CALAFCO University

LAFCos’ Evolving Mission: New laws, requirements and transparency

January 22, 2018
Sacramento
2016 LAWS AND THEIR IMPACT TO LAFCO

Panelists:

Pamela Miller, CALAFCO
Keene Simonds, San Diego LAFCo
Kara Ueda, Best Best & Kreiger
AB 2257 (2016)

- Goes into effect 1/1/19

- Amended the Brown Act to require agendas to be posted on agency’s primary website accessible through a “prominent, direct link” (Gov’t Code Sec. 54954.2(a)(2))
AB 2257 (2016)

- Direct link may not be just in a “contextual menu”
- Additional requirements for using an integrated agenda management platform
- Does not apply to committees formed by legislative body (e.g. subcommittees)
AB 2853 (2016)

- Amended Gov’t Code Sec. 6253 to allow a public agency to post any public record on its website and in response to a public record request, direct the requestor the location on the website where the record exists to fulfill the public record request.
- If requestor wants a hard copy from the agency, the agency must comply and provide to requestor.
SB 1436 (2016)

- Amends Gov’t Code Sec. 54953
- Requires legislative body, prior to taking final action, to orally report summary of a recommendation for a final action on the salaries, salary schedules, or compensation paid in the form of fringe benefits of a local agency executive, as defined in existing law, during the open meeting in which the final action is to be taken.
Definition of “Local agency executive”...

- Defines "local agency executive" to mean any person employed by a local agency who is not subject to the Meyers-Milias-Brown Act or similar provisions, as specified, and who meets any of the following requirements:
Definition of “Local agency executive”...

- The person is the chief executive officer (CEO), a deputy CEO, or an assistant CEO of the local agency;

- The person is the head of a department of a local agency; or,

- The person’s position within the local agency is held by an employment contract between the local agency and that person.
SB 272: Enterprise Systems Catalog

- Most public agencies must create and make available a catalog of “enterprise systems” the agency uses.

- **Enterprise system**: software application that collects, stores, exchanges, and analyzes information that is a multi-departmental system or contains information collection about the public AND is a system of record.

- **Deadline**: 7/1/16 to complete, make copies available upon request, and post on agency’s web site.
SB 272: Enterprise Systems Catalog

- What is NOT covered:
  - Cybersecurity systems & security records
  - Systems for physical access
  - Systems controlling/managing public utilities
  - Public safety systems
  - Actual records that are collected or stored by a system/application
SB 272: Enterprise Systems Catalog

- What ARE Enterprise Systems:
  - Applications used in ordinary course of business
  - Time card processing
  - Financial data applications
SB 272: Enterprise Systems Catalog

What to put in the catalog:

- Current system vendor
- Current system product
- Brief statement of system’s purpose
- General description of categories/data types
- Department that serves as primary custodian
- Frequency of data system collection
- Frequency of data system updates
NEW!! The LAFCO Meeting scheduled for January 4, 2018 has been cancelled.

NEW  Public Hearing Notice - 17-10 - City of Chico - Burnap Avenue Annexation No. 06


UPDATED! Final Draft Municipal Service Reviews and Sphere of Influence Plans for the Mosquito Abatement Districts in Butte County.
A public hearing for review of these documents is scheduled for LAFCo’s December 7, 2017, meeting. Click here for the public hearing notice published for the Aug. 3, 2017 LAFCo Meeting.

Enterprise System Catalog - SB 272

What is LAFCo? Brochure. An introduction to Local Agency Formation Commissions.
Enterprise System Catalog:

April 18, 2016

VENDOR AND PRODUCT: Environmental Systems Research Institute, Inc., ArcMap 10.4
SYSTEM PURPOSE: Mapping Program, stores parcel information, agency boundaries, tax rate area identification
CATEGORY/TYPES OF DATA: Parcel Information, identifies the tax rate area, identifies agency boundaries, accesses property info.
DEPT./PRIMARY CUSTODIAN: Butte Local Agency Formation Commission
FREQUENCY OF COLLECTION: As needed
FREQUENCY OF UPDATE: As needed

VENDOR AND PRODUCT: Microsoft, Access
SYSTEM PURPOSE: Stores agency contact information, project time tracking & invoicing, project expenses and payments
CATEGORY/TYPES OF DATA: Agency contact, applicant contact, tracking of project payments, expenses and hours, create invoices.
DEPT./PRIMARY CUSTODIAN: Butte Local Agency Formation Commission
FREQUENCY OF COLLECTION: As needed
FREQUENCY OF UPDATE: As needed

VENDOR AND PRODUCT: Microsoft, Excel
SYSTEM PURPOSE: Budget preparation, landowner & registered voter information, use for creating mailing labels.
CATEGORY/TYPES OF DATA: Project contact information, parcel specific information, budget line items.
DEPT./PRIMARY CUSTODIAN: Butte Local Agency Formation Commission
FREQUENCY OF COLLECTION: As needed
FREQUENCY OF UPDATE: As needed
SB 1266 (McGuire)

- Sponsored by CALAFCO

- Two-Year Stakeholder Process
  - Initial proposal from Marin LAFCO
  - Builds on AB 2156 (Achadjian) in 2014
  - Also follows LAO recommendation

- The Big Takeaway...
  - Requires JPAs to file agreements and amendments with LAFCOs
SB 1266 (McGuire)

Bonus Slide...

Question: Why did Marin LAFCO become preoccupied with JPAs?

Answer: Political fallout from JPAs’ behaving badly
SB 1266 (McGuire)

- **What it means (explicit)...**
  - Creates formal reporting relationship between JPAs and LAFCOs in State law

- **What it means (implicit)...**
  - Keeps up with the Joneses (101)
  - Repository on local government (56301)
  - Comprehensive reviews (56430)
  - Jumping point to more?
SB 1266 (McGuire)

- **Brass Tacks to JPAs...**
  - Amends the Joint Power Authorities Act
  - **January 1, 2017:** all stand-alone JPAs providing “municipal services” shall start filing agreements and amendments
  - **July 1, 2017:** all preexisting agreements and amendments to be filed
  - **Filing incentive:** JPAs cannot incur new bonded debt without LAFCO filing
SB 1266 (McGuire)

- **Brass Tacks for LAFCOs…**
  - Two options:
    - a) you make use of information 😊
    - b) you can do nothing 😑

- **Assuming the Choice is Doing…**
  - Define “municipal services” for SB 1266
  - Create public repository on website
  - Expand MSRs; promote the good and rein-in the not-so-good
SB 239 (2015)

- Took effective January 1, 2016

- Amends Gov’t Code Secs. 56017.2 and 56133, and adds GC §56134 relating to the extension of fire protection services outside existing city or district boundaries.

- Deems “existing boundaries” as those that exist as of 12-31-15.
SB 239 (2015)

- Requires LAFCo approval on any new contract for the extension of fire services or a contract extension or amendment that transfers greater than 25% of the service area or changes the employment status of more than 25% of employees of any affected agencies.
- Requires applicant to provide LAFCo, as part of the application, proof that the 25% trigger is occurring.
- Up to LAFCo to determine what the required proof would be.
Not intended to...

- Apply to the renewal of existing contracts, unless the renewal included amendments or the inclusion of new territory that triggered the +25% change in service area or employment status.
- Apply to mutual or automatic aid agreements.
- Apply to ambulance services agreements.
- If a current contract expires and a service area no longer wants to contract for services and will take over providing the services themselves, this bill does not apply, as there is no contract to review and approve.
CALAFCO Bulletin on SB 239

- Distributed in December 2015 (and several times since then)
- Posted on CALAFCO website
- In session packet for reference
2017 LAWS AND THEIR IMPACT TO LAFCO

Panelists:

Pamela Miller, CALAFCO
Keene Simonds, San Diego LAFCo
Kara Ueda, Best Best & Kreiger
AB 464 (Gallagher)

- Sponsored by CALAFCO
- Reaction to Court Decision

- Responds to City of Patterson v. Turlock Irrigation District (2014)

- Legal issue arising from annexation to address claim by Turlock of “taxation without representation” 🇺🇸

- Spawned into an important procedural matter and LAFCOs’ authority to manage service extensions and annexations
AB 464 (Gallagher)

- Humble Beginnings...
  - Dispute over Turlock seeking annexation of land to Turlock Irrigation that was already being served (electricity) by the District through an earlier OSA.
  - Turlock Irrigation sought termination of proposal on basis of financial hardship
  - Trail Court agreed with Turlock Irrigation; Turlock appealed

Not a Concern at this Point
AB 464 (Gallagher)

- Appeal Court | Now a Concern...

