

**AB 851 (Mayes)
Appropriations Committee Analysis,
Amended Bill dated May 7, 2015 and
Assembly Local Government
Committee Analysis**

Attachment 2

unfunded liabilities of a city that has disincorporated. This bill brings the sections of the Act into full compliance with the mandates of Propositions 13 and 218."

- 2) **LAFCOs.** LAFCOs are responsible for coordinating logical and timely changes in local governmental boundaries. The Act establishes procedures for local government changes of organization, including city incorporations, disincorporations, annexations to a city or special district, and city and special district consolidations. LAFCOs regulate boundary changes through the approval or denial of proposals by other public agencies or individuals.
- 3) **Disincorporation in California.** Seventeen cities have disincorporated in California's history, but only two cities have disincorporated since the creation of LAFCOs in 1963. The City of Cabazon, located in Riverside County, was disincorporated in 1973, and went through the process contained in LAFCO law. The Town of Hornitos, located in Mariposa County, was disincorporated by statute in 1972 (AB 2374, Chappie).

More recent discussions regarding disincorporation relate to several cities in California impacted by the redirection of Vehicle License Fee (VLF) revenues away from newly incorporated cities and annexations as part of the realignment shift in 2011.

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AMENDED IN ASSEMBLY MAY 7, 2015

AMENDED IN ASSEMBLY APRIL 13, 2015

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

ASSEMBLY BILL

No. 851

Introduced by Assembly Member Mayes
(Coauthor: Assembly Member Cooley)

February 26, 2015

An act to amend Sections 56658, 56885.5, and 57405 of, to add Sections 56653.1, 56770, 56804, 56813, 56814, 56816, and 57426 to, and to repeal Sections 57401, 57402, 57404, 57409, 57410, 57416, 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 amended, 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.

(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 3 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~~, *successor*, the increase of the appropriations limit for ~~the successor agency or agencies~~, *a successor*, if the ~~successor agency or agencies are~~ *is an* existing ~~entities~~, *entity*, 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 the city being disincorporated to provide a written ~~statement~~, *statement* prior to issuance of a certificate for filing for a proposal that includes a ~~disincorporation~~, *disincorporation* that includes specified information relating to its debts and contractual obligations.

(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.

This bill would repeal this provision.

(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 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~~ *disincorporated city* 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 for as long a period as may be required by the California Constitution or the United States Constitution.

(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 or transferred, the current financing of the
13 service or services, and any method of financing proposed by the
14 ~~successor agency or agencies.~~ *successor.*

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 relating to services
22 provided by the city proposed for disincorporation by any agency,
23 department, office, or other division of the state, including, but
24 not limited to, a cease and desist order or water prohibition order.

25 (f) A written statement from each entity identified pursuant to
26 subdivision (a) that it has received a copy of the plan for services
27 submitted pursuant to this section.

28 (g) Any other information that the executive officer may deem
29 necessary to evaluate the plan for services submitted.

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

32 56658. (a) Any petitioner or legislative body desiring to initiate
33 proceedings shall submit an application to the executive officer of
34 the principal county.

35 (b) (1) Immediately after receiving an application and before
36 issuing a certificate of filing, the executive officer shall give mailed
37 notice that the application has been received to each affected
38 agency, the county committee on school district organization, and

1 each school superintendent whose school district overlies the
2 affected territory. The notice shall generally describe the proposal
3 and the affected territory. The executive officer shall not be
4 required to give notice pursuant to this subdivision if a local agency
5 has already given notice pursuant to subdivision (c) of Section
6 56654.

7 (2) It is the intent of the Legislature that a proposal for
8 incorporation or disincorporation shall be processed in a timely
9 manner. With regard to an application that includes an
10 incorporation or disincorporation, the executive officer shall
11 immediately notify all affected local agencies and any applicable
12 state agencies by mail and request the affected agencies to submit
13 the required data to the commission within a reasonable timeframe
14 established by the executive officer. Each affected agency shall
15 respond to the executive officer within 15 days acknowledging
16 receipt of the request. Each affected local agency and the officers
17 and departments thereof shall submit the required data to the
18 executive officer within the timelines established by the executive
19 officer. Each affected state agency and the officers and departments
20 thereof shall submit the required data to the executive officer within
21 the timelines agreed upon by the executive officer and the affected
22 state departments.

23 (3) If a special district is, or as a result of a proposal will be,
24 located in more than one county, the executive officer of the
25 principal county shall immediately give the executive officer of
26 each other affected county mailed notice that the application has
27 been received. The notice shall generally describe the proposal
28 and the affected territory.

29 (c) Except when a commission is the lead agency pursuant to
30 Section 21067 of the Public Resources Code, the executive officer
31 shall determine within 30 days of receiving an application whether
32 the application is complete and acceptable for filing or whether
33 the application is incomplete.

34 (d) The executive officer shall not accept an application for
35 filing and issue a certificate of filing for at least 20 days after giving
36 the mailed notice required by subdivision (b). The executive officer
37 shall not be required to comply with this subdivision in the case
38 of an application which meets the requirements of Section 56662
39 or in the case of an application for which a local agency has already
40 given notice pursuant to subdivision (c) of Section 56654.

