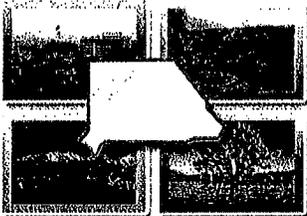


Senate Bill 1318 (Wolk) – Disadvantaged communities – Water and Wastewater Infrastructure – Letter dated March 18 in opposition, Senate Committee on Governance and Finance Analysis Dated March 28, 2016, SB 1318 as Amended April 12, 2016

Attachment 5



LAFCO

Local Agency Formation Commission for San Bernardino County

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Established by the State of California
to serve the Citizens, Cities, Special Districts
and the County of San Bernardino

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LEGAL COUNSEL

CLARK H. ALSOP

March 18, 2016

The Honorable Lois Wolk
California State Senate
State Capital Room 5114
Sacramento, CA 95814

SUBJECT: SB 1318 – Position of Opposition

Dear Senator Wolk:

The Local Agency Formation Commission (LAFCO) for San Bernardino County recently reviewed your legislation, SB 1318, and determined that it must regretfully oppose the bill. San Bernardino LAFCO is acutely aware of the disparity of local public services given our vast jurisdictional area, isolated communities and many disadvantaged areas, both unincorporated and incorporated. The Commission's primary concern is that the legislation does not address the root cause of unacceptable drinking water and wastewater facilities: funding. In most cases, the areas that lack clean water and adequate wastewater infrastructure are the areas least able to finance the needed improvements through bonds or other financing tools.

Our review of the legislation as printed on February 19, 2016, raises several concerns from the LAFCO processing perspective. They are generally identified as follows:

- Creates a Significant Unfunded Mandate to LAFCO and Local Agencies.** The required studies, analysis and preparation of recommendations regarding underserved disadvantaged communities impose an unfunded mandate on all LAFCOs. By law, LAFCO is forced to pass those costs on to the local agencies that fund each commission. For San Bernardino LAFCO, it would be our 24 cities, our county and our 51 independent special districts. In these challenging economic times for local agencies, this is a difficult proposition. LAFCOs have no other revenue source to fund the required studies. With limited staff, some if not all of these studies will require outside consultants at an added cost to our constituents.
- Studies Outside of a Sphere.** The legislation would require LAFCOs, for the first time, to study territory outside of an agency's sphere of influence (sphere) for service delivery. This is a significant new requirement and costly study process. The term "adjacent" is undefined, and since these communities have no boundary, it is impossible to know what constitutes "adjacent".

3. **Studies of Non-Public Agencies.** The legislation would also require LAFCOs, for the first time, to identify the level of water and wastewater services provided by public or private utilities and mutual water companies that serve disadvantaged communities and DUCs. While LAFCOs support efficient delivery of public services to all residents, the Legislature has not granted LAFCO the authority to regulate or approve service extensions of the non-public service providers included in this legislation. This has the potential to lead to confusion, potential conflict and likely litigation.

4. **Precedent-setting Change in Final Authority of Spheres.** The bill changes existing law by removing from LAFCO authority the final sphere approval and instead places that authority in the hands of the voters. This is in direct conflict with the existing definition of a sphere. The legislature has established a framework that gives voters and landowners the final say in changes of jurisdiction. Spheres are not jurisdictional changes; they are planning tools. Planning functions are not typically delegated to voters. In addition, the bill proposes an inconsistent use of the term "voters" and "residents", thereby creating confusion as to the intent. In addition, we are concerned that oftentimes in disadvantaged communities, there is a high percentage of renters who would be the voters deciding the issue not the landowners paying the taxes or special assessments that may ultimately fund the service.

In particular to San Bernardino County, on two occasions special legislation has been adopted related to sphere of influence determinations giving the right to the landowners to determine the ultimate disposition of the sphere of influence determination. In both instances, one in the City of Chino area and the other the infamous "Donut Hole" legislation for the City of Redlands, the jurisdictional problems created by those actions remain to this day. San Bernardino LAFCO is adamantly opposed to this provision.

5. **Removes LAFCO Discretion.** When considering a change of organization pursuant to Government Code Section 56133, LAFCO has the discretion to consider the unique local circumstances and conditions that exist. This is an important and basic construct within the legislatively stated purpose of LAFCOs. This bill removes that discretion and authority.

6. **One size does not fit all.** We are concerned that the bill has unintended consequences in the ability to provide necessary services to an existing DUC. For example, if it is reasonable to extend services to a particular DUC but not to others, this bill prevents the extension of services to the area that can reasonably be serviced. The same is true for those areas currently contained within a city's sphere, where it may make better sense to have another service provider providing the service. In the latter case, the bill proposes an election, and we are concerned not only with the precedent-setting nature of a voter-approved sphere, but also the cost of the election. These changes are complicated by the fact that the bill interchangeably uses the term "disadvantaged community" and "disadvantaged unincorporated community".

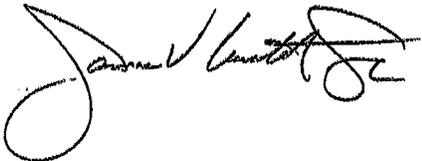
7. **Changes Governmental Reorganization Recommendations from May to Shall.** The amended language requires LAFCO to assess governmental reorganizations and non-governmental service provisions in all sphere determinations, rather than allowing commission discretion. This will add costly, time consuming and often wasted studies to every sphere review and can create unintended litigation issues. Current law allows

LAFCO to determine those cases where a reorganization study may be appropriate to further the goals of orderly development as well as efficient, affordable and sustainable service delivery. To require it in all cases creates costly, unnecessary studies.

San Bernardino LAFCO, along with our statewide association CALAFCO, remain committed to help find solutions to the disparities in service delivery for all disadvantaged communities, be they incorporated or unincorporated. However, it is important to remember that simply changing a boundary or sphere of influence definition for a local agency does little to ensure adequate service. The major obstacles that remain are the funding and financing for infrastructure development and finding tools to address those deficiencies. San Bernardino LAFCO and its staff are committed to working with CALAFCO and your office to find those needed solutions.

Thank you for your consideration of our concerns related to your bill. Please contact Ms. Kathleen Rollings-McDonald, Executive Officer, at the address listed above, by email at kmcdonald@lafco.sbcounty.gov, or at (909) 388-0480 should you wish to further discuss the Commission's position on this issue.