  ✓ Appeal Court created two-year upside-down universe regarding LAFCOs’ ability (or lack therein) to annex “served lands”

  ✓ Appeal Court focused on CKH’s 56653 to prescribe the application requirements and “plan to extend service to territory”

  ✓ Appeal Court flags issue LAFCOs missed for 50 years; 56653 contemplates annexation of only unserved lands
AB 464 (Gallagher)

- Initial Reaction @ Leg Cmte...

Why don’t you explain this to me like I’m five?
AB 464 (Gallagher)

CALAFCO Responds

- Effort to add to annual omnibus bill rebuffed in 2015
- CALAFCO Board makes priority going into 2016; Butte LAFCO takes lead

The Big Takeaway...

- CKH now reflects decades of practice
- AB 464 amends LAFCO law to make explicit LAFCOs’ authority to annex served lands to agencies
AB 979 (Lackey)

- Co-Sponsored by CALAFCO & CSDA
- Legislative Twofer

✓ Primary | Addresses long-standing interest of both sponsors to make process easier for independent districts to join LAFCOs

✓ Secondary | Addresses role for LAFCOs - and thru EOs – to administer appointment of district representatives to consolidated redevelopment oversight boards
AB 979 (Lackey)

- Primary Focus | Encouraging District Seats on LAFCOs

- Background...

- Independent districts have been allowed to join LAFCOs since 1972
- Process for districts to join LAFCOs viewed cumbersome & time-consuming
- As of January 1, 2017 only 30 of 58 LAFCOs have district representation
AB 979 (Lackey)

What Changed in Seating Districts...

- Before AB 979 | CHK required a majority of districts to pass resolutions within one year to call a vote on seating on LAFCO

- After AB 979 | CKH now provides two means to call a vote on independent district seating on LAFCO:
  1) written requests signed by one or more districts having 10% or more of AV; or
  2) adoption of resolution by Commission
AB 979 (Lackey)

- Secondary | District Appointments to Consolidated RDA Oversight Board

- Background...

  ✓ State abolishes redevelopment agencies (RDA) in 2011; existing RDAs converted into oversight boards (one for each RDA)

  ✓ State requires all oversight boards be consolidated into one per county by 7/1/18; one of seven board seats goes to districts with cross reference to CKH process
AB 979 (Lackey)

What AB 979 Does...

✓ Updates CKH to address LAFCOs’ role that was previously cross-referenced in Health and Safety Code to now administer district appointments to consolidated RDA oversight boards

What AB 979 Doesn’t Do...

✓ Does not attempt to uniformly prescribe how each LAFCO goes about appointment process; leaves it to each LAFCO
AB 979 (Lackey)

❖ Big Takeaways

✓ On Seating Districts on LAFCO | Make use of new power and openly discuss adopting a resolution to call vote on establishing district seats on your LAFCO

✓ On Consolidated RDA Oversight Board Appointments | This is a big deal for districts with the Board deciding how to restore property taxes. How LAFCOs go about appointment matters; opportunity to also engage interest in joining LAFCOs
SB 448 (2017)

- Focus on special districts, Controller lists and LAFCO actions
- Began very broad with many requirements and unfunded mandates
- Narrowed scope considerably to final version
SB 448 (2017)

- Requires Controller to publish and update annually list of independent special districts beginning July 1, 2019 (Gov’t Code Sec. 12463.4)
- Requires special district (as defined in 56036) to file audits with LAFCO and Controller (Gov’t Code Sec. 26909 (a)(2)(B)(ii))
SB 448 (2017)

- Adds Gov’t Code Sec. 56042 to define new category of district called “inactive district”. Must meet all of the following:
  
  ✓ (a) The special district is as defined in Section 56036.
  
  ✓ (b) The special district has had no financial transactions in the previous fiscal year.
  
  ✓ (c) The special district has no assets and liabilities.
  
  ✓ (d) The special district has no outstanding debts, judgments, litigation, contracts, liens, or claims.
SB 448 (2017)

- Amends the definition of “resolution of application” (Gov’t Code Sec. 56073.1) 
  *A bonus add as requested by the Legislative Committee*

- Adds Gov’t Code Sec. 56879 requiring Controller to create list of inactive special districts and post on their website and notify the district and the LAFCO.
**SB 448 (2017)**

- LAFCO to initiate dissolution within 90 days of notification unless LAFCO determines district does not meet criteria.
- LAFCO to hold one public hearing on the dissolution within 90 days of adopting the resolution initiating dissolution.
SB 448 (2017)

Streamlined dissolution process not subject to:

- Chapter 1 through Chapter 7 of Part 4 inclusive (Gov't Code Secs. 57000 through 57179) – including protest provisions
- Determinations pursuant to subdivision (b) of Sec 56881 (commission initiated proposals)
- Special study or MSR preceding initiation of action
AB 1361 (2017)

- Origins in AB 2470 regarding provision of water to Indian tribal land under specified conditions
  - Lands must have been owned by tribe on 1/1/16
  - Lands must be contiguous with at least two districts
  - Lands lie within special study area of one
  - 70% or more land w/in at least one district
If tribe does not meet requirements under 2470, special district may ask LAFCO to extend water service to tribal land as if lands had been fully annexed into district and any other public agencies required for water service (Water Code Sec. 71611.5 (a)(2))
AB 1361 (2017)

- Indian tribe must meet certain conditions:
  - Federal and tribal law compliance
  - Federal and tribal approvals in order for district to provide water service
  - Acceptance, by agreement, all terms and payments of the district and any other public agency providing water to the district as if tribal land was annexed
AB 1361 (2017)

- LAFCO must (shall) approve the application
- LAFCO may impose conditions pursuant to 56886 provided that conditions don’t impair water service to Indian land and on terms similar to other recipients of services
AB 1361 (2017)

- New applications may only be approved by LAFCOs until 1/1/23

- But water may be still provided to Indian lands after 1/1/23 provided terms and conditions imposed by LAFCO are being met
LITTLE HOOVER COMMISSION
REPORT AND
RECOMMENDATIONS

Impact to LAFCos and the path forward

Pamela Miller, Executive Director, CALAFCO
Recommendations regarding OVERSIGHT

8 total recommendations

6 directly related to LAFCo
Recommendation #1

The Legislature and the Governor should curtail a growing practice of enacting bills to override LAFCO deliberative processes and decide local issues regarding special district boundaries and operations.
Recommendation #2

The Legislature should provide one-time grant funding to pay for specified LAFCO activities, to incentivize LAFCOs or smaller special districts to develop and implement dissolution or consolidation plans with timelines for expected outcomes. Funding should be tied to process completion and results, including enforcement authority for corrective action and consolidation.
Recommendation #3

The Legislature should enact and the Governor should sign SB 448 (Wieckowski) which would provide LAFCOs the statutory authority to conduct reviews of inactive districts and to dissolve them without the action being subject to protest and a costly election process.
Recommendation #4

The Governor should sign AB 979 (Lackey), co-sponsored by the California Special Districts Association and the California Association of Local Agency Formation Commissions. The bill would strengthen LAFCOs by easing a process to add special district representatives to the 28 county LAFCOs where districts have no voice.
Recommendation #5

The Legislature should adopt legislation to give LAFCO members fixed terms, to ease political pressures in controversial votes and enhance the independence of LAFCOs.
Recommendation #6

The Legislature should convene an advisory committee to review the protest process for consolidations and dissolutions of special districts and to develop legislation to simplify and create consistency in the process.
Recommendations regarding TRANSPARENCY

3 total recommendations

1 directly related to LAFCo
Recommendation #9

Building on the recommendation that the Legislature should require that every special district have a website...