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

7 (f) When an application is accepted for filing, the executive
8 officer shall immediately issue a certificate of filing to the
9 applicant. A certificate of filing shall be in the form prescribed by
10 the executive officer and shall specify the date upon which the
11 proposal shall be heard by the commission. From the date of
12 issuance of a certificate of filing, or the date upon which an
13 application is deemed to have been accepted, whichever is earlier,
14 an application shall be deemed filed pursuant to this division.

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

19 (h) Following the issuance of the certificate of filing, the
20 executive officer shall proceed to set the proposal for hearing and
21 give published notice thereof as provided in this part. The date of
22 the hearing shall be not more than 90 days after issuance of the
23 certificate of filing or after the application is deemed to have been
24 accepted, whichever is earlier. Notwithstanding Section 56106,
25 the date for conducting the hearing, as determined pursuant to this
26 subdivision, is mandatory.

27 SEC. 3. Section 56770 is added to the Government Code, to
28 read:

29 56770. The commission shall not approve or conditionally
30 approve any proposal that includes a disincorporation, unless,
31 based on the entire record, the commission makes all of the
32 following determinations:

33 (a) The proposed disincorporation is consistent with the intent
34 of this division to provide for a sustainable system for the delivery
35 of services.

36 (b) The commission has considered the service reviews of
37 municipal services and spheres of influence of the affected local
38 agencies, and the disincorporation will address the necessary
39 changes to those spheres of influence, if any.

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

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

6 (e) The service responsibilities of the city proposed for
7 disincorporation have been assigned through terms and conditions
8 authorized by Sections 56885.5, 56886, and 57302, and Chapter
9 5 (commencing with Section 57400) of Part 5 and the commission
10 has approved a transition plan to provide those services, if one was
11 requested by the executive officer. 5.

12 SEC. 4. Section 56804 is added to the Government Code, to
13 read:

14 56804. For any proposal that includes a disincorporation, the
15 executive officer shall prepare, or cause to be prepared by contract,
16 a comprehensive fiscal analysis. This analysis shall become part
17 of the report required pursuant to Section 56665. Data used for the
18 analysis shall be from the most recent fiscal year for which data
19 is available, preceding the issuances of the certificate of filing.
20 When data requested by the executive officer in the notice to
21 affected agencies, pursuant to paragraph (2) of subdivision (b) of
22 Section 56658, is unavailable, the analysis shall document the
23 source and methodology of the data used. The analysis shall review
24 and document each of the following:

25 (a) The direct and indirect costs incurred by the city proposed
26 for disincorporation for providing public services and facilities
27 during the three fiscal years immediately preceding the submittal
28 of the proposal for disincorporation.

29 (b) The sources of funding, if any, available to the entities
30 proposed to assume the obligations of the city being
31 disincorporated and the related costs, including all actual direct
32 and indirect costs, in provision of existing services.

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

36 (d) The revenues of the city being disincorporated during the
37 three fiscal years immediately preceding the initiation of the
38 disincorporation proposal.

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

1 SEC. 5. Section 56813 is added to the Government Code, to
2 read:

3 56813. (a) If the proposal includes the disincorporation of a
4 city, as defined in Section 56034, the commission shall determine
5 the amount of property tax revenue to be exchanged by the affected
6 city and any successor ~~agency~~ or affected local agency pursuant
7 to this section.

8 (b) The commission shall notify the county auditor of the
9 proposal, the affected local agencies to be extinguished, and the
10 services proposed to be transferred to new jurisdictions, and
11 identify for the auditor the changes to occur.

12 (c) If the proposal would not transfer all of the service
13 responsibilities of the disincorporating city to the affected county
14 or to a single affected agency, the commission and the county
15 auditor shall do all of the following:

16 (1) The county auditor shall determine the proportion that the
17 amount of property tax revenue derived by the city being
18 disincorporated pursuant to subdivision (b) of Section 93 of the
19 Revenue and Taxation Code bears to the total amount of revenue
20 from all sources, available for general purposes, received by the
21 city being disincorporated in the prior fiscal year and provide their
22 response within 15 days of receiving notification from the
23 commission pursuant to subdivision (b). For purposes of making
24 this determination and the determination required by paragraph
25 (3), "total amount of revenue from all sources available for general
26 purposes" means the total amount of revenue which the city being
27 disincorporated may use on a discretionary basis for any purpose
28 and does not include any of the following:

29 (A) Revenue that, by statute or ordinance, is required to be used
30 for a specific purpose.

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

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

36 (2) The commission shall determine, based on information
37 submitted by the city being disincorporated, an amount equal to
38 the total net cost to that city during the prior fiscal year of providing
39 those services that an affected agency will assume within the area
40 subject to the proposal. For purposes of this paragraph, "total net

1 cost” means the total direct and indirect costs that were funded by
2 general purpose revenues of the city being disincorporated and
3 excludes any portion of the total cost that was funded by any
4 revenues of that agency that are specified in subparagraphs (A),
5 (B), and (C) of paragraph (1).

