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OPINION :
: No. 00-108
of :
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THE HONORABLE MIKE BRIGGS, MEMBER OF THE STATE ASSEMBLY, has requested an opinion on the following question:

May a city and a county agree to recommend to the local agency formation commission specific changes in the city's sphere of influence boundaries and express the intent to jointly agree to any changes in such boundaries in the future?

CONCLUSION

A city and a county may agree to recommend to the local agency formation commission specific changes in the city's sphere of influence boundaries and express the intent to jointly agree to any changes in such boundaries in the future.

ANALYSIS

The Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 (Gov. Code, §§ 56000-57550)¹ provides for the establishment of a local agency formation commission (LAFCO) in each county (§§ 56325-56337) “to encourage orderly growth and development and the assessment of local community services needs” (*Antelope Valley-East Kern Water Agency v. Local Agency Formation Com.* (1988) 204 Cal.App.3d 990, 994; see § 56001; *Sierra Club v. San Joaquin Local Agency Formation Com.* (1999) 21 Cal.4th 489, 495; *San Miguel Consolidated Fire Protection Dist. v. Davis* (1994) 25 Cal.App.4th 134, 151). The primary function of a LAFCO is “[t]o review and approve or disapprove with or without amendment, wholly, partially, or conditionally, proposals for changes of organization or reorganization” of local agencies. (§ 56373; *McBail & Co. v. Solano County Local Agency Formation Com’n* (1998) 62 Cal.App.4th 1223, 1228; *Las Tunas Beach Geologic Hazard Abatement Dist. v. Superior Court* (1995) 38 Cal.App.4th 1002, 1007-1008.) “Changes of organization” include city incorporations, district formations, annexations or detachments from a city or district, disincorporations of cities, dissolutions of districts, and certain mergers and consolidations. (§ 56021.) “‘Reorganization’ means two or more changes of organization initiated in a single proposal.” (§ 56073.)

In performing its duties, a LAFCO conducts public hearings where it receives oral and written protests, objections, and evidence. (§§ 56834-56840; *Las Tunas Beach Geologic Hazard Abatement Dist. v. Superior Court, supra*, 38 Cal.App.4th at p. 1009.) As an exercise of its legislative and political power (*San Miguel Consolidated Fire Protection Dist. v. Davis, supra*, 25 Cal.App.4th at p. 152), the LAFCO adopts a resolution approving or disapproving a proposal, with or without conditions (§§ 56851-56852).

The question presented for resolution concerns a proposal presented to a LAFCO to change the boundaries of a city’s “sphere of influence.” Among the powers and duties of a LAFCO is the responsibility to “develop and determine” the “sphere of influence” for each local agency within the county and to “enact policies designed to promote the logical and orderly development of areas within the sphere.” (§ 56425.) A “sphere of influence” is “a plan for the probable physical boundaries and service area of a local agency.” (§ 56076; *Alameda County Land Use Assn. v. City of Hayward* (1995) 38 Cal.App.4th 1716, 1720; *City of Agoura Hills v. Local Agency Formation Com.* (1988) 198 Cal.App.3d 480, 483.) “A sphere of influence is a flexible planning and study tool to be amended periodically as appropriate.” (*City of Agoura Hills v. Local Agency Formation Com., supra*, 198 Cal.App.3d at p. 490.)

¹All references hereafter to the Government Code are by section number only.

May a city and a county enter into an agreement under which both recommend to the LAFCO specific changes in the city's sphere of influence boundaries and express the intent to jointly agree to any changes in such boundaries in the future? We conclude that a city and a county may so agree.

A LAFCO has the statutory authority to "adopt, amend, or revise spheres of influence after a public hearing called and held for that purpose." (§ 56427.) "Any person or local agency may file a written request with the executive officer requesting amendments to a sphere of influence or urban service area adopted by the commission." (§ 56428, subd. (a).) The statute requiring our analysis is section 56425, which provides:

"(a) In order to carry out its purposes and responsibilities for planning and shaping the logical and orderly development and coordination of local governmental agencies so as to advantageously provide for the present and future needs of the county and its communities, the commission shall develop and determine the sphere of influence of each local governmental agency within the county and enact policies designed to promote the logical and orderly development of areas within the sphere.

"(b) At least 30 days prior to submitting an application to the commission for a determination of a new sphere of influence, or to update an existing sphere of influence for a city, representatives from the city shall meet with county representatives to discuss the proposed sphere, and its boundaries, and explore methods to reach agreement on the boundaries, development standards, and zoning requirements within the sphere to ensure that development within the sphere occurs in a manner that reflects the concerns of the affected city and is accomplished in a manner that promotes the logical and orderly development of areas within the sphere. If no agreement is reached between the city and county within 30 days, then the parties may, by mutual agreement, extend discussions for an additional period of 30 days. If an agreement is reached between the city and county regarding the boundaries, development standards, and zoning requirements within the proposed sphere, the agreement shall be forwarded to the commission, and the commission shall consider and adopt a sphere of influence for the city consistent with the policies adopted by the commission pursuant to this section, and the commission shall give great weight to the agreement in the commission's final determination of the city sphere.