Sincerely,



JAMES V. CURATALO
Chairman

cc: Pamela Miller, Executive Director, CALAFCO
Josh Candelaria, Director, Legislative Affairs, San Bernardino County
San Bernardino County Legislative Delegation

SENATE COMMITTEE ON GOVERNANCE AND FINANCE

Senator Robert M. Hertzberg, Chair

2015 - 2016 Regular

Bill No: SB 1318
Author: Wolk
Version: 3/28/16
Consultant: Favorini-Csorba

Hearing Date: 4/6/16
Tax Levy: No
Fiscal: Yes

LOCAL GOVERNMENT: DRINKING WATER INFRASTRUCTURE OR SERVICES: WASTEWATER INFRASTRUCTURE OR SERVICES

Prohibits a LAFCO from updating the sphere of influence of, or authorizing the extension of services by, a city or qualified special district if nearby disadvantaged unincorporated communities lack safe drinking water or adequate wastewater services.

Background

The Cortese-Knox-Hertzberg Act creates a local agency formation commission (LAFCO) in each county to control the boundaries of cities, county service areas, and most special districts. The courts repeatedly refer to LAFCOs as the Legislature's watchdog over boundary changes. To plan for the future boundaries and service areas of the cities and special districts, a LAFCO must adopt a policy document for each city and district called a sphere of influence. The LAFCOs' boundary decisions must be consistent with the spheres of influence of the affected cities or districts. Spheres must be updated at least every five years.

In order to determine spheres of influence, LAFCOs must periodically conduct a "municipal service review" (MSR) to inform their decisions about spheres of influence. MSRs must analyze and make determinations about seven topics:

- Growth and population projections;
- Present and planned capacity of public facilities and adequacy of public services, including infrastructure needs or deficiencies, including the water, sewer, and fire protection needs of disadvantaged unincorporated communities;
- Agencies' financial abilities to provide services;
- Opportunities for sharing facilities;
- Accountability for community service needs;
- The location and characteristics of any disadvantaged unincorporated communities; and
- Other matters relating to effective or efficient services.

Local governments can only exercise their powers and provide services where LAFCO allows them to: within their boundaries (which are set by LAFCO), within their spheres of influence but outside their boundaries (with authorization by LAFCO), and outside their spheres to address a major threat to public health if the extension is consistent with LAFCO's policies. In 2015, the Legislature approved AB 402 (Dodd), which established a pilot program in Napa County and San Bernardino County that allowed the extension of services outside a local agency's sphere of influence to support existing or planned uses, so long as (1) a MSR has identified a service

deficiency, (2) the extension of service will not result in growth inducing impacts or harm to agricultural lands, and (3) a sphere of influence change is not feasible.

LAFCOs, along with the planning agencies of cities and counties, are supposed to ensure that services are effectively and efficiently delivered to all communities throughout the state. Nevertheless, some communities continue to lack adequate public services, including safe drinking water and functioning wastewater systems. These communities are often poor and are located in the unincorporated area of a county. In some cases these “disadvantaged unincorporated communities” (DUCs) are remote and far from other communities with better public services; in others, a city may share a border with a DUC that has been excluded from its boundaries.

In recent years, the Legislature has taken several steps to try to address some of the service problems experienced by DUCs. SB 244 (Wolk, 2011) aimed to prevent cities from carving out DUCs by prohibiting annexations to a city of territory greater than 10 acres if a DUC is contiguous with the territory proposed for annexation, unless there is an application with the commission to annex the unincorporated area or if the residents of the affected territory oppose annexation. SB 244 also required LAFCOs to include in the MSR a description of the location and characteristics of any DUCs within or contiguous to the sphere of influence and to consider the water, sewer, or fire protection needs of DUCs within the sphere when considering updates. When conducting an MSR, LAFCOs can also assess options for governmental reorganizations or consolidations that improve the efficiency and affordability of service delivery and can review whether water systems in the area are in compliance with the Safe Drinking Water Act. Finally, SB 244 required cities and counties to review the water and fire service needs of DUCs in their general plans.

SB 244 made it easier for LAFCOs to identify boundary changes and governmental reorganizations necessary to fix water service problems faced by DUCs. Subsequent legislation—SB 88 (Committee on Budget and Fiscal Review, 2015)—took this effort a step further by authorizing the State Water Resources Control Board (SWRCB) to order a consolidation of neighboring water systems where it is economically feasible in order to address public health threats. To date, SWRCB has begun the consolidation process with two water systems in communities that border the city of Tulare.

Some advocates for disadvantaged unincorporated communities want to provide additional incentives for local governments to serve DUCs that lack safe drinking water or adequate wastewater service.

Proposed Law

Senate Bill 1318 restricts the cases where a LAFCO can update a sphere of influence or authorize an extension of service. Specifically, the bill prohibits a LAFCO from updating the sphere of influence for a city or a special district, if the district has over 500 connections and provides either drinking water or wastewater services, until the city or special district has entered into an enforceable agreement to extend those services to all disadvantaged unincorporated communities within its sphere of influence or adjacent to its jurisdictional boundaries, if they lack safe drinking water or adequate wastewater services. The services must be extended to the disadvantaged communities within five years of the approval of the sphere of influence update, or sooner if feasible. However, LAFCO may authorize the service extension if the LAFCO finds, based on written evidence, that a majority of the residents of the relevant disadvantaged

communities are opposed to receiving those services. If the LAFCO finds that the residents are opposed, those findings cannot interfere with the SWRCB's authority under SB 88 or other efforts to expand services.

SB 1318 also prohibits a LAFCO from authorizing a city or a special district, regardless of size, to extend drinking water or wastewater services as provided in the Cortese-Knox-Hertzberg Act until the city or special district has entered into an enforceable agreement to extend those services to all disadvantaged communities—whether incorporated or unincorporated—within its sphere of influence or adjacent to its jurisdictional boundaries that lack safe drinking water or adequate wastewater services. The services must be extended to the disadvantaged communities within five years, or sooner if feasible. However, LAFCO may authorize the service extension if any of the following conditions apply:

- The LAFCO finds, based on written evidence, that a majority of the residents of the relevant disadvantaged communities are opposed to receiving those services. If the LAFCO finds that the residents are opposed, those findings cannot interfere with the SWRCB's authority under SB 88 or other efforts to expand services;
- The extension of services is authorized to respond to an existing or impending threat to the health or safety of the public; or
- The extension of services is to a disadvantaged community.

A similar prohibition and exceptions apply to extensions of services authorized under the pilot program in Napa County and San Bernardino County.

SB 1318 further prohibits annexations of territory greater than 10 acres to city or a special district, if the district provides water or wastewater services to more than 500 connections, where there exists either (1) a DUC contiguous to the territory proposed for annexation, or (2) a DUC within the city or district's sphere of influence or adjacent to its boundaries that lacks safe drinking water or adequate wastewater services, with the same exceptions as provided elsewhere in the bill for prohibitions on extensions of services. It also prohibits LAFCOs from removing a disadvantaged community from the sphere of a city or special district unless it finds that the removal would improve service delivery to the community.