6 (3) For the services to be transferred to each affected local
7 agency, the commission shall multiply the amount determined
8 pursuant to paragraph (2) by the proportion determined pursuant
9 to paragraph (1) to derive the amount of property tax revenue used
10 to provide services by the city being disincorporated during the
11 prior fiscal year within the area subject to the proposal. The county
12 auditor shall adjust the amount so determined by the annual tax
13 increment pursuant to the procedures set forth in Chapter 6
14 (commencing with Section 95) of Part 0.5 of Division 1 of the
15 Revenue and Taxation Code, to the fiscal year in which the affected
16 agency receives its next allocation of property taxes.

17 (d) If the proposal for disincorporation would transfer all of the
18 service responsibilities of the city proposed for disincorporation,
19 other than those that are proposed to be discontinued, to a single
20 ~~successor agency~~, *successor*, the commission shall request the
21 auditor to determine the property tax revenue allocated to the city
22 being disincorporated by tax rate area, or portion thereof, and
23 transmit that information to the commission.

24 (e) The executive officer shall notify the auditor of the amount
25 determined pursuant to subdivision (c) or (d), as the case may be,
26 and, where applicable, the period of time within which and the
27 procedure by which the transfer of property tax revenues will be
28 effected pursuant to this section, at the time the executive officer
29 records a certificate of completion pursuant to Section 57203 for
30 any proposal described in subdivision (a), and the auditor shall
31 transfer that amount to the affected agency or agencies that will
32 assume the services as determined by the commission. Any
33 property tax not transferred to an affected agency pursuant to
34 subdivision (c) shall be transferred to the affected county.

35 (f) For purposes of this section, “prior fiscal year” means the
36 most recent fiscal year preceding the issuance of the certificate of
37 filing for which data is available on actual direct and indirect costs
38 and revenues needed to perform the calculations required by this
39 section.

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

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

8 56814. If the proposal includes the disincorporation of a city,
9 as defined in Section 56034, with the assignment of property tax
10 revenues to a successor ~~agency~~ the commission shall make the
11 following determinations, as appropriate:

12 (a) The increase of the appropriations limit for the successor
13 ~~agency, or agencies,~~ if the successor ~~agency or agencies~~ is an
14 existing entity.

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

17 SEC. 7. Section 56816 is added to the Government Code, to
18 read:

19 56816. (a) It is the intent of the Legislature that any proposal
20 that includes the disincorporation of a city result in a determination
21 that the debt or contractual obligations and responsibilities of the
22 city being disincorporated shall be the responsibility of that same
23 territory for repayment. To ascertain this information, the city shall
24 provide a written statement that determines and certifies all of the
25 following to the commission prior to the issuance of a certificate
26 of filing for a disincorporation proposal, pursuant to Sections 56651
27 and 56658:

28 (1) The indebtedness of the city.

29 (2) The amount of money in the city's treasury.

30 (3) The amount of any tax levy or other obligation due the city
31 that is unpaid or has not been collected.

32 (4) The amount of current and future liabilities, both internal
33 debt owed to other special or restricted funds or enterprise funds
34 within the agency and external debt owed to other public agencies
35 or outside lenders or that results from contractual obligations,
36 which may include contracts for goods or services, retirement
37 obligations, actuarially determined unfunded pension liability of
38 all classes in a public retirement system, including any
39 documentation related to the termination of public retirement
40 contract provisions, and the liability for other postemployment

1 benefits. The information required by this paragraph shall include
2 any associated revenue stream for financing that may be or has
3 been committed to that liability, including employee contributions.

4 (b) The city shall provide a written statement identifying the
5 successor agency to the city's former redevelopment agency, if
6 any, pursuant to Section 34173 of the Health and Safety Code.

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

9 56885.5. (a) In any commission order giving approval to any
10 change of organization or reorganization, the commission may
11 make that approval conditional upon any of the following factors:

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

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

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

18 (4) With respect to any commission determination to approve
19 the disincorporation of a city, the dissolution of a district, or the
20 reorganization or consolidation of agencies that results in the
21 dissolution of one or more districts or the disincorporation of one
22 or more cities, a condition that prohibits a district that is being
23 dissolved or a city that is being disincorporated from taking any
24 of the following actions, unless it first finds that either an
25 emergency situation exists as defined in Section 54956.5, or the
26 legislative body of the ~~successor agency or agencies~~, *successor*,
27 as designated by the commission has taken action approving one
28 or more of the following actions:

29 (A) Approving any increase in compensation or benefits for
30 members of the governing board, its officers, or the executive
31 officer of the agency.

32 (B) Appropriating, encumbering, expending, or otherwise
33 obligating, any revenue of the agency beyond that provided in the
34 current budget at the time the commission approves the dissolution
35 or disincorporation.

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

1 (c) The commission order may also provide that any election
2 called upon any change of organization or reorganization shall be
3 called, held, and conducted before, upon the same date as, or after
4 the date of any election to be called, held, and conducted upon any
5 other change of organization or reorganization.

6 (d) The commission order may also provide that in any election
7 at which the questions of annexation and district reorganization
8 or, incorporation and district reorganization, or disincorporation
9 and district reorganization are to be considered at the same time,
10 there shall be a single question appearing on the ballot upon the
11 issues of annexation and district reorganization or incorporation
12 and district reorganization.

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

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

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

16 SEC. 12. Section 57405 of the Government Code is amended
17 to read:

18 57405. If a tax has been levied by the disincorporated city and
19 remains uncollected, the county tax collector shall collect it when
20 due and pay it into the county treasury on behalf of the designated
21 successor agency or county to wind up the affairs of the
22 disincorporated city.