Every LAFCO should have a website that includes a list and links to all of the public agencies within each county service area and a copy of all of the most current Municipal Service Reviews.
Recommendations regarding HEALTHCARE DISTRICTS

3 total recommendations

1 directly related to LAFCo
Recommendation #13

The Legislature, which has been increasingly inclined to override local LAFCO processes to press changes on healthcare districts, should defer these decisions to LAFCOs, which in statute already have that responsibility.
What’s next?

- CALAFCO facilitating conversations about website transparency with our member LAFCOs
  - CALAFCO University course
  - CALAFCO Staff Workshop

- CALAFCO having internal conversations regarding potential issues with protest provisions (also looking at survey feedback)
What’s next?

✓ CALAFCO Board unanimously approved sponsorship of a bill in 2018 to seek the one-time grant funding
✓ CALAFCO solicited information to support the ask from all 58 LAFCos. As of January 15th, 40 of 58 LAFCos responded. **YOUR FEEDBACK IS CRITICAL TO OUR SUPPORTING ARGUMENT FOR THIS ASK!**
✓ CALAFCO secured an author in Assm. Caballero and submitted spot bill language to Leg Counsel
What’s next?

- Ad-hoc committee of the Legislative Committee formed (Board + LAFCo staff) to develop parameters for application – use of funds - reporting requirements
  - Met by phone once and work underway

- Board unanimously approved hiring of lobbyist to assist in navigating the budget committees process
  - Their time combined with Executive Director time shall not exceed 20% of the Association’s annual expense budget
What’s next?

✓ CALAFCO is researching best entity to issue funds directly to LAFCOs

✓ CALAFCO may come back to member LAFCOs with a few additional follow-up questions

✓ LAFCOs encouraged to consider potential entities for further and more in-depth studies for greater efficiencies so that if bill passes, you are ready to submit grant application
LAFCos and Transparency

✓ What is required?
✓ What are best practices?
✓ How are we doing?

Panelists:
Carolyn Emery, Orange LAFCo
Pamela Miller, CALAFCO
Kara Ueda, Best Best & Kreiger
Overview: LAFCO and Transparency

- Why are we talking about this?
- Are LAFCOs meeting basic legal requirements?
- What are the risks for LAFCOs that don’t meet basic requirements?
- Who’s interested in LAFCOs being transparent?
Transparency: Basic Requirements

LAFCOs are required to:

- Comply with the Brown Act (Gov’t Code Sec. 54950 et seq.), Public Records Act (Gov’t Code Sec. 6250 et seq.), Political Reform Act (Gov’t Code Sec. 81000 et seq.), and Gov’t Code Sec. 1090

- Establish and maintain website with notices and other Commission information for the public. (Gov’t Code Sec. 56300(f)(1))
Transparency: Basic Requirements

LAFCOs are required to:

- Establish written policies and procedures and follow them (Gov’t Code Sec. 56300(a))

- Post agendas required to be posted under the Brown Act on website (Gov’t Code Sec. 54954.2(a)(1))
Transparency: Basic Requirements

LAFCOs are required to:

- Adopt and transmit draft and final budgets. (*Gov’t Code Sec. 56381(a)*).

- Post all required notices and public hearing notices in electronic format on LAFCO’s web site if the LAFCO maintains a web site (*Gov’t Code Secs. 56150, 56661*).

- Catalog enterprise systems pursuant to SB 272 (*Gov’t Code Sec. 6270.5*).
Transparency: Best Practices – “beyond the basics”

To promote transparency LAFCOs may:

✓ Post both current and past meeting agendas, minutes, staff reports and public notices on website

✓ Prominently display current agenda on first page of website

✓ Post both current and past draft and final budgets on website
Transparency: Best Practices – “beyond the basics”

- To promote transparency LAFCOs may:
  - Post Commission adopted bylaws, policies and procedures on website
  - Provide sphere maps to each agency and also publish on website
  - Publish MSRs on website
Transparency: Best Practices – “beyond the basics”

- To promote transparency LAFCOs may:
  - Comply and demonstrate compliance with ethics and sexual harassment training
  - Hire independent auditor to prepare audited financial statements
  - Publish compensation information on website (pay schedules may be required if in CALPERS)
Transparency: Orange County LAFCO’s Website

http://oclafco.org
Transparency: How is your LAFCO doing?
Transparency: Preparing An Action Plan

- What are next steps for my agency to meet basic transparency requirements?

- What are the resources available that support implementing transparency requirements and best practices?
Transparency: My Action Plan
Transparency: Resources


- Special Districts Leadership Foundation (SDLF): [https://www.sdlf.org/checklists](https://www.sdlf.org/checklists)
Thank you for your time

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Assembly Bill No. 2257

CHAPTER 265

An act to amend Section 54954.2 of the Government Code, relating to local government.

[Approved by Governor September 9, 2016. Filed with Secretary of State September 9, 2016.]

LEGISLATIVE COUNSEL'S DIGEST

AB 2257, Maienschein. Local agency meetings: agenda: online posting.

(1) The Ralph M. Brown Act requires, with specified exceptions, that all meetings of a legislative body of a local agency, as those terms are defined, be open and public and that all persons be permitted to attend and participate. The act further requires the legislative body of a local agency to post, at least 72 hours before the meeting, an agenda containing a brief general description of each item of business to be transacted or discussed at a regular meeting, in a location that is freely accessible to members of the public and to provide a notice containing similar information with respect to a special meeting at least 24 hours prior to the special meeting. The act requires that the agenda or notice be freely accessible to members of the public and be posted on the local agency’s Internet Web site, if the local agency has one.

This bill would require an online posting of an agenda for a meeting occurring on and after January 1, 2019, of a legislative body of a city, county, city and county, special district, school district, or political subdivision established by the state that has an Internet Web site to be posted on the local agency’s primary Internet Web site homepage accessible through a prominent, direct link, as specified. The bill would exempt a legislative body of a city, county, city and county, special district, school district, or political subdivision established by the state that has an Internet Web site from this requirement if it has an integrated agenda management platform that meets specified requirements, including, among others, that the current agenda is the first agenda available at the top of the integrated agenda management platform. The bill would authorize an integrated agenda management platform to include prior meeting agendas, as specified. The bill would require any agenda posted pursuant to these provisions to be in an open format that meets specified requirements, including, among others, that the agenda is platform independent and machine readable. The bill would also define terms for these purposes.

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

This bill would make legislative findings to that effect.

(3) 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 no reimbursement is required by this act for a specified reason.

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

SECTION 1. Section 54954.2 of the Government Code is amended to read:

54954.2. (a) (1) At least 72 hours before a regular meeting, the legislative body of the local agency, or its designee, shall post an agenda containing a brief general description of each item of business to be transacted or discussed at the meeting, including items to be discussed in closed session. A brief general description of an item generally need not exceed 20 words. The agenda shall specify the time and location of the regular meeting and shall be posted in a location that is freely accessible to members of the public and on the local agency’s Internet Web site, if the local agency has one. If requested, the agenda shall be made available in appropriate alternative formats to persons with a disability, as required by Section 202 of the Americans with Disabilities Act of 1990 (42 U.S.C. Sec. 12132), and the federal rules and regulations adopted in implementation thereof. The agenda shall include information regarding how, to whom, and when a request for disability-related modification or accommodation, including auxiliary aids or services, may be made by a person with a disability who requires a modification or accommodation in order to participate in the public meeting.