"(c) If the commission's final determination is consistent with the agreement reached between the city and county pursuant to subdivision (b), the agreement shall be adopted by both the city and county after a noticed public hearing. Once the agreement has been adopted by the affected local agencies

and their respective general plans reflect that agreement, then any development approved by the county within the sphere shall be consistent with the terms of that agreement.

“(d) If no agreement is reached pursuant to subdivision (b), the application may be submitted to the commission and the commission shall consider a sphere of influence for the city consistent with the policies adopted by the commission pursuant to this section.

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In analyzing the terms of section 56425, we may consider well settled principles of statutory construction. “When construing a statute we must ‘ascertain the intent of the Legislature so as to effectuate the purpose of the law.’ [Citation.]” (*Wilcox v. Birtwhistle* (1999) 21 Cal.4th 973, 977.) “Our first step [in determining the Legislature’s intent] is to scrutinize the actual words of the statute, giving them a plain and commonsense meaning. [Citations.]’ [Citation.]” (*California Teachers Assn. v. Governing Bd. of Rialto Unified School Dist.* (1997) 14 Cal.4th 627, 633.) “Both the legislative history of the statute and the wider historical circumstances of its enactment may be considered in ascertaining the legislative intent. [Citation.]” (*Dyna-Med, Inc. v. Fair Employment & Housing Com.* (1987) 43 Cal.3d 1379, 1387.)

Applying these rules of construction, we find that section 56425 encourages a city to reach an agreement with the county on the boundaries of its sphere of influence and to present the agreement to the LAFCO for determination. The agreement is to cover matters of the boundaries, development standards, and zoning requirements within the sphere. The LAFCO must give “great weight” to the agreement in making its determination, and if the LAFCO’s determination is consistent with the agreement, the city and the county are each directed to adopt the agreement after a noticed public hearing. Any development thereafter approved by the county within the city’s sphere must be consistent with the terms of the agreement.

The Legislature has thus authorized execution of an agreement between a city and a county regarding changes in the city’s sphere of influence. The purpose of such agreement is “to ensure that development within the sphere occurs in a manner that reflects the concerns of the affected city and is accomplished in a manner that promotes the logical and orderly development of areas within the sphere.” (§ 56425, subd. (b).) By bringing the interested local jurisdictions together in advance of an application for a change in a city’s sphere of influence, the Legislature has sought to promote better coordination and greater stability in local planning for future development.

We have examined in detail the legislative history of section 56425 regarding

the “agreement” language in question. (Stats. 2000, ch. 761, § 79.) The legislative history fully supports the plain reading of the statute. Authorization of agreements between a city and a county was granted by the Legislature in order to “enhance communication, coordination, and the procedures of LAFCOs and local governments.” (Sen. Rules. Com., Off. of Sen. Floor Analyses, 3d reading analysis of Assem. Bill No. 2838 (1999-2000 Reg. Sess.) as amended Aug. 29, 2000, p. 2.)

An agreement between a city and a county to recommend to the LAFCO specific changes in the city’s sphere of influence boundaries would thus be valid under the terms of section 56425. (See *Alameda County Land Use Assn. v. City of Hayward*, *supra*, 38 Cal.App.4th at pp. 1724-1725; 77 Ops.Cal.Atty.Gen. 14, 15-16 (1994).) We view the additional element of the agreement, expressing the intent to jointly agree to any future changes in the city’s sphere of influence boundaries, as merely expressing the intent to follow the language of section 56425 in the future. Such intention would effectuate the Legislature’s goals of orderly and coordinated development.

Finally, we note that it would be the LAFCO’s determination as to whether the city’s sphere of influence boundaries should be changed, regardless of any agreement between the city and the county. (§ 56425, subd. (b).) It may be expected that the representatives of the city and the county on the LAFCO will vote in favor of the proposal as set forth in the agreement. However, each LAFCO member must exercise independent judgment when voting on the proposal. (See 82 Ops.Cal.Atty.Gen. 267, 268-270 (2000).) As specified in section 56325.1:

“While serving on the commission, all commission members shall exercise their independent judgment on behalf of the interests of residents, property owners, and the public as a whole in furthering the purposes of this division. Any member appointed on behalf of local governments shall represent the interests of the public as a whole and not solely the interests of the appointing authority. This section does not require the abstention of any member on any matter, nor does it create a right of action in any person.”²

We conclude that a city and a county may agree to recommend to the LAFCO specific changes in the city’s sphere of influence boundaries and express the intent to jointly agree to any changes in such boundaries in the future.

² A LAFCO’s members are not prohibited from acting upon matters affecting the agencies which appointed them. (§§ 56325.1, 56336; see 64 Ops.Cal.Atty.Gen. 272 (1981).)