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

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

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

26 SEC. 16. Section 57423 of the Government Code is repealed.

27 SEC. 17. Section 57424 of the Government Code is repealed.

28 SEC. 18. Section 57426 is added to the Government Code, to
29 read:

30 57426. As of the effective date of the disincorporation, all of
31 the following apply:

32 (a) The general plan of the disincorporated city that was in effect
33 immediately prior to the effective date of the disincorporation shall
34 constitute the community plan of the county for the territory of
35 the disincorporated city until the county updates the community
36 ~~plan~~ *plan, adopts a specific plan, or amends its county general*
37 *plan for the unincorporated territory.*

38 (b) The zoning ordinances of the disincorporated city that were
39 in effect immediately prior to the effective date of the
40 disincorporation shall constitute the zoning ordinances of the

1 county for that ~~territory~~ territory, and shall be so identified in any
2 community plan, specific plan, or general plan amendment adopted
3 by the county, until the county updates the zoning ordinances
4 applicable to that territory.

5 (c) 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 ~~(d) Notwithstanding subdivisions (a), (b), or (c), any~~ Any use
10 of land that was authorized under the general plan and zoning
11 ordinances immediately prior to the effective date of the
12 disincorporation shall continue to be authorized, for as long a
13 period as may be required by the California Constitution or United
14 States Constitution.

15 SEC. 19. Section 99 of the Revenue and Taxation Code is
16 amended to read:

17 99. (a) For the purposes of the computations required by this
18 chapter:

19 (1) In the case of a jurisdictional change, other than a city
20 incorporation, city disincorporation, or a formation of a district as
21 defined in Section 2215, the auditor shall adjust the allocation of
22 property tax revenue determined pursuant to Section 96 or 96.1,
23 or the annual tax increment determined pursuant to Section 96.5,
24 for local agencies whose service area or service responsibility
25 would be altered by the jurisdictional change, as determined
26 pursuant to subdivision (b) or (c).

27 (2) In the case of a city incorporation or disincorporation, the
28 auditor shall assign the allocation of property tax revenues
29 determined pursuant to Section 56810 of the Government Code
30 and the adjustments in tax revenues that may occur pursuant to
31 Section 56815 of the Government Code to the newly formed city
32 or district and shall make the adjustment as determined by Section
33 56810 or 56813 in the allocation of property tax revenue
34 determined pursuant to Section 96 or 96.1 for each local agency
35 whose service area or service responsibilities would be altered by
36 the incorporation.

37 (3) In the case of a formation of a district as defined in Section
38 2215, the auditor shall assign the allocation of property tax
39 revenues determined pursuant to Section 56810 of the Government
40 Code to the district and shall make the adjustment as determined

1 by Section 56810, or for the disincorporated city or dissolved
2 district as determined by Section 56813, in the allocation of
3 property tax revenue determined pursuant to Section 96 or 96.1
4 for each local agency whose service area or service responsibilities
5 would be altered by the change of organization.

6 (b) Upon the filing of an application or a resolution pursuant to
7 the Cortese-Knox-Hertzberg Local Government Reorganization
8 Act of 2000 (Division 3 (commencing with Section 56000) of Title
9 5 of the Government Code), but prior to the issuance of a certificate
10 of filing, the executive officer shall give notice of the filing to the
11 assessor and auditor of each county within which the territory
12 subject to the jurisdictional change is located. This notice shall
13 specify each local agency whose service area or responsibility will
14 be altered by the jurisdictional change.

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

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

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

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

31 (4) Upon receipt of the estimates pursuant to paragraph (3), the
32 local agencies shall commence negotiations to determine the
33 amount of property tax revenues to be exchanged between and
34 among the local agencies. Except as otherwise provided, this
35 negotiation period shall not exceed 60 days. If a local agency
36 involved in these negotiations notifies the other local agencies, the
37 county auditor, and the local agency formation commission in
38 writing of its desire to extend the negotiating period, the negotiating
39 period shall be 90 days.

1 The exchange may be limited to an exchange of property tax
2 revenues from the annual tax increment generated in the area
3 subject to the jurisdictional change and attributable to the local
4 agencies whose service area or service responsibilities will be
5 altered by the proposed jurisdictional change. The final exchange
6 resolution shall specify how the annual tax increment shall be
7 allocated in future years.

8 (5) In the event that a jurisdictional change would affect the
9 service area or service responsibility of one or more special
10 districts, the board of supervisors of the county or counties in which
11 the districts are located shall, on behalf of the district or districts,
12 negotiate any exchange of property tax revenues. Prior to entering
13 into negotiation on behalf of a district for the exchange of property
14 tax revenue, the board shall consult with the affected district. The
15 consultation shall include, at a minimum, notification to each
16 member and executive officer of the district board of the pending
17 consultation and provision of adequate opportunity to comment
18 on the negotiation.

19 (6) Notwithstanding any other provision of law, the executive
20 officer shall not issue a certificate of filing pursuant to Section
21 56658 of the Government Code until the local agencies included
22 in the property tax revenue exchange negotiation, within the
23 negotiation period, present resolutions adopted by each such county
24 and city whereby each county and city agrees to accept the
25 exchange of property tax revenues.