(2) For a meeting occurring on and after January 1, 2019, of a legislative body of a city, county, city and county, special district, school district, or political subdivision established by the state that has an Internet Web site, the following provisions shall apply:

(A) An online posting of an agenda shall be posted on the primary Internet Web site homepage of a city, county, city and county, special district, school district, or political subdivision established by the state that is accessible through a prominent, direct link to the current agenda. The direct link to the agenda shall not be in a contextual menu; however, a link in addition to the direct link to the agenda may be accessible through a contextual menu.

(B) An online posting of an agenda including, but not limited to, an agenda posted in an integrated agenda management platform, shall be posted in an open format that meets all of the following requirements:

(i) Retrievable, downloadable, indexable, and electronically searchable by commonly used Internet search applications.

(ii) Platform independent and machine readable.
(iii) Available to the public free of charge and without any restriction that would impede the reuse or redistribution of the agenda.

(C) A legislative body of a city, county, city and county, special district, school district, or political subdivision established by the state that has an Internet Web site and an integrated agenda management platform shall not be required to comply with subparagraph (A) if all of the following are met:

(i) A direct link to the integrated agenda management platform shall be posted on the primary Internet Web site homepage of a city, county, city and county, special district, school district, or political subdivision established by the state. The direct link to the integrated agenda management platform shall not be in a contextual menu. When a person clicks on the direct link to the integrated agenda management platform, the direct link shall take the person directly to an Internet Web site with the agendas of the legislative body of a city, county, city and county, special district, school district, or political subdivision established by the state.

(ii) The integrated agenda management platform may contain the prior agendas of a legislative body of a city, county, city and county, special district, school district, or political subdivision established by the state for all meetings occurring on or after January 1, 2019.

(iii) The current agenda of the legislative body of a city, county, city and county, special district, school district, or political subdivision established by the state shall be the first agenda available at the top of the integrated agenda management platform.

(iv) All agendas posted in the integrated agenda management platform shall comply with the requirements in clauses (i), (ii), and (iii) of subparagraph (B).

(D) For the purposes of this paragraph, both of the following definitions shall apply:

(i) “Integrated agenda management platform” means an Internet Web site of a city, county, city and county, special district, school district, or political subdivision established by the state dedicated to providing the entirety of the agenda information for the legislative body of the city, county, city and county, special district, school district, or political subdivision established by the state to the public.

(ii) “Legislative body” has the same meaning as that term is used in subdivision (a) of Section 54952.

(E) The provisions of this paragraph shall not apply to a political subdivision of a local agency that was established by the legislative body of the city, county, city and county, special district, school district, or political subdivision established by the state.

(3) No action or discussion shall be undertaken on any item not appearing on the posted agenda, except that members of a legislative body or its staff may briefly respond to statements made or questions posed by persons exercising their public testimony rights under Section 54954.3. In addition, on their own initiative or in response to questions posed by the public, a member of a legislative body or its staff may ask a question for clarification, make a brief announcement, or make a brief report on his or her own
activities. Furthermore, a member of a legislative body, or the body itself, subject to rules or procedures of the legislative body, may provide a reference to staff or other resources for factual information, request staff to report back to the body at a subsequent meeting concerning any matter, or take action to direct staff to place a matter of business on a future agenda.

(b) Notwithstanding subdivision (a), the legislative body may take action on items of business not appearing on the posted agenda under any of the conditions stated below. Prior to discussing any item pursuant to this subdivision, the legislative body shall publicly identify the item.

(1) Upon a determination by a majority vote of the legislative body that an emergency situation exists, as defined in Section 54956.5.

(2) Upon a determination by a two-thirds vote of the members of the legislative body present at the meeting, or, if less than two-thirds of the members are present, a unanimous vote of those members present, that there is a need to take immediate action and that the need for action came to the attention of the local agency subsequent to the agenda being posted as specified in subdivision (a).

(3) The item was posted pursuant to subdivision (a) for a prior meeting of the legislative body occurring not more than five calendar days prior to the date action is taken on the item, and at the prior meeting the item was continued to the meeting at which action is being taken.

(c) This section is necessary to implement and reasonably within the scope of paragraph (1) of subdivision (b) of Section 3 of Article I of the California Constitution.

(d) For purposes of subdivision (a), the requirement that the agenda be posted on the local agency’s Internet Web site, if the local agency has one, shall only apply to a legislative body that meets either of the following standards:

(1) A legislative body as that term is defined by subdivision (a) of Section 54952.

(2) A legislative body as that term is defined by subdivision (b) of Section 54952, if the members of the legislative body are compensated for their appearance, and if one or more of the members of the legislative body are also members of a legislative body as that term is defined by subdivision (a) of Section 54952.

SEC. 2. The Legislature finds and declares that Section 1 of this act, which amends Section 54954.2 of the Government Code, furthers, within the meaning of paragraph (7) of subdivision (b) of Section 3 of Article I of the California Constitution, the purposes of that constitutional section as it relates to the right of public access to the meetings of local public bodies or the writings of local public officials and local agencies. Pursuant to paragraph (7) of subdivision (b) of Section 3 of Article I of the California Constitution, the Legislature makes the following findings:

It is in the public interest to ensure that members of the public can easily and quickly find and access meeting agendas of legislative bodies of specific local agencies on the Internet homepage of those certain local agencies.
SEC. 3. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district under this act would result from a legislative mandate that is within the scope of paragraph (7) of subdivision (b) of Section 3 of Article I of the California Constitution.
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Assembly Bill No. 2853

CHAPTER 275

An act to amend Section 6253 of the Government Code, relating to public records.

[Approved by Governor September 9, 2016. Filed with Secretary of State September 9, 2016.]

LEGISLATIVE COUNSEL’S DIGEST

AB 2853, Gatto. Public records.

(1) The California Public Records Act requires a public agency, defined to mean any state or local agency, to make its public records available for public inspection and to make copies available upon request and payment of a fee, unless the public records are exempt from disclosure. The act prohibits limitations on access to a public record based upon the purpose for which the public record is being requested if the public record is otherwise subject to disclosure, authorizes public agencies to adopt requirements that allow for faster, more efficient, or greater access to public records, and requires local agencies, except school districts, that voluntarily post public records on an open data Internet Resource, as defined, to post those public records in an open format that meets specified criteria.

This bill would authorize a public agency that posts a public record on its Internet Web site to refer a member of the public that requests to inspect the public record to the public agency’s Internet Web site where the public record is posted. This bill would require, if a member of the public requests a copy of the public record due to an inability to access or reproduce the public record from the Internet Web site where the public record is posted, the public agency to promptly provide a copy of the public record to the member of the public, as specified.

(2) Existing constitutional provisions require that a statute that limits the right of access to the meetings of public bodies or the writings of public officials and agencies be adopted with findings demonstrating the interest protected by the limitation and the need for protecting that interest.

This bill would make legislative findings to that effect.

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

This bill would make legislative findings to that effect.
The people of the State of California do enact as follows:

SECTION 1. Section 6253 of the Government Code is amended to read:
6253. (a) Public records are open to inspection at all times during the office hours of the state or local agency and every person has a right to inspect any public record, except as hereafter provided. Any reasonably segregable portion of a record shall be available for inspection by any person requesting the record after deletion of the portions that are exempted by law.

(b) Except with respect to public records exempt from disclosure by express provisions of law, each state or local agency, upon a request for a copy of records that reasonably describes an identifiable record or records, shall make the records promptly available to any person upon payment of fees covering direct costs of duplication, or a statutory fee if applicable. Upon request, an exact copy shall be provided unless impracticable to do so.

