56824.12, and 56824.14.~~ *Article 1.5 (commencing with Section 56824.10) of Chapter 5.*

(2) Notwithstanding Section 56700, a proposal for a change of organization that involves the exercise of new or extended services outside a public agency's current service area by contract or agreement, as defined in subdivision (n) of Section 56021, shall only be initiated in accordance with Article 1.6 (commencing with Section 56824.20) of Chapter 5.

(c) At least 21 days before the adoption of the resolution, the legislative body may give mailed notice of its intention to adopt a resolution of application to the commission and to each interested agency and each subject agency. The notice shall generally describe the proposal and the affected territory.

(d) Except for the provisions regarding signers and signatures, a resolution of application shall contain all of the matters specified for a petition in Section 56700 and shall be submitted with a plan for services prepared pursuant to Section 56653.

SEC. 3. Section 56800.5 is added to the Government Code, to read:

56800.5. For a proposal for a change of organization that involves the exercise of new or extended services outside a public agency's current service area by contract or agreement, as defined in subdivision (n) of Section 56021, the executive officer shall prepare, or cause to be prepared by contract, a comprehensive fiscal analysis. This analysis shall become part of the report required pursuant to Section 56665. Data used for the analysis shall be from the most recent fiscal year for which data are available, preceding the issuance of the certificate of filing. When data requested by the executive officer in the notice of affected agencies are unavailable, the analysis shall document the source and methodology of the data used. The analysis shall review and document each of the following:

(a) The costs to the public agency that has proposed to provide new or extended services during the three fiscal years following a public agency entering into a contract to provide new or extended services outside its current service area by contract or agreement, in accordance with the following requirements:

(1) The executive officer shall include all direct and indirect cost impacts to the existing service provider in the affected territory.

(2) The executive officer shall review how the costs of the existing service provider compare to the costs of services provided in service areas with similar populations and of similar geographic size that provide a similar level and range of services and shall make a reasonable determination of the costs expected to be borne by the public agency providing new or extended services.

(b) The revenues of the public agency that has proposed a new or extended service outside its current service area during the three fiscal years following the effective date of a contract or agreement with another public agency to provide a new or extended service.

(c) The effects on the costs and revenues of any affected public agency, including the public agency proposing to provide the new or extended service, during the three fiscal years that the new or extended service will be provided.

(d) Any other information and analysis needed to make the findings required by Section 56824.24.

SEC. 4. Section 56824.10 of the Government Code is amended to read:

56824.10. Commission proceedings 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, pursuant to *paragraph (1) of* subdivision (b) of Section 56654, may be initiated by a resolution of application in accordance with this article.

SEC. 5. Section 56824.12 of the Government Code is amended to read:

56824.12. (a) A proposal by a special district to provide a new or different function or class 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, pursuant to *paragraph (1) of* subdivision (b) of Section 56654, shall be made by the adoption of a resolution of application by the legislative body of the special district and shall include all of the matters specified for a petition in Section 56700, except paragraph (6) of subdivision (a) of Section 56700, and be submitted with a

plan for services prepared pursuant to Section 56653. The plan for services for purposes of this article shall also include all of the following information:

(1) The total estimated cost to provide the new or different function or class of services within the special district's jurisdictional boundaries.

(2) The estimated cost of the new or different function or class of services to customers within the special district's jurisdictional boundaries. The estimated costs may be identified by customer class.

(3) An identification of existing providers, if any, of the new or different function or class of services proposed to be provided and the potential fiscal impact to the customers of those existing providers.

(4) A written summary of whether the new or different function or class 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, pursuant to *paragraph (1) of* subdivision (b) of Section 56654, will involve the activation or divestiture of the power to provide a particular service or services, service function or functions, or class of service or services.

(5) A plan for financing the establishment of the new or different function or class of services within the special district's jurisdictional boundaries.

(6) Alternatives for the establishment of the new or different functions or class of services within the special district's jurisdictional boundaries.

(b) The clerk of the legislative body adopting a resolution of application shall file a certified copy of that resolution with the executive officer. Except as provided in subdivision (c), the commission shall process resolutions of application adopted pursuant to this article in accordance with Section 56824.14.

