

LOCAL AGENCY FORMATION COMMISSION FOR SAN BERNARDINO COUNTY

1170 West Third Street, Unit 150, San Bernardino, CA 92415-0490
(909) 388-0480 • Fax (909) 388-0481
lafco@lafco.sbcounty.gov
www.sbclafco.org

DATE: MARCH 19, 2019 
FROM: SAMUEL MARTINEZ, Executive Officer
TO: LOCAL AGENCY FORMATION COMMISSION

SUBJECT: AGENDA ITEM #13 – LEGISLATIVE UPDATE REPORT

RECOMMENDATION:

Staff recommends that the Commission Note receipt of the report and file.

BACKGROUND:

In March 2019, the Commission outlined its support on a number of bills considered to be of importance to LAFCO. The following provides an update on said bills:

- **AB 1253 (Rivas)** – LAFCO grant program

This is the CALAFCO sponsored bill following up on the recommendation of the Little Hoover Commission report of 2017 for the Legislature to provide LAFCOs one-time grant funding used specifically for conducting special studies to identify and support opportunities to create greater efficiencies and to potentially initiate reorganization actions including dissolution of inactive districts. The bill also changed the protest thresholds for LAFCO initiated actions funded pursuant to this bill (tiered approach based on number of voters within the affected territory from 30% to 10%). ACWA is the only entity in Opposition at this time. It was in support of this bill last year but has now decided that it does not like the tiered protest thresholds and wants it to go back to the original 10 percent.

The bill passed the Assembly Local Government Committee (ALGC) and is now in Appropriations Suspense. There is a separate budget request for the funds being heard in Assembly Budget Subcommittee 4 to get the funding allocated in the budget. The bill is scheduled to be heard by Assembly Appropriations on May 16.

- **AB 1822 (ALGC)** – Local Government: omnibus

This is the annual CALAFCO omnibus bill that was first introduced in March 2019. An amended bill came out on April 8, which now includes two other items CALAFCO had in its original list of requested changes that was omitted from the March version.

One of the items that was omitted, which clarifies Government Code Section 56133(c) by removing the requirement that authorization of service outside an agency's boundary and sphere has to be consistent with adopted policy, was supposed to be included in another bill, AB 530; however, ALGC realized it was not going to work, so they added it back into the Omnibus bill as an amendment.

The other item that was omitted, which adds clarifying language to Government Code Section 56663 to clearly specify that the commission may waive protest proceedings subsequent to the commission approval of a proposal, raised initial concerns from stakeholders; however, it is now back in the Omnibus bill as a result of the alternative language proposed by CALAFCO.

The revised bill (included as Attachment #2) passed the Assembly floor and has been sent to the Senate for its consideration.

- **AB 213 (Reyes)** – Local government finance: property tax revenue allocations: VLF adjustments

Sponsored by the League of Cities, this bill would reinstate ERAF funding for inhabited annexations. This bill is now in the Assembly Appropriations (Suspense File) for a hearing on May 16.

- **AB 818 (Cooley)** – Local government finance: VLF adjustment amounts

This bill, which would reinstate ERAF funding for cities incorporating after 2012, is also now in the Assembly Appropriations (Suspense File) for a hearing on May 16.

Staff will be happy to answer any questions prior to or at the hearing.

Attachments: Amended version of AB 1822

AMENDED IN ASSEMBLY APRIL 8, 2019

CALIFORNIA LEGISLATURE—2019–20 REGULAR SESSION

ASSEMBLY BILL

No. 1822

Introduced by Committee on Local Government

March 11, 2019

An act to amend Sections 56074, 56133, 56663, 57077, and ~~57013~~ 57103 of, and to add Section 56074.5 to, the Government Code, and to repeal Sections 1 and 2 of Chapter 805 of the Statutes of 2004, relating to local government.

LEGISLATIVE COUNSEL'S DIGEST

AB 1822, as amended, Committee on Local Government. Local Government: omnibus.

(1) The Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 (the act) provides the authority and procedure for the initiation, conduct, and completion of changes of organization, reorganization, and sphere of influence changes for cities and districts, as specified. Existing law requires a commission to develop and determine the sphere of influence of each city and each special district within the county and enact policies designed to promote the logical and orderly development of areas within each sphere. Existing law requires the commission, in order to prepare and update spheres of influence in accordance with this requirement, to conduct a service review of the municipal services provided in the county or other appropriate area designated by the commission, as specified. Existing law defines “sphere of influence” to mean a plan for the probable physical boundaries and service area of a local agency. Existing law defines the term “service” for purposes of the act to mean a specific

governmental activity established within, and as a part of, a general function of the special district, as specified.

This bill would revise the definition of the term “service” for these purposes to mean a specific governmental activity established within, and as a part of, a ~~general~~ function of the local agency. This bill would also define the term “service review,” for purposes of the act, to mean an analysis conducted by the commission documenting and analyzing the services in a particular geographic region or jurisdictional area, pursuant to the process described above.

(2) Existing law authorizes a city or district to provide new or extended services by contract or agreement outside its jurisdictional boundary only if it first requests and receives written approval from the applicable local agency formation commission. Existing law, if consistent with adopted policy, authorizes the commission to authorize a city or district to provide new or extended services outside its jurisdictional boundary and outside its sphere of influence to respond to an existing or impending threat to the health or safety of the public or the residents of the affected territory if specified conditions are met.