(c) Each agency, upon a request for a copy of records, shall, within 10 days from receipt of the request, determine whether the request, in whole or in part, seeks copies of disclosable public records in the possession of the agency and shall promptly notify the person making the request of the determination and the reasons therefor. In unusual circumstances, the time limit prescribed in this section may be extended by written notice by the head of the agency or his or her designee to the person making the request, setting forth the reasons for the extension and the date on which a determination is expected to be dispatched. No notice shall specify a date that would result in an extension for more than 14 days. When the agency dispatches the determination, and if the agency determines that the request seeks disclosable public records, the agency shall state the estimated date and time when the records will be made available. As used in this section, “unusual circumstances” means the following, but only to the extent reasonably necessary to the proper processing of the particular request:

1. The need to search for and collect the requested records from field facilities or other establishments that are separate from the office processing the request.
2. The need to search for, collect, and appropriately examine a voluminous amount of separate and distinct records that are demanded in a single request.
3. The need for consultation, which shall be conducted with all practicable speed, with another agency having substantial interest in the determination of the request or among two or more components of the agency having substantial subject matter interest therein.
4. The need to compile data, to write programming language or a computer program, or to construct a computer report to extract data.

(d) Nothing in this chapter shall be construed to permit an agency to delay or obstruct the inspection or copying of public records. The notification of denial of any request for records required by Section 6255 shall set forth the names and titles or positions of each person responsible for the denial.
(e) Except as otherwise prohibited by law, a state or local agency may adopt requirements for itself that allow for faster, more efficient, or greater access to records than prescribed by the minimum standards set forth in this chapter.

(f) In addition to maintaining public records for public inspection during the office hours of the public agency, a public agency may comply with subdivision (a) by posting any public record on its Internet Web site and, in response to a request for a public record posted on the Internet Web site, directing a member of the public to the location on the Internet Web site where the public record is posted. However, if after the public agency directs a member of the public to the Internet Web site, the member of the public requesting the public record requests a copy of the public record due to an inability to access or reproduce the public record from the Internet Web site, the public agency shall promptly provide a copy of the public record pursuant to subdivision (b).

SEC. 2. The Legislature finds and declares that Section 1 of this act, which amends Section 6253 of the Government Code, imposes a limitation on the public’s right of access to the meetings of public bodies or the writings of public officials and agencies within the meaning of Section 3 of Article I of the California Constitution. Pursuant to that constitutional provision, the Legislature makes the following findings to demonstrate the interest protected by this limitation and the need for protecting that interest:

The state has a very strong interest in ensuring both the transparency of, and efficient use of limited resources by, public agencies. In order to protect this interest, it is necessary to allow public agencies that have already increased the public’s access to public records by posting public records on the public agencies’ Internet Web sites to refer requests for posted public records to these Internet Web sites.

SEC. 3. The Legislature finds and declares that Section 1 of this act, which amends Section 6253 of the Government Code, furthers, within the meaning of paragraph (7) of subdivision (b) of Section 3 of Article I of the California Constitution, the purposes of that constitutional section as it relates to the right of public access to the meetings of local public bodies or the writings of local public officials and local agencies. Pursuant to paragraph (7) of subdivision (b) of Section 3 of Article I of the California Constitution, the Legislature makes the following findings:

Since this act would authorize local agencies to make disclosures of public records by posting the public records on their Internet Web sites, thus making public record disclosures by local agencies more quickly and cost effectively, this act furthers the purpose of Section 3 of Article I of the California Constitution.
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Senate Bill No. 1436

CHAPTER 175

An act to amend Section 54953 of the Government Code, relating to open meetings.

[Approved by Governor August 22, 2016. Filed with Secretary of State August 22, 2016.]

LEGISLATIVE COUNSEL'S DIGEST


The Ralph M. Brown Act requires that all meetings of a legislative body of a local agency be open and public, except that closed sessions may be held under prescribed circumstances. Existing law authorizes the legislative body to hold a closed session to consider the appointment, employment, evaluation of performance, discipline, or dismissal of a public employee, but generally prohibits the closed session from including discussion or action on proposed compensation. Existing law authorizes the legislative body to hold a closed session with the local agency’s designated representatives regarding the salaries, salary schedules, or compensation paid in the form of fringe benefits of its represented and unrepresented employees, but prohibits the closed session from including final action on the proposed compensation of one or more unrepresented employees. Existing law prohibits the legislative body from calling a special meeting regarding the salaries, salary schedules, or compensation paid in the form of fringe benefits of a local agency executive, as defined.

This bill, prior to taking final action, would require the legislative body to orally report a summary of a recommendation for a final action on the salaries, salary schedules, or compensation paid in the form of fringe benefits of a local agency executive during the open meeting in which the final action is to be taken.

By imposing new requirements on cities, counties, cities and counties, and special districts, this bill would impose a state-mandated local program.

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

This bill would make legislative findings to that effect.

The 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 no reimbursement is required by this act for a specified reason.

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

SECTION 1. Section 54953 of the Government Code is amended to read:

54953. (a) All meetings of the legislative body of a local agency shall be open and public, and all persons shall be permitted to attend any meeting of the legislative body of a local agency, except as otherwise provided in this chapter.

(b) (1) Notwithstanding any other provision of law, the legislative body of a local agency may use teleconferencing for the benefit of the public and the legislative body of a local agency in connection with any meeting or proceeding authorized by law. The teleconferenced meeting or proceeding shall comply with all requirements of this chapter and all otherwise applicable provisions of law relating to a specific type of meeting or proceeding.

(2) Teleconferencing, as authorized by this section, may be used for all purposes in connection with any meeting within the subject matter jurisdiction of the legislative body. All votes taken during a teleconferenced meeting shall be by rollcall.

(3) If the legislative body of a local agency elects to use teleconferencing, it shall post agendas at all teleconference locations and conduct teleconference meetings in a manner that protects the statutory and constitutional rights of the parties or the public appearing before the legislative body of a local agency. Each teleconference location shall be identified in the notice and agenda of the meeting or proceeding, and each teleconference location shall be accessible to the public. During the teleconference, at least a quorum of the members of the legislative body shall participate from locations within the boundaries of the territory over which the local agency exercises jurisdiction, except as provided in subdivision (d). The agenda shall provide an opportunity for members of the public to address the legislative body directly pursuant to Section 54954.3 at each teleconference location.

(4) For the purposes of this section, “teleconference” means a meeting of a legislative body, the members of which are in different locations, connected by electronic means, through either audio or video, or both. Nothing in this section shall prohibit a local agency from providing the public with additional teleconference locations.

(c) (1) No legislative body shall take action by secret ballot, whether preliminary or final.

(2) The legislative body of a local agency shall publicly report any action taken and the vote or abstention on that action of each member present for the action.
(3) Prior to taking final action, the legislative body shall orally report a summary of a recommendation for a final action on the salaries, salary schedules, or compensation paid in the form of fringe benefits of a local agency executive, as defined in subdivision (d) of Section 3511.1, during the open meeting in which the final action is to be taken. This paragraph shall not affect the public’s right under the California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1) to inspect or copy records created or received in the process of developing the recommendation.

(d) (1) Notwithstanding the provisions relating to a quorum in paragraph (3) of subdivision (b), when a health authority conducts a teleconference meeting, members who are outside the jurisdiction of the authority may be counted toward the establishment of a quorum when participating in the teleconference if at least 50 percent of the number of members that would establish a quorum are present within the boundaries of the territory over which the authority exercises jurisdiction, and the health authority provides a teleconference number, and associated access codes, if any, that allows any person to call in to participate in the meeting and that number and access codes are identified in the notice and agenda of the meeting.

(2) Nothing in this subdivision shall be construed as discouraging health authority members from regularly meeting at a common physical site within the jurisdiction of the authority or from using teleconference locations within or near the jurisdiction of the authority. A teleconference meeting for which a quorum is established pursuant to this subdivision shall be subject to all other requirements of this section.

(3) For purposes of this subdivision, a health authority means any entity created pursuant to Sections 14018.7, 14087.31, 14087.35, 14087.36, 14087.38, and 14087.9605 of the Welfare and Institutions Code, any joint powers authority created pursuant to Article 1 (commencing with Section 6500) of Chapter 5 of Division 7 for the purpose of contracting pursuant to Section 14087.3 of the Welfare and Institutions Code, and any advisory committee to a county sponsored health plan licensed pursuant to Chapter 2.2 (commencing with Section 1340) of Division 2 of the Health and Safety Code if the advisory committee has 12 or more members.