(c) (1) Prior to submitting a resolution of application pursuant to this article to the commission, the legislative body of the special district shall conduct a public hearing on the resolution. Notice of the hearing shall be published pursuant to Sections 56153 and 56154.

(2) Any affected local agency, affected county, or any interested person who wishes to appear at the hearing shall be given an opportunity to provide oral or written testimony on the resolution.

SEC. 6. Article 1.6 (commencing with Section 56824.20) is added to Chapter 5 of Part 3 of Division 3 of Title 5 of the Government Code, to read:

Article 1.6. Fire Protection Services

56824.20. Commission proceedings pursuant to paragraph (2) of subdivision (b) of Section 56654 may be initiated in accordance with this article.

56824.22. (a) A proposal for a change of organization that involves the exercise of new or extended services outside a public agency's current service area by contract or agreement, as defined in subdivision (n) of Section 56021, shall be made by the adoption of a resolution of application as follows:

(1) In the case of a public agency that is not a state agency, the proposal shall be initiated by the adoption of a resolution of application by the legislative body of the public agency proposing to provide new or extended services outside the public agency's current service area.

(2) In the case of a public agency that is a state agency, the proposal shall be initiated by the director of the state agency proposing to provide new or extended services outside the agency's current service area and be approved by the Governor.

(b) Prior to submitting a resolution of application pursuant to this article to the commission, the legislative body of a public agency or the director of a state agency shall do all of the following:

(1) Obtain and submit with the resolution a written agreement validated and executed by each affected public agency and recognized employee organization that represents firefighters of the existing and proposed service providers consenting to the proposed change of organization.

(2) Conduct a public hearing on the resolution. Notice of the hearing shall be published pursuant to Sections 56154 and 56156. The legislative body of the public agency or the director of the state agency shall provide an affected public agency or an

interested person who wishes to appear at the hearing the opportunity to present oral or written testimony on the resolution.

(c) A proposal for a change of organization submitted pursuant to this article shall be submitted with a plan for services prepared pursuant to Section 56653. The plan for services shall include all of the following information:

(1) The total estimated cost to provide the new or extended services in the affected territory.

(2) The estimated cost of the new or extended services to customers in the affected territory.

(3) An identification of existing service providers, if any, of the new or extended services proposed to be provided and the potential fiscal impact to the customers of those existing providers.

(4) A plan for financing the exercise of the new or extended services in the affected territory.

(5) Alternatives for the exercise of the new or extended services in the affected territory.

(d) The clerk of the legislative body of a public agency or the director of a state agency adopting a resolution of application pursuant to this article shall file a certified copy of the resolution with the executive officer. The commission shall process resolutions of application adopted pursuant to this chapter in accordance with Section 56824.24.

56824.24. (a) The commission shall review and approve or disapprove a proposal for a change of organization as defined in subdivision (n) of Section 56021 after a public hearing called and held for that purpose. The commission shall not consider or approve a proposal that does not comply with the requirements of subdivision (b) of Section 56824.22.

(b) (1) The commission shall not approve a proposal for a change of organization as defined in subdivision (n) of Section 56021 unless the commission determines that the public agency will have sufficient revenues to carry out the exercise of the new or extended services outside its current area, except as specified in paragraph (2).

(2) The commission may approve a proposal for a change of organization as defined in subdivision (n) of Section 56021 where the commission has determined that the public agency will not have sufficient revenue to provide the proposed new or different functions or class of services, if the commission conditions its

approval on the concurrent approval of sufficient revenue sources pursuant to Section 56886. In approving a proposal, the commission shall provide that if the revenue sources pursuant to Section 56886 are not approved, the authority of the public agency to provide new or extended services shall not be exercised.

(c) Notwithstanding Section 56375, the commission shall not approve a proposal for a change of organization as defined in subdivision (n) of Section 56021 unless the commission finds, based on the entire record, all of the following:

(1) The proposed exercise of new or extended services outside a public agency's current service area is consistent with the intent of this division, including, but not limited to, the policies of Sections 56001 and 56300.

(2) The commission has reviewed the comprehensive fiscal analysis prepared pursuant to Section 56800.5.

(3) The commission has reviewed the executive officer's report and recommendation prepared pursuant to Section 56665 and any testimony presented at the public hearing.