SB 1318 places additional responsibilities on LAFCOs as they review and update spheres of influence. Specifically, the bill requires the periodic review of the spheres of influence of any city or special district that provides water, wastewater, or structural fire protection services to consider the need for those services of DUCs adjacent to its sphere. It also makes mandatory several currently optional LAFCO processes and studies, including to:

- Review government reorganizations for potential improvements to service delivery;
- Recommend reorganization where feasible;
- Review alternatives for improving the efficiency and affordability of service delivery within or contiguous with the sphere being reviewed if there is a DUC that lacks adequate drinking water and waste water services; and
- Review water systems in the area for compliance with the Safe Drinking Water Act, if the information is available.

State Revenue Impact

No estimate.

Comments

1. Purpose of the bill. Many communities in California continue to suffer from third-world level drinking water and wastewater services. In many cases, these communities' border cities or special districts with more than enough capacity to serve them, but their boundaries have been drawn to specifically exclude them. Despite recent legislative efforts, some cities continue to look to serve new development outside of their current boundaries before helping neighboring communities. While SB 244 helped highlight the disparity in services for DUCs, stronger measures are needed to ensure that LAFCOs and local governments faithfully carry out their responsibilities. SB 1318 is simply the next step. It incentivizes cities and special districts that want to serve new development to help meet the needs of existing communities with drinking water and wastewater problems, and codifies best practices that conscientious LAFCOs already follow. SB 1318 won't solve all of the problems of DUCs, but it provides an important tool to get the state closer to its goal of ensuring that all Californians have access to safe, affordable drinking water.

2. An offer they can't refuse. A viable development needs certain services, including drinking water and wastewater, but a local government can only provide those services where LAFCO lets them. By restricting the ability of LAFCO to approve service extensions or sphere of influence updates, SB 1318 essentially conditions new development on the provision of services to other unrelated communities, regardless of whether there is any causal link or nexus between a proposed sphere change or extension of services and the DUC that lacks drinking water or wastewater. Courts have found that there may be an unconstitutional taking when government requires development fees or exactions that don't bear a reasonable relationship to the conditions created by the new development. In addition, anti-development forces may abuse the provisions of SB 1318 to stop new housing or other facilities that they don't like. Instead of providing third parties with leverage to try to force cities and special districts to serve DUCs, it may be more appropriate to directly require cities and counties, through the general planning process, to ensure that these communities have access to sustainable services.

3. Different strokes. California is a diverse state, with many unique communities and considerations. Many of the communities that lack safe drinking water are located in rural areas of sparsely populated counties. But the bill would apply statewide. There may be unintended consequences—such as a freezing of spheres of influence and jurisdictional boundaries—in densely populated urban counties such as Los Angeles or the San Francisco Bay Area where DUCs are surrounded by multiple cities and special districts. The very purpose of LAFCOs is to take into account local conditions in determining what services are provided where. The Committee may wish to consider amending SB 1318 to apply only to parts of the state where DUCs with water or wastewater inadequacies are known and there are technically and economically feasible consolidations that have been blocked for more parochial reasons.

4. Burden on LAFCOs. SB 1318 imposes a number of burdens on LAFCOs that they may not have the resources to pursue, including potential elections or polling to perform sphere updates, mandatory studies of territory outside of an agency's sphere, and mandatory assessments of alternatives for communities that lack adequate drinking water or wastewater. Cities, counties, and special districts fund LAFCO operations, but many of those agencies are still recovering

from the recession. Is now the right time to impose additional financial responsibilities on local agencies that are just getting to their feet?

5. Mandate. The California Constitution generally requires the state to reimburse local agencies for their costs when the state imposes new programs or additional duties on them. According to the Legislative Counsel's Office, SB 1318 creates a new state-mandated local program. SB 1318 provides that if the Commission on State Mandates determines that the bill contains state-mandated costs, reimbursement to local agencies must be made according to an existing process in state law.

6. Double-referred. The Senate Rules Committee has ordered a double-referral of SB 1318—first to the Senate Governance & Finance Committee, which has jurisdiction over bills relating to LAFCOs and local government services, and then to the Senate Environmental Quality Committee, which has jurisdiction over bills relating to drinking water and wastewater.

7. Let's be clear. The Committee may wish to consider two clarifying amendments that correct errors to further the intent of the bill:

- Standardize references to “disadvantaged unincorporated communities” throughout the bill. Some provisions of the bill refer instead to disadvantaged communities, which could include incorporated areas that are already within the sphere of a city or special district.
- Ensure that 56133(h) does not prevent cities which do not provide water or wastewater services from updating their spheres of influence. Some cities receive services by contract, and thus could be prevented from changing their spheres even though they are not able to remedy nearby water problems. Similarly, one reference to “district” in the same section is missing the modifier “qualifying,” which is necessary to restrict the bill's applicability to districts that provide water or wastewater services.

Support and Opposition (3/31/2016)

Support: Leadership Counsel for Justice and Accountability (co-sponsor); California Food Policy Advocates; California League of Conservation Voters; California Rural Legal Assistance Foundation; Central California Asthma Collaborative; Clean Water Action; Community Water Center; Environmental Justice Coalition; Environmental Working Group; Natural Resources Defense Council; Policy Link; Pueblo Unido Community Development Coalition; Rural Communities Assistance Foundation; San Joaquin Valley Sustainable Agriculture Collaborative; Sequoia Riverlands Trust; Sierra Club California.

Opposition: California Apartment Association; California Association of Local Agency Formation Commissions; California Association of Realtors; California Building Industries Association; California Business Properties Association; California Chamber of Commerce; California Manufacturers and Technology Association; California Municipal Utilities Association; California Special Districts Association; Contra Costa LAFCO; El Dorado LAFCO; League of California Cities; Nevada County LAFCO; Riverside LAFCO; San Bernardino County LAFCO; San Diego LAFCO; San Luis Obispo LAFCO; San Mateo LAFCO; Sonoma LAFCO.

-- END --

AMENDED IN SENATE APRIL 12, 2016

AMENDED IN SENATE MARCH 28, 2016

SENATE BILL

No. 1318

Introduced by Senator Wolk

February 19, 2016

An act to amend Sections 56133, 56133.5, 56375, 56425, and 56430 of the Government Code, relating to local government.

LEGISLATIVE COUNSEL'S DIGEST

SB 1318, as amended, Wolk. Local government: drinking water infrastructure or services; wastewater infrastructure or services.

The Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 governs the procedures for the formation and change of organization of cities and special districts.