26 (7) In the event that the commission modifies the proposal or
27 its resolution of determination, any local agency whose service
28 area or service responsibility would be altered by the proposed
29 jurisdictional change may request, and the executive officer shall
30 grant, 30 days for the affected agencies, pursuant to paragraph (4),
31 to renegotiate an exchange of property tax revenues.
32 Notwithstanding the time period specified in paragraph (4), if the
33 resolutions required pursuant to paragraph (6) are not presented
34 to the executive officer within the 30-day period, all proceedings
35 of the jurisdictional change shall automatically be terminated.

36 (8) In the case of a jurisdictional change that consists of a city's
37 qualified annexation of unincorporated territory, an exchange of
38 property tax revenues between the city and the county shall be
39 determined in accordance with subdivision (e) if that exchange of

1 revenues is not otherwise determined pursuant to either of the
2 following:

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

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

7 For purposes of this paragraph, a qualified annexation of
8 unincorporated territory means an annexation, as so described, for
9 which an application or a resolution was filed on or after January
10 1, 1998, and on or before January 1, 2015.

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

16 (c) Whenever a jurisdictional change is not required to be
17 reviewed and approved by a local agency formation commission,
18 the local agencies whose service area or service responsibilities
19 would be altered by the proposed change, shall give notice to the
20 State Board of Equalization and the assessor and auditor of each
21 county within which the territory subject to the jurisdictional
22 change is located. This notice shall specify each local agency
23 whose service area or responsibility will be altered by the
24 jurisdictional change and request the auditor and assessor to make
25 the determinations required pursuant to paragraphs (1) and (2) of
26 subdivision (b). Upon notification by the auditor of the amount
27 of, and allocation factors with respect to, property tax subject to
28 exchange, the local agencies, pursuant to the provisions of
29 paragraphs (4) and (6) of subdivision (b), shall determine the
30 amount of property tax revenues to be exchanged between and
31 among the local agencies. Notwithstanding any other provision of
32 law, no such jurisdictional change shall become effective until
33 each county and city included in these negotiations agrees, by
34 resolution, to accept the negotiated exchange of property tax
35 revenues. The exchange may be limited to an exchange of property
36 tax revenue from the annual tax increment generated in the area
37 subject to the jurisdictional change and attributable to the local
38 agencies whose service area or service responsibilities will be
39 altered by the proposed jurisdictional change. The final exchange
40 resolution shall specify how the annual tax increment shall be

1 allocated in future years. Upon the adoption of the resolutions
2 required pursuant to this section, the adopting agencies shall notify
3 the auditor who shall make the appropriate adjustments as provided
4 in subdivision (a). Adjustments in property tax allocations made
5 as the result of a city or library district withdrawing from a county
6 free library system pursuant to Section 19116 of the Education
7 Code shall be made pursuant to Section 19116 of the Education
8 Code, and this subdivision shall not apply.

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

14 (e) (1) An exchange of property tax revenues that is required
15 by paragraph (8) of subdivision (b) to be determined pursuant to
16 this subdivision shall be determined in accordance with all of the
17 following:

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

29 (B) The city and the county shall mutually select a mediator,
30 funded in equal portions by those agencies, to perform mediation
31 for a period not to exceed 30 days. If, upon the completion of the
32 mediation period, no exchange of property tax revenues is agreed
33 upon by the city and the county, subparagraph (C) shall apply.

34 (C) The city and the county shall mutually select an arbitrator,
35 funded in equal portions by those agencies, to conduct an advisory
36 arbitration with the city and the county for a period not to exceed
37 30 days. At the conclusion of this arbitration period, the city and
38 the county shall each present to the arbitrator its last and best offer
39 with respect to the exchange of property tax revenues. The
40 arbitrator shall select one of the offers and recommend that offer

1 to the governing bodies of the city and the county. If the governing
2 body of the city or the county rejects the recommended offer, it
3 shall do so during a public hearing, and shall, at the conclusion of
4 that hearing, make written findings of fact as to why the
5 recommended offer was not accepted.

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

17 (f) Except as otherwise provided in subdivision (g), for the
18 purpose of determining the amount of property tax to be allocated
19 in the 1979–80 fiscal year and each fiscal year thereafter for those
20 local agencies that were affected by a jurisdictional change which
21 was filed with the State Board of Equalization after January 1,
22 1978, but on or before January 1, 1979. The local agencies shall
23 determine by resolution the amount of property tax revenues to be
24 exchanged between and among the affected agencies and notify
25 the auditor of the determination.

26 (g) For the purpose of determining the amount of property tax
27 to be allocated in the 1979–80 fiscal year and each fiscal year
28 thereafter, for a city incorporation that was filed pursuant to
29 Sections 54900 to ~~54904~~ 54904, *inclusive, of the Government Code*
30 after January 1, 1978, but on or before January 1, 1979, the amount
31 of property tax revenue considered to have been received by the
32 jurisdiction for the 1978–79 fiscal year shall be equal to two-thirds
33 of the amount of property tax revenue projected in the final local
34 agency formation commission staff report pertaining to the
35 incorporation multiplied by the proportion that the total amount
36 of property tax revenue received by all jurisdictions within the
37 county for the 1978–79 fiscal year bears to the total amount of
38 property tax revenue received by all jurisdictions within the county
39 for the 1977–78 fiscal year. Except, however, in the event that the
40 final commission report did not specify the amount of property

1 tax revenue projected for that incorporation, the commission shall
2 by October 10 determine pursuant to Section 54790.3 of the
3 Government Code the amount of property tax to be transferred to
4 the city.