(4) The proposed affected territory is expected to receive revenues sufficient to provide public services and facilities and a reasonable reserve during the three fiscal years following the effective date of the contract or agreement between the public agencies to provide a new or extended service.

(d) At least 21 days prior to the date of the hearing, the executive officer shall give mailed notice of that hearing to each affected local agency or affected county, and to any interested party who has filed a written request for notice with the executive officer. In addition, at least 21 days prior to the date of that hearing, the executive officer shall cause notice of the hearing to be published in accordance with Section 56153 in a newspaper of general circulation that is circulated within the territory affected by the proposal proposed to be adopted and shall post the notice of the hearing on the commission's Internet Web site.

(e) The commission may continue from time to time any hearing called pursuant to this section. The commission shall hear and consider oral or written testimony presented by any affected local agency, affected county, or any interested person who appears at any hearing called and held pursuant to this section.

SEC. 7. The Legislature finds and declares that Section 6 of this act, which adds Section 56824.22 to the Government Code,

furthers, within the meaning of paragraph (7) of subdivision (b) of Section 3 of Article I of the California Constitution, the purposes of that constitutional section as it relates to the right of public access to the meetings of local public bodies or the writings of local public officials and local agencies. Pursuant to paragraph (7) of subdivision (b) of Section 3 of Article I of the California Constitution, the Legislature makes the following findings:

This act provides for notice in accordance with existing provisions of the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 and will ensure that the right of public access to local agency meetings is protected.

~~SECTION 1. Section 56133 of the Government Code is amended to read:~~

~~56133. (a) A city or district may provide new or extended services by contract or agreement outside its jurisdictional boundaries only if it first requests and receives written approval from the commission in the affected county.~~

~~(b) The commission may authorize a city or district to provide new or extended services outside its jurisdictional boundaries but within its sphere of influence in anticipation of a later change of organization.~~

~~(c) The commission may authorize a city or district to provide new or extended services outside its jurisdictional boundaries and outside its sphere of influence to respond to an existing or impending threat to the public health or safety of the residents of the affected territory if both of the following requirements are met:~~

~~(1) The entity applying for the contract approval has provided the commission with documentation of a threat to the health and safety of the public or the affected residents.~~

~~(2) The commission has notified any alternate service provider, including any water corporation as defined in Section 241 of the Public Utilities Code, or sewer system corporation as defined in Section 230.6 of the Public Utilities Code, that has filed a map and a statement of its service capabilities with the commission.~~

~~(d) The executive officer, within 45 days of receipt of a request for approval by a city or district of a contract to extend services outside its jurisdictional boundary, shall determine whether the request is complete and acceptable for filing or whether the request is incomplete. If a request is determined not to be complete, the executive officer shall immediately transmit that determination to~~

~~the requester, specifying those parts of the request that are incomplete and the manner in which they can be made complete. When the request is deemed complete, the executive officer shall place the request on the agenda of the next commission meeting for which adequate notice can be given but not more than 90 days from the date that the request is deemed complete, unless the commission has delegated approval of those requests to the executive officer. The commission or executive officer shall approve, disapprove, or approve with conditions the contract for extended services. If the contract is disapproved or approved with conditions, the applicant may request reconsideration, citing the reasons for reconsideration.~~

~~(c) This section does not apply to contracts or agreements solely involving two or more public agencies where the public service to be provided is an alternative to, or substitute for, public services already being provided by an existing public service provider and where the level of service to be provided is consistent with the level of service contemplated by the existing service provider. This section does not apply to contracts for the transfer of nonpotable or nontreated water. This section does not apply to contracts or agreements solely involving the provision of surplus water to agricultural lands and facilities, including, but not limited to, incidental residential structures, for projects that serve conservation purposes or that directly support agricultural industries. However, prior to extending surplus water service to any project that will support or induce development, the city or district shall first request and receive written approval from the commission in the affected county. This section does not apply to an extended service that a city or district was providing on or before January 1, 2001. This section does not apply to a local publicly owned electric utility, as defined by Section 9604 of the Public Utilities Code, providing electric services that do not involve the acquisition, construction, or installation of electric distribution facilities by the local publicly owned electric utility, outside of the utility's jurisdictional boundaries.~~

O