~~Existing law authorizes a city or district to provide new or extended services by contract or agreement outside its jurisdictional boundaries only if the city or district requests and receives permission to do so from the local agency formation commission in the affected county. Under existing law, the commission may authorize a city or district to provide new or extended services outside both its jurisdictional boundaries and its sphere of influence under specified circumstances.~~

~~This bill would prohibit the commission from authorizing a city or a district to extend drinking water infrastructure or services or wastewater infrastructure or services until it has entered into an enforceable agreement to extend the same services to all disadvantaged communities within its sphere of influence or adjacent to its jurisdictional boundaries, unless specified conditions are met. The bill would prohibit the commission from approving a sphere of influence update where there exists a disadvantaged unincorporated community within the city's or~~

~~special district's sphere of influence or contiguous with a city's or qualifying special district's jurisdictional boundaries that lacks safe drinking water infrastructure or services or adequate wastewater infrastructure or services unless specified conditions are met.~~

~~Existing law establishes a pilot program for the Napa and San Bernardino local agency formation commissions that permits those commissions to authorize a city or district to provide new or extended services outside both its jurisdictional boundaries and its sphere of influence under specified circumstances.~~

~~This bill would prohibit those commissions from authorizing a city or a district to extend drinking water infrastructure or services or wastewater infrastructure or services until it has entered into an enforceable agreement to extend those services to all disadvantaged communities within its sphere of influence or contiguous with a city's or district's jurisdictional boundaries that lack safe drinking water or adequate wastewater infrastructure or services unless specified conditions are met.~~

~~Existing law, except as otherwise provided, prohibits a local agency formation commission from approving an annexation to a city of any territory greater than 10 acres, or as determined by commission policy, where there exists a disadvantaged unincorporated community, as specified, unless an application to annex the disadvantaged unincorporated community to the subject city has been filed with the executive officer.~~

~~This bill would extend that prohibition to an annexation to a qualified special district. The bill would additionally prohibit a commission from approving an annexation to a city or qualified special district of any territory greater than 10 acres, or as determined by commission policy, where there exists a disadvantaged unincorporated community within the sphere of influence of a city or qualified special district or contiguous to the city's or qualified special district's jurisdictional boundaries that lacks safe drinking water infrastructure or services or adequate wastewater infrastructure or services, unless, among other things, the city or qualified special district has entered into an enforceable agreement to extend those services into the disadvantaged community or communities. The bill would define "qualified special district" to mean a special district with more than 500 service connections that provides drinking water or wastewater services.~~

~~Existing law requires a local agency formation commission to develop and determine the sphere of influence of each city and each special~~

district within the county and to enact policies designed to promote the logical and orderly development of areas within the sphere. ~~Existing law authorizes the commission, in determining a sphere of influence, to assess the feasibility of governmental reorganization of particular agencies and recommend reorganization of those agencies, as provided.~~

~~This bill would instead require the commission to assess the feasibility of governmental reorganization of particular agencies and recommend reorganization of those agencies.~~ The bill would prohibit a commission from approving a sphere of influence update that removes a disadvantaged community from a city's or special district's sphere of influence unless the commission makes a finding that removal of the community will result in improved service delivery to the community.

Existing law requires a commission, in preparing and updating spheres of influence, to conduct a service review of the municipal services provided in the county or other area designated by the commission. Existing law authorizes the commission, in conducting the review, to assess various alternatives for improving efficiency and affordability of infrastructure and service delivery, as specified, and to include a review of whether the agencies under review are in compliance with the California Safe Drinking Water Act.

Where there exists a disadvantaged unincorporated community that lacks adequate drinking water and wastewater services and infrastructure within or contiguous with the subject sphere, this bill would instead require the commission to make the assessment of alternatives and to include the safe drinking water review described above if the information is ~~readily~~ *available from the State Water Resources Control Board or other sources. This bill would, on or before January 1, 2022, and every 5 years thereafter, require the commission to conduct service reviews sufficient to have reviewed the entire territory of the county. The bill would require the commission to file a map of the county that identifies disadvantaged unincorporated communities that lack safe drinking water or adequate wastewater with the Office of Planning and Research, and would require the Office of Planning and Research to post the map on its Internet Web site. The bill would additionally require the commission, within 2 years of identifying a disadvantaged unincorporated community that lacks safe drinking water or adequate wastewater services, to recommend a plan based on the alternatives analyzed and adopt any actions necessary to implement the plan, as specified.*

By imposing new duties on local government officials, this bill would impose a state-mandated local program.

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 56133 of the Government Code is~~
2 ~~amended to read:~~

3 ~~56133. (a) A city or district may provide new or extended~~
4 ~~services by contract or agreement outside its jurisdictional~~
5 ~~boundary only if it first requests and receives written approval~~
6 ~~from the commission.~~

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

11 ~~(c) If consistent with adopted policy, the commission may~~
12 ~~authorize a city or district to provide new or extended services~~
13 ~~outside its jurisdictional boundary and outside its sphere of~~
14 ~~influence to respond to an existing or impending threat to the health~~
15 ~~or safety of the public or the residents of the affected territory, if~~
16 ~~both of the following requirements are met:~~

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

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

24 ~~(d) The commission shall not authorize a city or a district to~~
25 ~~extend drinking water infrastructure or services or wastewater~~
26 ~~infrastructure or services pursuant to this section until it has entered~~

1 into an enforceable agreement to extend the same services to all
2 disadvantaged communities within its sphere of influence or
3 adjacent to its jurisdictional boundaries that lack safe drinking
4 water or adequate wastewater services or infrastructure as soon as
5 feasible to do so but within a period no longer than five years;
6 unless either of the following conditions are met:

7 (1) The commission finds, based upon written evidence, that a
8 majority of the residents of the affected disadvantaged community
9 or communities are opposed to receiving the identified service or
10 services. These findings shall not interfere with or inform other
11 programs or policies designed to expand basic services to
12 disadvantaged unincorporated communities, including, but not
13 limited to, Sections 116680 to 116684, inclusive, of the Health
14 and Safety Code.

15 (2) The extension of services is authorized pursuant to
16 subdivision (c) or the extension of services is to a disadvantaged
17 community.

18 (c)

19 The executive officer, within 30 days of receipt of a request
20 for approval by a city or district to extend services outside its
21 jurisdictional boundary, shall determine whether the request is
22 complete and acceptable for filing or whether the request is
23 incomplete. If a request is determined not to be complete, the
24 executive officer shall immediately transmit that determination to
25 the requester, specifying those parts of the request that are
26 incomplete and the manner in which they can be made complete.
27 When the request is deemed complete, the executive officer shall
28 place the request on the agenda of the next commission meeting
29 for which adequate notice can be given but not more than 90 days
30 from the date that the request is deemed complete, unless the
31 commission has delegated approval of requests made pursuant to
32 this section to the executive officer. The commission or executive
33 officer shall approve, disapprove, or approve with conditions the
34 extended services. If the new or extended services are disapproved
35 or approved with conditions, the applicant may request
36 reconsideration, citing the reasons for reconsideration.