(4) This subdivision shall remain in effect only until January 1, 2018.

SEC. 2. The Legislature finds and declares that Section 1 of this act, which amends Section 54953 of the Government Code, furthers, within the meaning of paragraph (7) of subdivision (b) of Section 3 of Article I of the California Constitution, the purposes of that constitutional section as it relates to the right of public access to the meetings of local public bodies or the writings of local public officials and local agencies. Pursuant to paragraph (7) of subdivision (b) of Section 3 of Article I of the California Constitution, the Legislature makes the following findings:

This act ensures that more Californians can meaningfully participate in the meetings of legislative bodies of local agencies.

SEC. 3. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that
may be incurred by a local agency or school district under this act would result from a legislative mandate that is within the scope of paragraph (7) of subdivision (b) of Section 3 of Article I of the California Constitution.
Senate Bill No. 272

CHAPTER 795

An act to add Section 6270.5 to the Government Code, relating to public records.

[Approved by Governor October 11, 2015. Filed with Secretary of State October 11, 2015.]

LEGISLATIVE COUNSEL’S DIGEST


Existing law, the California Public Records Act, requires state and local agencies to make their records available for public inspection, unless an exemption from disclosure applies. The act declares that access to information concerning the conduct of the people’s business is a fundamental and necessary right of every person in this state.

This bill would require each local agency, except a local educational agency, in implementing the California Public Records Act, to create a catalog of enterprise systems, as defined, to make the catalog publicly available upon request in the office of the person or officer designated by the agency’s legislative body, and to post the catalog on the local agency’s Internet Web site. The bill would require the catalog to disclose a list of the enterprise systems utilized by the agency, and, among other things, the current system vendor and product, unless, on the facts of the particular case, the public interest served by not disclosing that information clearly outweighs the public interest served by disclosure, in which case the local agency may instead provide a system name, brief title, or identifier of the system. Because the bill would require local agencies to perform additional duties, it would impose a state-mandated local program.

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

This bill would make legislative findings to that effect.

Existing constitutional provisions require a statute that limits the right of public access to meetings or writings of public officials to be adopted with findings demonstrating the interest to be protected by that limitation and the need to protect that interest.

This bill would declare that it includes limitations on access, that the interest to be protected is the security of enterprise systems in public agencies, and that the need to protect that interest is that enterprise systems
can contain information that, if released to the public, could result in negative consequences.

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 no reimbursement is required by this act for a specified reason.

_The people of the State of California do enact as follows:_

**SECTION 1.** The Legislature finds and declares all of the following:

(a) New information technology has dramatically changed the way people search for and expect to find information in California.

(b) This technology has unlocked great potential for government to better serve the people it represents. A recent study estimated that digitizing government data could generate one trillion dollars in economic value worldwide through cost savings and improved operational performance.

(c) California plays a vitally important role in moving our nation forward in the world of technology. Just as the state’s thriving tech industry surges ahead in setting new standards for society, so too must California.

(d) As several nations, states, and cities have begun to embrace policies of online access to public sector data, they have enjoyed the benefits of increased operational efficiency and better collaboration. Here in California, cities across the state are turning internally gathered and maintained data into usable information for the public to access and leverage for the benefit of their communities.

(e) In moving government to a more effective digital future, standards should be adopted to ensure that data collection and publication are standardized, including uniform definitions for machine-readable data. Online portals should also be developed to assist with public access to collected data.

(f) With a public sector committed to success in the digital age, the residents and businesses of California will stand to benefit from the greater collaboration and integration, improved accountability, and increased productivity that will result.

(g) In making California government more accessible to the people of the state, paragraph (7) of subdivision (b) of Section 3 of Article I of the California Constitution requires local governments to comply with the California Public Records Act and with any subsequent statutory enactment amending that act and furthering that purpose.

**SEC. 2.** Section 6270.5 is added to the Government Code, to read:

6270.5. (a) In implementing this chapter, each local agency, except a local educational agency, shall create a catalog of enterprise systems. The catalog shall be made publicly available upon request in the office of the person or officer designated by the agency’s legislative body. The catalog shall be posted in a prominent location on the local agency’s Internet Web
site, if the agency has an Internet Web site. The catalog shall disclose a list of the enterprise systems utilized by the agency and, for each system, shall also disclose all of the following:

1. Current system vendor.
2. Current system product.
3. A brief statement of the system’s purpose.
4. A general description of categories or types of data.
5. The department that serves as the system’s primary custodian.
6. How frequently system data is collected.
7. How frequently system data is updated.

(b) This section shall not be interpreted to limit a person’s right to inspect public records pursuant to this chapter.

(c) For purposes of this section:

1. “Enterprise system” means a software application or computer system that collects, stores, exchanges, and analyzes information that the agency uses that is both of the following:
   A. A multidepartmental system or a system that contains information collected about the public.
   B. A system of record.
2. “System of record” means a system that serves as an original source of data within an agency.
3. An enterprise system shall not include any of the following:
   A. Information technology security systems, including firewalls and other cybersecurity systems.
   B. Physical access control systems, employee identification management systems, video monitoring, and other physical control systems.
   C. Infrastructure and mechanical control systems, including those that control or manage street lights, electrical, natural gas, or water or sewer functions.
   D. Systems related to 911 dispatch and operation or emergency services.
   E. Systems that would be restricted from disclosure pursuant to Section 6254.19.
   F. The specific records that the information technology system collects, stores, exchanges, or analyzes.
4. Nothing in this section shall be construed to permit public access to records held by an agency to which access is otherwise restricted by statute or to alter the process for requesting public records, as set forth in this chapter.
5. If, on the facts of the particular case, the public interest served by not disclosing the information described in paragraph (1) or (2) of subdivision (a) clearly outweighs the public interest served by disclosure of the record, the local agency may instead provide a system name, brief title, or identifier of the system.
6. The local agency shall complete and post the catalog required by this section by July 1, 2016, and thereafter shall update the catalog annually.

SEC. 3. The Legislature finds and declares that Section 2 of this act, which adds Section 6270.5 to the Government Code, furthers, within the
meaning of paragraph (7) of subdivision (b) of Section 3 of Article I of the California Constitution, the purposes of that constitutional section as it relates to the right of public access to the meetings of local public bodies or the writings of local public officials and local agencies. Pursuant to paragraph (7) of subdivision (b) of Section 3 of Article I of the California Constitution, the Legislature makes the following findings:

Because increased information about what data is collected by local agencies could be leveraged by the public to more efficiently access and better use that information, the act furthers the purpose of Section 3 of Article I of the California Constitution.

SEC. 4. The Legislature finds and declares that Section 2 of this act limits the public’s right of access to public documents within the meaning of paragraph (2) of subdivision (b) of Section 3 of Article I of the California Constitution. Pursuant to that constitutional provision, the Legislature makes the following findings to demonstrate the interest and the need for protecting that interest:

(a) The interest protected by this limitation is the security of enterprise systems in public agencies.

(b) The need for protecting that interest is that enterprise systems can contain information that, if released to the public, could result in negative consequences.

SEC. 5. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district under this act would result from a legislative mandate that is within the scope of paragraph (7) of subdivision (b) of Section 3 of Article I of the California Constitution.
Senate Bill No. 1266

CHAPTER 173

An act to amend Section 6503.6 of, and to add Section 6503.8 to, the Government Code, relating to local government.

[Approved by Governor August 22, 2016. Filed with Secretary of State August 22, 2016.]

LEGISLATIVE COUNSEL'S DIGEST


The Joint Exercise of Powers Act generally authorizes 2 or more public agencies, by agreement, to jointly exercise any common power, which is generally termed a joint powers agreement. When a joint powers agreement provides for the creation of an agency or entity, separate from the parties to the agreement and responsible for its administration, existing law requires that agency or entity to cause a notice of the agreement or amendment to be prepared and filed, as specified, with the Secretary of State. Existing law requires an agency or entity that files a notice of agreement or amendment with the Secretary of State to also file a copy of the original joint powers agreement, and any amendment to the agreement, with the Controller.