5 The provisions of this subdivision shall also apply to the
6 allocation of property taxes for the 1980–81 fiscal year and each
7 fiscal year thereafter for incorporations approved by the voters in
8 June 1979.

9 (h) For the purpose of the computations made pursuant to this
10 section, in the case of a district formation that was filed pursuant
11 to Sections 54900 to 54904, inclusive, of the Government Code
12 after January 1, 1978, but before January 1, 1979, the amount of
13 property tax to be allocated to the district for the 1979–80 fiscal
14 year and each fiscal year thereafter shall be determined pursuant
15 to Section 54790.3 of the Government Code.

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

26 (1) The governing body of each district, county superintendent
27 of schools, or county whose service areas or service responsibilities
28 would be altered by the change shall determine the amount of
29 property tax revenues to be exchanged between and among the
30 affected jurisdictions. This determination shall be adopted by each
31 affected jurisdiction by resolution. For the purpose of negotiation,
32 the county auditor shall furnish the parties and the county board
33 of education with an estimate of the property tax revenue subject
34 to negotiation.

35 (2) In the event that the affected jurisdictions are unable to agree,
36 within 60 days after the effective date of the jurisdictional change,
37 and if all the jurisdictions are wholly within one county, the county
38 board of education shall, by resolution, determine the amount of
39 property tax revenue to be exchanged. If the jurisdictions are in
40 more than one county, the State Board of Education shall, by

1 resolution, within 60 days after the effective date of the
2 jurisdictional change, determine the amount of property tax to be
3 exchanged.

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

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

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

31 SEC. 20. If the Commission on State Mandates determines
32 that this act contains costs mandated by the state, reimbursement
33 to local agencies and school districts for those costs shall be made
34 pursuant to Part 7 (commencing with Section 17500) of Division
35 4 of Title 2 of the Government Code.

Date of Hearing: April 22, 2015

ASSEMBLY COMMITTEE ON LOCAL GOVERNMENT

Brian Maienschein, Chair

AB 851 (Mayes) – As Amended April 13, 2015

SUBJECT: Local government: organization: disincorporations.

SUMMARY: Makes changes to the city disincorporation process in the Cortese-Knox Hertzberg Act. Specifically, **this bill:**

- 1) Declares that it is the intent of the Legislature that any proposal that includes the disincorporation of a city results in a determination that the debt or contractual obligation and responsibilities of the city being disincorporated shall be the responsibility of that same territory for repayment. Requires the city to provide a written statement to the local agency formation commission (LAFCO) prior to filing a proposal to initiate disincorporation proceedings that determines and certifies all of the following:
 - a) The indebtedness of the city;
 - b) The amount of money in the city's treasury;
 - c) The amount of any tax levy or other obligation due the city that is unpaid or has not been collected; and,
 - d) The amount of current and future liabilities, both internal debt owed to other special or restricted funds or enterprise funds within the agency and external debt owed to other public agencies, outside lenders, or contractual obligations. Liabilities may include, but not be limited to, contracts, retirement obligations, and unfunded pension liability.
- 2) Requires the city to provide a written statement identifying the successor agency to the city's former redevelopment agency, if any.
- 3) Specifies information that must be included in a plan for services with a proposal for a disincorporation or reorganization that includes a disincorporation, as follows:
 - a) An enumeration and description of the services currently provided by the city proposed for disincorporation and an identification of the entity or entities proposed to assume responsibility for the services following the completion of disincorporation;
 - b) An enumeration and description of each service proposed to be discontinued, the current financing of the service or services, and any method of financing proposed by the successor agency or agencies;
 - c) A delineation of any existing financing of services currently provided to include, but may not be limited to, bonds, assessments, community facility district governance, general taxes, special taxes, other charges, and joint powers authorities or agreements;
 - d) An indication of any current bankruptcy proceeding including, but may not be limited to, status and exit plan;