37 (f)

38 This section does not apply to any of the following:

39 (1) Two or more public agencies where the public service to be
40 provided is an alternative to, or substitute for, public services

1 already being provided by an existing public service provider and
2 where the level of service to be provided is consistent with the
3 level of service contemplated by the existing service provider.

4 ~~(2) The transfer of nonpotable or nontreated water.~~

5 ~~(3) The provision of surplus water to agricultural lands and~~
6 ~~facilities, including, but not limited to, incidental residential~~
7 ~~structures, for projects that serve conservation purposes or that~~
8 ~~directly support agricultural industries. However, prior to extending~~
9 ~~surplus water service to any project that will support or induce~~
10 ~~development, the city or district shall first request and receive~~
11 ~~written approval from the commission in the affected county.~~

12 ~~(4) An extended service that a city or district was providing on~~
13 ~~or before January 1, 2001.~~

14 ~~(5) A local publicly owned electric utility, as defined by Section~~
15 ~~9604 of the Public Utilities Code, providing electric services that~~
16 ~~do not involve the acquisition, construction, or installation of~~
17 ~~electric distribution facilities by the local publicly owned electric~~
18 ~~utility, outside of the utility's jurisdictional boundary.~~

19 ~~(6) A fire protection contract, as defined in subdivision (a) of~~
20 ~~Section 56134.~~

21 ~~(g) This section applies only to the commission of the county~~
22 ~~in which the extension of service is proposed.~~

23 ~~(h) The commission shall not approve a sphere of influence~~
24 ~~update where there exists a disadvantaged unincorporated~~
25 ~~community within the city's or special district's sphere of influence~~
26 ~~or contiguous with a city's or qualifying special district's~~
27 ~~jurisdictional boundaries that lacks safe drinking water~~
28 ~~infrastructure or services or adequate wastewater infrastructure or~~
29 ~~services unless the city or special district or qualified special district~~
30 ~~has entered into an enforceable agreement to extend those services~~
31 ~~into the disadvantaged community or communities as soon as~~
32 ~~feasible to do so but within a period no longer than five years of~~
33 ~~the approval of the sphere of influence change or the commission~~
34 ~~finds, based upon written evidence, that a majority of the residents~~
35 ~~of the affected disadvantaged community or communities are~~
36 ~~opposed to receiving the identified service or services.~~

37 ~~(1) These findings shall not interfere with or inform other~~
38 ~~programs or policies designed to expand basic services to~~
39 ~~disadvantaged unincorporated communities, including, but not~~

1 limited to, Sections 116680 to 116684, inclusive, of the Health
2 and Safety Code.

3 (2) A qualifying special district is a special district with more
4 than 500 service connections that provides drinking water or
5 wastewater services.

6 SEC. 2. Section 56133.5 of the Government Code is amended
7 to read:

8 56133.5. (a) A pilot program is hereby established for the
9 Napa and San Bernardino commissions. If consistent with adopted
10 policy, the Napa and San Bernardino commissions may authorize
11 a city or district to provide new or extended services outside its
12 jurisdictional boundary and outside its sphere of influence to
13 support existing or planned uses involving public or private
14 properties, subject to approval at a noticed public hearing in which
15 the commission makes all of the following determinations:

16 (1) The extension of service or services deficiency was identified
17 and evaluated in a review of municipal services prepared pursuant
18 to Section 56430.

19 (2) The extension of service will not result in either (1) adverse
20 impacts on open space or agricultural lands or (2) growth inducing
21 impacts.

22 (3) A sphere of influence change involving the subject territory
23 and its affected agency is not feasible under this division or
24 desirable based on the adopted policies of the commission.

25 (b) Subdivision (d) of Section 56133 shall apply to any request
26 for new or extended services pursuant to this section.

27 (c) The commissions shall not authorize a city or a district to
28 extend drinking water infrastructure or services or wastewater
29 infrastructure or services pursuant to this section until it has entered
30 into an enforceable agreement to extend those services to all
31 disadvantaged communities within its sphere of influence or
32 contiguous with a city's or district's jurisdictional boundaries that
33 lack safe drinking water or adequate wastewater infrastructure or
34 services as soon as feasible to do so but within a period no longer
35 than five years of the approval of the underlying extension, unless
36 either of the following conditions are met:

37 (1) The commission finds, based upon written evidence, that a
38 majority of the residents of the affected disadvantaged community
39 or communities are opposed to receiving the identified service or
40 services. These findings shall not interfere with or inform other

1 programs or policies designed to expand basic services to
2 disadvantaged unincorporated communities, including, but not
3 limited to, Sections 116680 to 116684, inclusive, of the Health
4 and Safety Code.

5 ~~(2) The extension of services is to a disadvantaged community.~~

6 ~~(d) For purposes of this section, "planned use" means any project
7 that is included in an approved specific plan as of July 1, 2015.~~

8 ~~(e) The Napa and San Bernardino commissions shall submit a
9 report before January 1, 2020, to the Legislature on their
10 participation in the pilot program, including how many requests
11 for extension of services were received pursuant to this section
12 and the action by the commission to approve, disapprove, or
13 approve with conditions. The report required to be submitted
14 pursuant to this subdivision shall be submitted in compliance with
15 Section 9795 of the Government Code.~~

16 ~~(f) The pilot program established pursuant to this section shall
17 be consistent with Chapter 8.5 (commencing with Section 1501)
18 of the Public Utilities Code.~~

19 ~~(g) This section shall remain in effect only until January 1, 2021,
20 and as of that date is repealed.~~

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

23 ~~56375. The commission shall have all of the following powers
24 and duties subject to any limitations upon its jurisdiction set forth
25 in this part:~~

26 ~~(a) (1) To review and approve with or without amendment,
27 wholly, partially, or conditionally, or disapprove proposals for
28 changes of organization or reorganization, consistent with written
29 policies, procedures, and guidelines adopted by the commission.~~

30 ~~(2) The commission may initiate proposals by resolution of
31 application for any of the following:~~

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

33 ~~(B) The dissolution of a district.~~

34 ~~(C) A merger.~~

35 ~~(D) The establishment of a subsidiary district.~~

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

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

39 ~~(3) A commission may initiate a proposal described in paragraph
40 (2) only if that change of organization or reorganization is~~

1 consistent with a recommendation or conclusion of a study
2 prepared pursuant to Section 56378, 56425, or 56430, and the
3 commission makes the determinations specified in subdivision (b)
4 of Section 56881.