This bill would require an agency or entity required to file documents with the Controller, as described above, that meets the definition of a joint powers authority or joint powers agency, as specified, that was formed for the purpose of providing municipal services and that includes a local agency member, as specified, to also file a copy of the agreement or amendment to the agreement with the local agency formation commission in each county within which all or any part of a local agency member’s territory is located within 30 days after the effective date of the agreement or amendment to the agreement. The bill would also require an agency or entity that meets the definition of a joint powers authority or joint powers agency, as specified, that was formed for the purpose of providing municipal services prior to the effective date of this act and that includes a local agency member, as specified, to file a copy of the agreement and any amendments to the agreement with the local agency formation commission in each county within which all or any part of a local agency member’s territory is located no later than July 1, 2017. This bill would prohibit an agency or entity administering an agreement or amendment that has failed to make the required filings within the specified timeframes from issuing bonds or incurring any indebtedness until those filings have been made.

By requiring specified joint powers agencies to file certain documents with a local agency formation commission, 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.

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

SECTION 1. Section 6503.6 of the Government Code is amended to read:

6503.6. (a) When an agency or entity files a notice of agreement or amendment to the agreement with the office of the Secretary of State pursuant to Section 6503.5, the agency or entity shall file a copy of the full text of the original joint powers agreement, and any amendment to the agreement, with the Controller. An agency or entity that meets the definition of a joint powers authority or joint powers agency under Section 56047.7 that was formed for the purpose of providing municipal services and that includes a local agency member that is a city, district, or county shall, within 30 days after the effective date of the agreement or amendment to the agreement, file a copy of the agreement or amendment to the agreement with the local agency formation commission in each county within which all or any part of a local agency member’s territory is located.

(b) Notwithstanding any other provision of this chapter, any agency or entity administering a joint powers agreement or amendment to such an agreement, which agreement or amendment becomes effective on or after the effective date of this section, which fails to file the notice with a local agency formation commission required by this section within 30 days after the effective date of the agreement or amendment shall not thereafter, and until those filings are completed, issue any bonds or incur indebtedness of any kind.

SEC. 2. Section 6503.8 is added to the Government Code, to read:

6503.8. (a) No later than July 1, 2017, an agency or entity that meets the definition of a joint powers authority or joint powers agency under Section 56047.7 that was formed for the purpose of providing municipal services prior to the effective date of this section, and that includes a local agency member that is a city, district, or county, shall cause a copy of the agreement and any amendments to the agreement to be filed with the local agency formation commission in each county within which all or any part of a local agency member’s territory is located.

(b) Notwithstanding any other provision of this chapter, any agency or entity administering a joint powers agreement or amendment to such an agreement, which fails to file the notice with a local agency formation commission required by this section on or before July 1, 2017, shall not thereafter, and until those filings are completed, issue any bonds or incur indebtedness of any kind.
SEC. 3. If the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code.
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Senate Bill No. 239

CHAPTER 763

An act to amend Sections 56017.2 and 56133 of, and to add Section 56134 to, the Government Code, relating to local services.

[Approved by Governor October 10, 2015. Filed with Secretary of State October 10, 2015.]

LEGISLATIVE COUNSEL'S DIGEST

SB 239, Hertzberg. Local services: contracts: fire protection services.

Existing law prescribes generally the powers and duties of the local agency formation commission in each county with respect to the review approval or disapproval of proposals for changes of organization or reorganization of cities and special districts within that county. Existing law permits a city or district to provide extended services, as defined, outside its jurisdictional boundaries only if it first requests and receives written approval 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, with certain exceptions, permit a public agency to exercise new or extended services outside the public agency’s jurisdictional boundaries pursuant to a fire protection contract, as defined, only if the public agency receives written approval from the local agency formation commission in the affected county. The bill would require that the legislative body of a public agency that is not a state agency adopt a resolution of application and submit the resolution along with a plan for services, as provided, that a proposal by a state agency be initiated by the director of the agency with the approval of the Director of Finance, and that a proposal by a local agency that is currently under contract for the provision of fire protection services be initiated by the local agency and approved by the Director of Finance. The bill would require, prior to adopting the resolution or submitting the proposal, the public agency to enter into a written agreement for the performance of new or extended services pursuant to a fire protection contract with, or provide written notice of a proposed fire protection contract to, each affected public agency and recognized employee organization representing firefighters in the affected area, and to conduct a public hearing on the resolution.

The bill would require the commission to approve or disapprove the proposal as specified. The bill would require the commission to consider, among other things, a comprehensive fiscal analysis prepared by the executive officer in accordance with specified requirements.
The California Constitution requires local agencies, for the purpose of ensuring public access to the meetings of public bodies and the writings of public officials and agencies, to comply with a statutory enactment that amends or enacts laws relating to public records or open meetings and contains findings demonstrating that the enactment furthers the constitutional requirements relating to this purpose.

This bill would make legislative findings to that effect.

This bill would incorporate additional changes to Section 56133 of the Government Code proposed by AB 402 that would become operative if this bill and AB 402 are both enacted and this bill is enacted last.

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

SECTION 1. Section 56017.2 of the Government Code is amended to read:

56017.2. “Application” means any of the following:

(a) A resolution of application or petition initiating a change of organization or reorganization with supporting documentation as required by the commission or executive officer.

(b) A request for a sphere of influence amendment or update pursuant to Section 56425.

(c) A request by a city or district for commission approval of an extension of services outside the agency’s jurisdictional boundaries pursuant to Section 56133.

(d) A request by a public agency for commission approval of an extension of services outside the agency’s jurisdictional boundaries pursuant to Section 56134.

SEC. 2. Section 56133 of the Government Code is amended to read:

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

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

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

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

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

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

(e) This section does not apply to any of the following:

1. Contracts or agreements solely involving two or more public agencies where the public service to be provided is an alternative to, or substitute for, public services already being provided by an existing public service provider and where the level of service to be provided is consistent with the level of service contemplated by the existing service provider.

2. Contracts for the transfer of nonpotable or nontreated water.

3. Contracts or agreements solely involving the provision of surplus water to agricultural lands and facilities, including, but not limited to, incidental residential structures, for projects that serve conservation purposes or that directly support agricultural industries. However, prior to extending surplus water service to any project that will support or induce development, the city or district shall first request and receive written approval from the commission in the affected county.

4. An extended service that a city or district was providing on or before January 1, 2001.

5. A local publicly owned electric utility, as defined by Section 9604 of the Public Utilities Code, providing electric services that do not involve the acquisition, construction, or installation of electric distribution facilities by the local publicly owned electric utility, outside of the utility’s jurisdictional boundaries.

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

SEC. 2.5. Section 56133 of the Government Code is amended to read:

56133. (a) A city or district may provide new or extended services by contract or agreement outside its jurisdictional boundary only if it first requests and receives written approval from the commission.
(b) The commission may authorize a city or district to provide new or extended services outside its jurisdictional boundary but within its sphere of influence in anticipation of a later change of organization.

(c) If consistent with adopted policy, the commission may 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 both of the following requirements are met:

1. The entity applying for approval has provided the commission with documentation of a threat to the health and safety of the public or the affected residents.
2. The commission has notified any alternate service provider, including any water corporation as defined in Section 241 of the Public Utilities Code, that has filed a map and a statement of its service capabilities with the commission.