This bill would eliminate the requirement that the authorization by the commission be consistent with adopted policy.

(3) Existing law requires the commission, after adoption of a resolution making determinations on an application for a change of organization or reorganization by the commission, to follow specified procedures to conduct protest proceedings. Existing law authorizes the commission to waive protest proceedings under certain circumstances for, among other things, a change of organization that consists of the formation of a county service area that would otherwise require the conduct of protest proceedings.

This bill would specify that the commission may waive protest proceedings following commission approval for a change of organization that consists of the formation of a county service area, as specified.

~~(2)~~

(4) Existing law requires the commission to order a change of organization or reorganization subject to confirmation of the voters if the change of organization or reorganization consists of an incorporation or disincorporation, as specified.

This bill would additionally require the commission to order a change of organization or reorganization subject to confirmation of the voters

if the change of organization or reorganization consists of a consolidation of two or more cities.

(3)

(5) Existing law subjects any order in any resolution adopted by a commission ordering the dissolution of a local hospital district to conformation by the voters, as specified. Existing law, notwithstanding that provision, authorizes a commission, if a change of organization consists of the dissolution of a district that is consistent with a specified prior action of the commission, to order the dissolution either without an election or protest proceedings if the dissolution meets certain requirements.

This bill would make clarifying changes to the above provisions.

(4)

(6) Existing law prohibits the commission in the County of Ventura, on or before December 31, 2007, from imposing a condition that requires the City of Simi Valley to initiate proceedings on a proposal for a change of organization or reorganization unless the territory that would be affected is contiguous and physically related to the affected territory.

This bill would repeal this provision.

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

The people of the State of California do enact as follows:

1 SECTION 1. Section 56074 of the Government Code is
2 amended to read:

3 56074. "Service" means a specific governmental activity
4 established within, and as a part of, a ~~general~~ function of a local
5 agency.

6 SEC. 2. Section 56074.5 is added to the Government Code, to
7 read:

8 56074.5. "Service review" means an analysis conducted by
9 the commission documenting and analyzing the services in a
10 particular geographic region or jurisdictional area pursuant to *the*
11 *requirements of* Section 56430.

12 SEC. 3. *Section 56133 of the Government Code is amended to*
13 *read:*

14 56133. (a) A city or district may provide new or extended
15 services by contract or agreement outside its jurisdictional

1 boundary only if it first requests and receives written approval
2 from the commission.

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

7 ~~If consistent with adopted policy, the~~ *The* commission may
8 authorize a city or district to provide new or extended services
9 outside its jurisdictional boundary and outside its sphere of
10 influence to respond to an existing or impending threat to the health
11 or safety of the public or the residents of the affected territory, if
12 both of the following requirements are met:

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

16 (2) The commission has notified any alternate service provider,
17 including any water corporation as defined in Section 241 of the
18 Public Utilities Code, that has filed a map and a statement of its
19 service capabilities with the commission.

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

38 (e) 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 (f) This section applies only to the commission of the county
22 in which the extension of service is proposed.

23 *SEC. 4. Section 56663 of the Government Code is amended to*
24 *read:*

25 56663. For a change of organization consisting of an annexation
26 or a detachment, or a reorganization consisting solely of
27 annexations or detachments, or both, or the formation of a county
28 service area that would otherwise require the conduct of protest
29 ~~proceedings~~, *proceedings after commission approval pursuant to*
30 *subdivision (d) of Section 56881*, the commission may waive
31 protest proceedings pursuant to Part 4 (commencing with Section
32 57000) if all of the following have occurred:

33 (a) The mailed notice pursuant to Section 56157 has been given
34 to landowners and registered voters within the affected territory.

35 (b) The mailed notice discloses to the registered voters and
36 landowners that unless written opposition to the proposal is
37 received before the conclusion of the commission proceedings on
38 the proposal, the commission intends to waive protest proceedings.
39 The notice shall disclose that there is potential for the extension

1 or continuation of any previously authorized charge, fee,
2 assessment, or tax by the local agency in the affected territory.

3 (c) Written opposition to the proposal from landowners or
4 registered voters within the affected territory is not received before
5 the conclusion of the commission proceedings on the proposal.

6 ~~SEC. 3.~~

7 SEC. 5. Section 57077 of the Government Code is amended
8 to read:

9 57077. If a change of organization consists of an incorporation,
10 disincorporation, or consolidation of two or more cities, or if a
11 reorganization includes an incorporation, disincorporation, or
12 consolidation of two or more cities, the commission shall order
13 the change of organization or reorganization subject to confirmation
14 of the voters. A protest proceeding shall not be conducted.

15 ~~SEC. 4.~~

16 SEC. 6. Section 57103 of the Government Code is amended
17 to read:

18 57103. Any order in any resolution adopted by the commission
19 on or after January 1, 1986, ordering the dissolution of a local
20 hospital district, organized pursuant to Division 23 (commencing
21 with Section 32000) of the Health and Safety Code, is subject to
22 confirmation by the voters unless dissolution of the local hospital
23 district meets the requirements set forth in subdivision (c) of
24 Section 57077.1.

25 ~~SEC. 5.~~

26 SEC. 7. Section 1 of Chapter 805 of the Statutes of 2004 is
27 repealed.

28 ~~SEC. 6.~~

29 SEC. 8. Section 2 of Chapter 805 of the Statutes of 2004 is
30 repealed.