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

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

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

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

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

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

30 (7) The decision of the commission with regard to a proposal
31 to annex territory to a city shall be based upon the general plan
32 and rezoning of the city. When the development purposes are not
33 made known to the annexing city, the annexation shall be reviewed
34 on the basis of the adopted plans and policies of the annexing city
35 or county. A commission shall require, as a condition to
36 annexation, that a city rezone the territory to be annexed or present
37 evidence satisfactory to the commission that the existing
38 development entitlements on the territory are vested or are already
39 at build-out, and are consistent with the city's general plan.

1 However, the commission shall not specify how, or in what
2 manner, the territory shall be rezoned.

3 ~~(8) (A) Except for those changes of organization or~~
4 ~~reorganization authorized under Section 56375.3, and except as~~
5 ~~provided by subparagraph (B), a commission shall not approve an~~
6 ~~annexation to a city or to a qualified special district of any territory~~
7 ~~greater than 10 acres, or as determined by commission policy,~~
8 ~~where either of the following exists:~~

9 ~~(i) (I) A disadvantaged unincorporated community that is~~
10 ~~contiguous to the area of proposed annexation, unless an~~
11 ~~application to annex the disadvantaged unincorporated community~~
12 ~~to the subject city has been filed with the executive officer.~~

13 ~~(H) An application to annex a contiguous disadvantaged~~
14 ~~community shall not be required if either of the following apply:~~

15 ~~(ia) A prior application for annexation of the same disadvantaged~~
16 ~~community has been made in the preceding five years.~~

17 ~~(ib) The commission finds, based upon written evidence, that~~
18 ~~a majority of the registered voters within the affected disadvantaged~~
19 ~~community are opposed to annexation.~~

20 ~~(ii) A disadvantaged unincorporated community within the~~
21 ~~sphere of influence of a city or qualified special district or~~
22 ~~contiguous to the city's or qualified special district's jurisdictional~~
23 ~~boundaries that lacks safe drinking water infrastructure or services~~
24 ~~or adequate wastewater infrastructure or services unless any of the~~
25 ~~following conditions are met:~~

26 ~~(I) The city or qualified special district has entered into an~~
27 ~~enforceable agreement to extend those services into the~~
28 ~~disadvantaged community or communities as soon as feasible to~~
29 ~~do so but within a period no longer than five years of the approval~~
30 ~~of the annexation.~~

31 ~~(H) The commission finds, based upon written evidence, that a~~
32 ~~majority of the residents of the affected disadvantaged community~~
33 ~~or communities are opposed to receiving the identified service or~~
34 ~~services. These findings shall not interfere with or inform other~~
35 ~~programs or policies designed to expand basic services to~~
36 ~~disadvantaged unincorporated communities, including, but not~~
37 ~~limited to, Sections 116680 to 116684, inclusive, of the Health~~
38 ~~and Safety Code.~~

39 ~~(H) The annexation is an annexation of a disadvantaged~~
40 ~~community.~~

1 (B) For purposes of this paragraph, “a qualified special district”
2 means a special district with more than 500 service connections
3 that provides drinking water or wastewater services.

4 (b) With regard to a proposal for annexation or detachment of
5 territory to, or from, a city or district or with regard to a proposal
6 for reorganization that includes annexation or detachment, to
7 determine whether territory proposed for annexation or detachment,
8 as described in its resolution approving the annexation, detachment,
9 or reorganization, is inhabited or uninhabited.

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

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

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

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

1 included in a new landowner-voter special district shall be
2 calculated as shown on the last equalized assessment roll.

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

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

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

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

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

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

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

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

37 ~~(o) If the proposal includes the incorporation of a city, as defined
38 in Section 56043, or the formation of a district, as defined in
39 Section 2215 of the Revenue and Taxation Code, the commission~~

1 shall determine the property tax revenue to be exchanged by the
2 affected local agencies pursuant to Section 56810.

3 ~~(p) To authorize a city or district to provide new or extended
4 services outside its jurisdictional boundaries pursuant to Section
5 56133.~~

6 ~~(q) To enter into an agreement with the commission for an
7 adjoining county for the purpose of determining procedures for
8 the consideration of proposals that may affect the adjoining county
9 or where the jurisdiction of an affected agency crosses the boundary
10 of the adjoining county.~~

11 ~~(r) To approve with or without amendment, wholly, partially,
12 or conditionally, or disapprove pursuant to this section the
13 annexation of territory served by a mutual water company formed
14 pursuant to Part 7 (commencing with Section 14300) of Division
15 3 of Title 1 of the Corporations Code that operates a public water
16 system to a city or special district. Any annexation approved in
17 accordance with this subdivision shall be subject to the state and
18 federal constitutional prohibitions against the taking of private
19 property without the payment of just compensation. This
20 subdivision shall not impair the authority of a public agency or
21 public utility to exercise eminent domain authority.~~

22 *SECTION 1. Section 56375 of the Government Code is*
23 *amended to read:*

24 56375. The commission shall have all of the following powers
25 and duties subject to any limitations upon its jurisdiction set forth
26 in this part:

27 (a) (1) To review and approve with or without amendment,
28 wholly, partially, or conditionally, or disapprove proposals for
29 changes of organization or reorganization, consistent with written
30 policies, procedures, and guidelines adopted by the commission.

31 (2) The commission may initiate proposals by resolution of
32 application for any of the following:

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

34 (B) The dissolution of a district.

35 (C) A merger.

36 (D) The establishment of a subsidiary district.

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

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

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

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

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

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

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

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

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

32 (7) The decision of the commission with regard to a proposal
33 to annex territory to a city shall be based upon the general plan
34 and rezoning of the city. When the development purposes are not
35 made known to the annexing city, the annexation shall be reviewed
36 on the basis of the adopted plans and policies of the annexing city
37 or county. A commission shall require, as a condition to
38 annexation, that a city rezone the territory to be annexed or present
39 evidence satisfactory to the commission that the existing
40 development entitlements on the territory are vested or are already

1 at build-out, and are consistent with the city's general plan.
2 However, the commission shall not specify how, or in what
3 manner, the territory shall be rezoned.

4 (8) (A) Except for those changes of organization or
5 reorganization authorized under Section 56375.3, and except as
6 provided by subparagraph (B), a commission shall not approve an
7 annexation to a city *or to a qualified special district* of any territory
8 greater than 10 acres, or as determined by commission policy,
9 where there exists a disadvantaged unincorporated community that
10 is contiguous to the area of proposed annexation, unless an
11 application to annex the disadvantaged unincorporated community
12 to the subject city has been filed with the executive officer.