- e) An indication of any current order relating to services provided by the city proposed for disincorporation by any agency, department, office or other division of the state, including, but may not be limited to, a cease and desist order or water prohibition order;
 - f) A written statement from each affected local agency, identified pursuant to a), that they received a copy of the plan for services; and,
 - g) Any other information the executive officer may deem necessary to fully consider the disincorporation proposal.
- 4) Adds disincorporation to a provision in existing law for incorporation that requires notification from an executive officer to affected local agencies and requires local agencies to provide data to the executive officer in order to process a proposal in a timely manner.
- 5) Requires the executive officer to prepare a comprehensive fiscal analysis for a disincorporation proposal. Requires the fiscal analysis to become part of the executive officer's report prepared pursuant to existing law. Requires data used for the analysis to be from the most recent fiscal year (FY), as specified.
- 6) Requires the fiscal analysis to review and document each of the following:
- a) The direct and indirect costs incurred by the city proposed for disincorporation for providing public services and facilities during the three FYs immediately preceding the submittal of the proposal for disincorporation;
 - b) The sources of funding, if any, available to the entities proposed to assume the obligation of the city being disincorporated and the related costs in the provision of existing services;
 - c) Requires the executive officer, when determining costs to include all direct and indirect costs of any public services proposed to be transferred to state agencies for delivery; and,
 - d) Any other information and analysis needed to allow the LAFCO to make certain determinations prior to a city disincorporation, as required by this bill.
- 7) Prohibits a LAFCO from approving or conditionally approving any proposal that includes a disincorporation, unless a LAFCO makes all of the following determinations:
- a) The proposed disincorporation is consistent with the intent of this division to provide for a sustainable system for the delivery of services;
 - b) The LAFCO has considered the service reviews of municipal services and spheres of influence of the affected local agencies, and the disincorporation will address the necessary changes to those spheres of influence, if any;
 - c) The LAFCO has reviewed the comprehensive fiscal analysis, as required by this bill;
 - d) The LAFCO has reviewed the executive officer's report and recommendations prepared pursuant to existing law, and the oral or written testimony presented at public hearing; and,

- e) The service responsibility of the city proposed for disincorporation has been assigned through the terms and conditions, as authorized by existing law, and LAFCO has approved a transition plan to provide those services, if one was requested by the executive officer.
- 8) Requires LAFCO to determine the amount of property tax revenue to be exchanged by the disincorporating city and any successor agency or affected local agency pursuant to a specified process that is substantially similar to the process in existing law for incorporations.
- 9) Requires LAFCO to notify the county auditor of the disincorporation proposal and the services proposed to be transferred, as specified.
- 10) Establishes processes for calculating a property tax exchange depending on, if the disincorporation proposal transfers all of the service responsibilities of the disincorporating city to the affected county or a single affected agency.
- 11) Requires any action brought by a city or district to contest any of the determinations of the county auditor or LAFCO in regard to the amount of property tax revenue to be exchanged to be commenced within three years of the effective date of the disincorporation.
- 12) Requires LAFCO, if the proposal to disincorporate a city includes the assignment of property tax revenues to a successor agency, to make the following determinations, as appropriate:
 - a) The increase of the appropriations limit for the successor agency or agencies, if the agency or agencies is an existing entity; and,
 - b) The appropriations limit for a new special district pursuant to the formation process in current law.
- 13) Adds city disincorporation to provisions of existing law that establish the allocation of property tax revenue in the case of a jurisdictional change, including incorporation.
- 14) Makes changes to provisions of existing law that specify the factors a LAFCO can condition the approval of any change of organization or reorganization upon.
- 15) Provides, as of the effective date of the disincorporation, all of the following plans and documents that were in effect immediately prior to the date of the disincorporation to apply, as follows:
 - a) Requires the general plan of the disincorporated city to constitute as the community plan of the county for the territory of the disincorporated city until the county updates the community plan;
 - b) Requires the zoning ordinances of the disincorporated city to constitute as the zoning ordinance of the county for that territory of the disincorporated city until the county updates the zoning ordinances; and,
 - c) Requires any conditional use permit or legal nonconforming use to remain in force pursuant to the community plan and zoning ordinances.

- 16) Repeals numerous outdated code sections in current law.
- 17) Provides that, if the Commission on State Mandates determines that this bill contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to current law governing state mandated local costs.

EXISTING LAW:

- 1) Establishes the procedures for the organization and reorganization of cities, counties, and special districts, including procedures for the disincorporation of a city under the Cortese-Knox-Hertzberg Act (Act).
- 2) Defines "disincorporation" to mean "the dissolution, extinguishment, or termination of the existence of a city and the cessation of its corporate powers, except for the purpose of winding up the affairs of the city."

FISCAL EFFECT: This bill is keyed fiscal and contains a state-mandated local program.

COMMENTS:

- 1) **LAFCOs and Current Law.** LAFCOs are responsible for coordinating logical and timely changes in local governmental boundaries, conducting special studies that review ways to reorganize, simplify, and streamline governmental structures, and preparing a sphere of influence for each city and special district within each county. The courts refer to LAFCOs as the Legislature's "watchdog" over local boundary changes. The Act establishes procedures for local government changes of organization, including city incorporations, disincorporations, annexations to a city or special district, and city and special district consolidations. LAFCOs regulate boundary changes through the approval or denial of proposals by other public agencies or individuals for these procedures.

The Act prescribes a process for disincorporation, which is similar to most boundary changes that require numerous steps: 1) Application to LAFCO, by petition or resolution, for an environmental review, and property tax exchange agreement; 2) Noticed public hearing, testimony, and approval or disapproval by LAFCO in which they can impose terms and conditions; 3) Additional public hearing for protests (if a majority of the city's voters file protest, the disincorporation stops, and if not, LAFCO must order an election on the proposed disincorporation); 4) Disincorporation election among city voters, which requires a majority vote approval; and, 5) LAFCO staff files documents to complete the disincorporation.