13 (B) An application to annex a contiguous disadvantaged
14 community shall not be required if either of the following apply:

15 (i) A prior application for annexation of the same disadvantaged
16 community has been made in the preceding five years.

17 (ii) The commission finds, based upon written evidence, that a
18 majority of the registered voters within the affected ~~territory~~
19 *disadvantaged unincorporated community* are opposed to
20 annexation.

21 (C) *For purposes of this paragraph, "a qualified special*
22 *district" means a special district with more than 500 service*
23 *connections that provides drinking water or wastewater services.*

24 (b) With regard to a proposal for annexation or detachment of
25 territory to, or from, a city or district or with regard to a proposal
26 for reorganization that includes annexation or detachment, to
27 determine whether territory proposed for annexation or detachment,
28 as described in its resolution approving the annexation, detachment,
29 or reorganization, is inhabited or uninhabited.

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

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

38 (e) To approve the annexation of unincorporated territory
39 consistent with the planned and probable use of the property based
40 upon the review of general plan and rezoning designations. No

1 subsequent change may be made to the general plan for the annexed
2 territory or zoning that is not in conformance to the rezoning
3 designations for a period of two years after the completion of the
4 annexation, unless the legislative body for the city makes a finding
5 at a public hearing that a substantial change has occurred in
6 circumstances that necessitate a departure from the rezoning in
7 the application to the commission.

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

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

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

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

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

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

38 (l) To review the boundaries of the territory involved in any
39 proposal with respect to the definiteness and certainty of those
40 boundaries, the nonconformance of proposed boundaries with lines

1 of assessment or ownership, and other similar matters affecting
2 the proposed boundaries.

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

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

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

21 (p) To authorize a city or district to provide new or extended
22 services outside its jurisdictional boundaries pursuant to Section
23 56133.

24 (q) To enter into an agreement with the commission for an
25 adjoining county for the purpose of determining procedures for
26 the consideration of proposals that may affect the adjoining county
27 or where the jurisdiction of an affected agency crosses the boundary
28 of the adjoining county.

29 (r) To approve with or without amendment, wholly, partially,
30 or conditionally, or disapprove pursuant to this section the
31 annexation of territory served by a mutual water company formed
32 pursuant to Part 7 (commencing with Section 14300) of Division
33 3 of Title 1 of the Corporations Code that operates a public water
34 system to a city or special district. Any annexation approved in
35 accordance with this subdivision shall be subject to the state and
36 federal constitutional prohibitions against the taking of private
37 property without the payment of just compensation. This
38 subdivision shall not impair the authority of a public agency or
39 public utility to exercise eminent domain authority.

1 ~~SEC. 4.~~

2 *SEC. 2.* Section 56425 of the Government Code is amended
3 to read:

4 56425. (a) In order to carry out its purposes and responsibilities
5 for planning and shaping the logical and orderly development and
6 coordination of local governmental agencies subject to the
7 jurisdiction of the commission to advantageously provide for the
8 present and future needs of the county and its communities, the
9 commission shall develop and determine the sphere of influence
10 of each city and each special district, as defined by Section 56036,
11 within the county and enact policies designed to promote the logical
12 and orderly development of areas within or adjacent to the sphere.

13 (b) Prior to a city submitting an application to the commission
14 to update its sphere of influence, representatives from the city and
15 representatives from the county shall meet to discuss the proposed
16 new boundaries of the sphere and explore methods to reach
17 agreement on development standards and planning and zoning
18 requirements within the sphere to ensure that development within
19 the sphere occurs in a manner that reflects the concerns of the
20 affected city and is accomplished in a manner that promotes the
21 logical and orderly development of areas within the sphere. If an
22 agreement is reached between the city and county, the city shall
23 forward the agreement in writing to the commission, along with
24 the application to update the sphere of influence. The commission
25 shall consider and adopt a sphere of influence for the city consistent
26 with the policies adopted by the commission pursuant to this
27 section, and the commission shall give great weight to the
28 agreement to the extent that it is consistent with commission
29 policies in its final determination of the city sphere.

30 (c) If the commission's final determination is consistent with
31 the agreement reached between the city and county pursuant to
32 subdivision (b), the agreement shall be adopted by both the city
33 and county after a noticed public hearing. Once the agreement has
34 been adopted by the affected local agencies and their respective
35 general plans reflect that agreement, then any development
36 approved by the county within the sphere shall be consistent with
37 the terms of that agreement.

38 (d) If no agreement is reached pursuant to subdivision (b), the
39 application may be submitted to the commission and the
40 commission shall consider a sphere of influence for the city

1 consistent with the policies adopted by the commission pursuant
2 to this section.

3 (e) In determining the sphere of influence of each local agency,
4 the commission shall consider and prepare a written statement of
5 its determinations with respect to each of the following:

6 (1) The present and planned land uses in the area, including
7 agricultural and open-space lands.

8 (2) The present and probable need for public facilities and
9 services in the area.

10 (3) The present capacity of public facilities and adequacy of
11 public services that the agency provides or is authorized to provide.

12 (4) The existence of any social or economic communities of
13 interest in the area if the commission determines that they are
14 relevant to the agency.

15 (5) For an update of a sphere of influence of a city or special
16 district that provides public facilities or services related to sewers,
17 municipal and industrial water, or structural fire protection, that
18 occurs pursuant to subdivision (g) on or after July 1, 2012, the
19 present and probable need for those public facilities and services
20 of any disadvantaged unincorporated communities within or
21 adjacent to the existing sphere of influence.

22 (f) Upon determination of a sphere of influence, the commission
23 shall adopt that sphere.

24 (g) On or before January 1, 2008, and every five years thereafter,
25 the commission shall, as necessary, review and update each sphere
26 of influence.

27 (h) In determining a sphere of influence, the commission ~~shall~~
28 *may* assess the feasibility of governmental reorganization of
29 particular agencies and recommend reorganization of those
30 agencies when reorganization is found to be feasible and if
31 reorganization will further the goals of orderly development and
32 efficient and affordable service delivery. The commission shall
33 make all reasonable efforts to ensure wide public dissemination
34 of the recommendations.

35 (i) When adopting, amending, or updating a sphere of influence
36 for a special district, the commission shall establish the nature,
37 location, and extent of any functions or classes of services provided
38 by existing districts.

39 (j) When adopting, amending, or updating a sphere of influence
40 for a special district, the commission may require existing districts

1 to file written statements with the commission specifying the
2 functions or classes of services provided by those districts.

3 (k) The commission shall not approve a sphere of influence
4 update that removes a disadvantaged community from a city or a
5 special district unless the commission makes a finding, based on
6 written evidence, that the removal of the disadvantaged community
7 will result in improved service delivery to the community.