Upon the effective date of a disincorporation, the county board of supervisors is responsible for winding up the affairs of the former city. Residents of the former city no longer have any rights or duties as inhabitants or voters of a city. Prior to the effective date, public officers must turn over public property to the county board of supervisors, and the city council must turn over all city funds, as certified by the LAFCO or the county, to the county treasurer. The county tax collector may collect any levied but uncollected taxes owed to the disincorporated city, and the county may collect or sue for all debts owed the city. Other territories within the county are not responsible and may not be taxed for the debts or liabilities of the former city.

- 2) **Bill Summary.** This bill makes several changes to the statutes that govern the city disincorporation process. In addition to repealing several outdated code sections, this bill builds upon provisions in existing law for incorporations which require information about services and finances to be provided with the proposal. For example, current law requires an applicant to submit a plan for providing services with a proposal. This bill specifies what must be included in that plan for services in the case of a disincorporation, or a reorganization that includes a disincorporation, to provide LAFCOs with additional information about the provision of services. This bill also requires the executive officer of a LAFCO to prepare a comprehensive fiscal analysis as part of the report current law requires them to provide to LAFCO in recommendation of approving or disapproving a proposed change of organization or reorganization. Current law requires a fiscal analysis to be done for incorporations; this bill mirrors those provisions in existing law and would provide LAFCO, successor agencies, and the public with more information about the financial status and impact of a city disincorporation. Also, similar to provisions in current law for incorporations, this bill establishes a process for the exchange of property tax revenue for disincorporations. Under this bill, LAFCOs must make specified determinations before approving or conditionally approving a disincorporation proposal.

This bill does not make any changes to the existing disincorporation process related to public involvement, including public notice, hearing, protest, and election requirements.

This bill is sponsored by the California Association of Local Agency Formation Commissions.

- 3) **Author's Statement.** According to the author, "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. This bill brings the sections of the Act into full compliance with the mandates of Propositions 13 and 218."
- 4) **Disincorporation in California.** Seventeen cities have disincorporated in California's history, including the cities of Long Beach (1896), Pismo Beach (1940), and Stanton (1924), each of which later reincorporated. The Legislature disincorporated several cities by statute, including the following cities: Columbia (1870), Dutch Flat (1866), Felton (1917), and Hornitos (1973). Hornitos and Cabazon are the only two cities that have disincorporated since the creation of LAFCOs in 1963. The City of Cabazon, located in Riverside County, was disincorporated in 1973, and went through the process contained in LAFCO law. The Town of Hornitos, located in Mariposa County, was disincorporated by statute in 1972 (AB 2374, Chappie).

More recent discussions surrounding the issue of disincorporation are in reference to several cities in California impacted by the redirection of Vehicle License Fee (VLF) revenues away from newly incorporated cities and annexations. The realignment shift in 2011 disproportionately endangered the fiscal viability of cities that rely on VLF revenues and after several failed legislative attempts to remedy this issue, cities like Jurupa Valley have continued to discuss possible disincorporation.

News reports on the possible disincorporation of the City of Adelanto in San Bernardino County have persisted despite assurances by city officials that the City has the budget for one more fiscal year and that they continue to look into long range revenue generating and saving opportunities. Most recently, a Santa Barbara grand jury released a report earlier this month calling for the City of Guadalupe to disincorporate due to fiscal mismanagement, a declining tax base, and increasing debt obligations. The Guadalupe City Council has not taken any steps to suggest they will follow the recommendation of the grand jury.

- 5) **Policy Considerations.** The Committee may wish to ask the author to consider the following:
 - a) **Clarity and Consistency.** The Act contains a number of definitions frequently used in the statutes that govern LAFCOs. However, this bill contains references to several phrases that are not defined in the Act, including a "transition plan". The Committee may wish to encourage the author and sponsor to either provide a definition for the plan or delete it from the bill to avoid confusion. Additionally, while "successor agency" is used in the Act in reference to the designation of a city, county, or district, as the successor to any local agency that is extinguished as a result for any change of organization or reorganization, given the common use of "successor agency" in reference to Redevelopment Law, the author and sponsor may wish to explicitly define this term in the Act.
 - b) **Striking a Balance.** Existing law authorizes LAFCOs to subject any change of organization or reorganization to terms and conditions that can include anything from conditioning a city disincorporation on the passage of a new revenue stream, to the transfer of contracts. The Committee may wish to encourage the author and sponsor to continue to work with stakeholders to ensure there is an adequate balance between providing individual LAFCOs with the flexibility to address varying local needs, and providing adequate guidance for local governments and the public.
- 6) **Arguments in Support.** Supporters argue that this bill is not intended to promote the use of the disincorporation process, nor is 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 remains with the registered voters of the city proposed to be disincorporated. This bill just clarifies the required process to get to that point.
- 7) **Arguments in Opposition.** None on file.

REGISTERED SUPPORT / OPPOSITION:

Support

California Association of Local Agency Formation Commissions [SPONSOR]
Contra Costa Local Agency Formation Commission
California State Association of Counties (In Concept)
Imperial Local Agency Formation Commission
Local Agency Formation Commission for San Bernardino County
Orange County Local Agency Formation Commission
Rural County Representatives of California (In Concept)
San Bernardino County (In Concept)
San Luis Obispo Local Agency Formation Commission
San Mateo Local Agency Formation Commission
Sonoma Local Agency Formation Commission
Urban Counties Caucus (In Concept)

Opposition

None on file

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