8 ~~SEC. 5.~~

9 *SEC. 3.* Section 56430 of the Government Code is amended
10 to read:

11 56430. (a) In order to prepare and to update spheres of
12 influence in accordance with Section 56425, the commission shall
13 conduct a service review of the municipal services provided in the
14 county or other appropriate area designated by the commission.
15 The commission shall include in the area designated for service
16 review the county, the region, the subregion, or any other
17 geographic area as is appropriate for an analysis of the service or
18 services to be reviewed, and shall prepare a written statement of
19 its determinations with respect to each of the following:

20 (1) Growth and population projections for the affected area.

21 (2) The location and characteristics of any disadvantaged
22 unincorporated communities within or contiguous to the sphere
23 of influence.

24 (3) Present and planned capacity of public facilities, adequacy
25 of public services, and infrastructure needs or deficiencies including
26 needs or deficiencies related to sewers, municipal and industrial
27 water, and structural fire protection in any disadvantaged,
28 unincorporated communities within or contiguous to the sphere
29 of influence.

30 (4) Financial ability of agencies to provide services.

31 (5) Status of, and opportunities for, shared facilities.

32 (6) Accountability for community service needs, including
33 governmental structure and operational efficiencies.

34 (7) Any other matter related to effective or efficient service
35 delivery, as required by commission policy.

36 (b) In conducting a service review, the commission shall
37 comprehensively review all of the agencies that provide the
38 identified service or services within the designated geographic
39 area. Where there exists a disadvantaged unincorporated
40 community that lacks adequate drinking water and wastewater

1 services and infrastructure within or contiguous with the subject
2 sphere, the commission shall assess various alternatives for
3 improving efficiency and affordability of *drinking water or*
4 *wastewater* infrastructure and service delivery within and
5 contiguous to the sphere of influence, including, but not limited
6 to, the consolidation of governmental agencies or the extension of
7 services, or both.

8 (c) In conducting a service review, the commission shall include
9 a review of whether the agencies under review, including any
10 public water system as defined in Section 116275 of the Health
11 and Safety Code, are in compliance with the California Safe
12 Drinking Water Act (Chapter 4 (commencing with Section 116270)
13 of Part 12 of Division 104 of the Health and Safety Code) if the
14 information is ~~readily~~ *available from the State Water Resources*
15 *Control Board or other sources*. A public water system may satisfy
16 any request for information as to compliance with that act by
17 submission of the consumer confidence or water quality report
18 prepared by the public water system as provided by Section 116470
19 of the Health and Safety Code.

20 (d) The commission may request information, as part of a service
21 review under this section, from identified public or private entities
22 that provide wholesale or retail supply of drinking water, including
23 mutual water companies formed pursuant to Part 7 (commencing
24 with Section 14300) of Division 3 of Title 1 of the Corporations
25 Code, and private utilities, as defined in Section 1502 of the Public
26 Utilities Code.

27 (e) (1) The commission shall conduct a service review before,
28 or in conjunction with, but no later than the time it is considering
29 an action to establish a sphere of influence in accordance with
30 Section 56425 or 56426.5 or to update a sphere of influence
31 pursuant to Section 56425.

32 (2) *On or before January 1, 2022, and every five years*
33 *thereafter, the commission shall conduct service reviews sufficient*
34 *to have reviewed the entire territory of the county.*

35 (f) *The commission shall file a map of the county that identifies*
36 *disadvantaged unincorporated communities that lack safe drinking*
37 *water or adequate wastewater in electronic format with the Office*
38 *of Planning and Research. The Office of Planning and Research*
39 *shall make the map available on its Internet Web site.*

1 (g) (1) *Within two years of identification of a disadvantaged*
2 *unincorporated community that lacks safe drinking water or*
3 *adequate wastewater services pursuant to this section, the*
4 *commission shall recommend a plan based on the alternatives*
5 *analyzed and shall adopt any actions necessary to implement the*
6 *plan, including sphere of influence updates, extensions of service,*
7 *or changes of organization.*

8 (2) *Actions taken to adopt a plan under this subdivision shall*
9 *not be subject to an election or any protest proceedings, as defined*
10 *in Section 56069.5, except that the commission shall conduct*
11 *protest proceedings for residents of the disadvantaged community.*

12 (3) *The commission shall not be required to adopt or implement*
13 *a plan if the commission finds, based on substantial evidence, that*
14 *there is no technical or economically feasible way of connecting*
15 *the disadvantaged unincorporated community to an existing system,*
16 *considering any financial assistance available from the State Water*
17 *Resources Control Board or any other applicable source of*
18 *financial assistance. These findings shall not interfere with or*
19 *inform other programs or policies designed to expand basic*
20 *services to disadvantaged unincorporated communities, including,*
21 *but not limited to, Sections 116680 to 116684, inclusive, of the*
22 *Health and Safety Code.*

23 (h) (1) *Notwithstanding Section 56133, 56133.5, or 56375, on*
24 *and after January 1, 2022, a commission shall not change the*
25 *sphere of influence of, or authorize extension of services by, a*
26 *qualifying city or special district if the commission has not done*
27 *one of the following:*

28 (A) *Conducted the analysis required by this section.*

29 (B) *Adopted a plan or taken the actions required by subdivision*
30 *(g).*

31 (2) *Notwithstanding Section 56133, 56133.5, or 56375, a*
32 *commission shall not change the sphere of influence of, or*
33 *authorize an extension of services by, a qualifying city or special*
34 *district if the city or special district has been designated in a plan*
35 *developed pursuant to subdivision (g) to provide water or*
36 *wastewater services and the city or special district has not begun*
37 *providing water or wastewater service, as identified by the*
38 *commission's plan, within three years of being designated in the*
39 *plan.*

1 (3) *The prohibition against a change to a sphere of influence*
2 *or extension of service pursuant to paragraphs (1) and (2) shall*
3 *not apply to either of the following:*

4 (A) *An application to extend services to, or include in their*
5 *sphere of influence, a disadvantaged unincorporated community.*

6 (B) *An extension of service authorized pursuant to subdivision*
7 *(c) of Section 56133.*

8 (i) *As used in this section, "a qualifying city or special district"*
9 *means a city or special district that provides water service or*
10 *wastewater services and serves 500 or more connections.*

11 ~~SEC. 6.~~

12 SEC. 4. If the Commission on State Mandates determines that
13 this act contains costs mandated by the state, reimbursement to
14 local agencies and school districts for those costs shall be made
15 pursuant to Part 7 (commencing with Section 17500) of Division
16 4 of Title 2 of the Government Code.