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

(e) This section does not apply to any of the following:

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

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

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

SEC. 3. Section 56134 is added to the Government Code, to read:

56134. (a) (1) For the purposes of this section, “fire protection contract” means a contract or agreement for the exercise of new or extended fire protection services outside a public agency’s jurisdictional boundaries, as authorized by Chapter 4 (commencing with Section 55600) of Part 2 of Division 2 of Title 5 of this code or by Article 4 (commencing with Section 4141) of Chapter 1 of Part 2 of Division 4 of the Public Resources Code, except those contracts entered into pursuant to Sections 4143 and 4144 of the Public Resources Code, that does either of the following:

(A) Transfers responsibility for providing services in more than 25 percent of the area within the jurisdictional boundaries of any public agency affected by the contract or agreement.

(B) Changes the employment status of more than 25 percent of the employees of any public agency affected by the contract or agreement.

(2) A contract or agreement for the exercise of new or extended fire protection services outside a public agency’s jurisdictional boundaries, as authorized by Chapter 4 (commencing with Section 55600) of Part 2 of Division 2 of Title 5 of this code or Article 4 (commencing with Section 4141) of Chapter 1 of Part 2 of Division 4 of the Public Resources Code, except those contracts entered into pursuant to Sections 4143 and 4144 of the Public Resources Code, that, in combination with other contracts or agreements, would produce the results described in subparagraph (A) or (B) of paragraph (1) shall be deemed a fire protection contract for the purposes of this section.

(3) For the purposes of this section, “jurisdictional boundaries” shall include the territory or lands protected pursuant to a fire protection contract entered into on or before December 31, 2015. An extension of a fire protection contract entered into on or before December 31, 2015, that would produce the results described in subparagraph (A) or (B) of paragraph (1) shall be deemed a fire protection contract for the purposes of this section.

(b) Notwithstanding Section 56133, a public agency may provide new or extended services pursuant to a fire protection contract only if it first requests and receives written approval from the commission in the affected county pursuant to the requirements of this section.

(c) A request by a public agency for commission approval of new or extended services provided pursuant to a fire protection contract shall be made by the adoption of a resolution of application as follows:
(1) In the case of a public agency that is not a state agency, the application shall be initiated by the adoption of a resolution of application by the legislative body of the public agency proposing to provide new or extended services outside the public agency’s current service area.

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

(3) In the case of a public agency that is a local agency currently under contract with a state agency for the provision of fire protection services and proposing to provide new or extended services by the expansion of the existing contract or agreement, the application shall be initiated by the public agency that is a local agency and be approved by the Director of Finance.

(d) The legislative body of a public agency or the director of a state agency shall not submit a resolution of application pursuant to this section unless both of the following occur:

(1) The public agency does either of the following:

(A) Obtains and submits with the resolution a written agreement validated and executed by each affected public agency and recognized employee organization that represents firefighters of the existing and proposed service providers consenting to the proposed fire protection contract.

(B) Provides, at least 30 days prior to the hearing held pursuant to paragraph (2), written notice to each affected public agency and recognized employee organization that represents firefighters of the existing and proposed service providers of the proposed fire protection contract and submits a copy of each written notice with the resolution of application. The notice shall, at minimum, include a full copy of the proposed contract.

(2) The public agency conducts an open and public hearing on the resolution, conducted pursuant to the Ralph M. Brown Act (Chapter 9 (commencing with Section 54950) of Part 1 of Division 2 of Title 5) or the Bagley-Keene Open Meeting Act (Article 9 (commencing with Section 11120) of Chapter 1 of Part 1 of Division 3 of Title 2), as applicable.

(e) A resolution of application submitted pursuant to this section shall be submitted with a plan which shall include all of the following information:

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

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

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

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

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

(6) An enumeration and description of the new or extended fire protection services proposed to be extended to the affected territory.
(7) The level and range of new or extended fire protection services.

(8) An indication of when the new or extended fire protection services can feasibly be extended to the affected territory.

(9) An indication of any improvements or upgrades to structures, roads, sewer or water facilities, or other conditions the public agency would impose or require within the affected territory if the fire protection contract is completed.

(10) A determination, supported by documentation, that the proposed fire protection contract meets the criteria established pursuant to subparagraph (A) or (B) of paragraph (1) or paragraph (2), as applicable, of subdivision (a).

(f) The applicant shall cause to be prepared by contract an independent comprehensive fiscal analysis to be submitted with the application pursuant to this section. The analysis shall review and document all of the following:

(1) A thorough review of the plan for services submitted by the public agency pursuant to subdivision (e).

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

(3) Any other information and analysis needed to support the findings required by subdivision (j).

(g) The clerk of the legislative body of a public agency or the director of a state agency adopting a resolution of application pursuant to this section shall file a certified copy of the resolution with the executive officer.

(h) (1) The executive officer, within 30 days of receipt of a public agency’s request for approval of a fire protection contract, shall determine whether the request is complete and acceptable for filing or whether the request is incomplete. If a request does not comply with the requirements of subdivision (d), the executive officer shall determine that the request is incomplete. If a request is determined incomplete, the executive officer shall immediately transmit that determination to the requester, specifying those parts of the request that are incomplete and the manner in which they can be made complete. When the request is deemed complete, the executive officer shall place the request on the agenda of the next commission meeting for which adequate notice can be given but not more than 90 days from the date that the request is deemed complete.

(2) The commission shall approve, disapprove, or approve with conditions the contract for new or extended services following the hearing at the commission meeting, as provided in paragraph (1). If the contract is disapproved or approved with conditions, the applicant may request reconsideration, citing the reasons for reconsideration.

(i) (1) The commission shall not approve an application for approval of a fire protection contract unless the commission determines that the public agency will have sufficient revenues to carry out the exercise of the new or
extended fire protection services outside its current area, except as specified in paragraph (2).

(2) The commission may approve an application for approval of a fire protection contract where the commission has determined that the public agency will not have sufficient revenue to provide the proposed new or different functions or class of services, if the commission conditions its approval on the concurrent approval of sufficient revenue sources pursuant to Section 56886. In approving a proposal, the commission shall provide that, if the revenue sources pursuant to Section 56886 are not approved, the authority of the public agency to provide new or extended fire protection services shall not be exercised.

(j) The commission shall not approve an application for approval of a fire protection contract unless the commission determines, based on the entire record, all of the following:

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

(2) The commission has reviewed the comprehensive fiscal analysis prepared pursuant to subdivision (f).

(3) The commission has reviewed any testimony presented at the public hearing.

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

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

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

(m) This section shall not be construed to abrogate a public agency’s obligations under the Meyers-Milias-Brown Act (Chapter 10 (commencing with Section 3500) of Division 4 of Title 1).

SEC. 4. The Legislature finds and declares that, with respect to fire protection contracts subject to this act, the provisions of this act are not intended to change, alter, or in any way affect either of the following:
(a) The existing jurisdiction of a local agency formation commission over proceedings that involve the provision of prehospital emergency medical services.

(b) Mutual aid agreements, including mutual aid agreements entered into pursuant to the California Emergency Services Act (Chapter 7 (commencing with Section 8550) of Division 1 of Title 1 of the Government Code) or the Fire Protection District Law of 1987 (Part 2.7 (commencing with Section 13800) of Division 12 of the Health and Safety Code).

SEC. 5. The Legislature finds and declares that Section 3 of this act, which adds Section 56134 to the Government Code, furthers, within the meaning of paragraph (7) of subdivision (b) of Section 3 of Article I of the California Constitution, the purposes of that constitutional section as it relates to the right of public access to the meetings of local public bodies or the writings of local public officials and local agencies. Pursuant to paragraph (7) of subdivision (b) of Section 3 of Article I of the California Constitution, the Legislature makes the following findings:

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

SEC. 6. Section 2.5 of this bill incorporates amendments to Section 56133 of the Government Code proposed by both this bill and Assembly Bill 402. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 2016, (2) each bill amends Section 56133 of the Government Code, and (3) this bill is enacted after Assembly Bill 402, in which case Section 2 of this bill shall not become operative.
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This bulletin is intended to provide our member LAFCos with information on the implementation of SB 239. It is a result of CALAFCO’s meeting with a number of representatives from the Sponsor of the bill along with union representatives from CalFIRE Local 2881 and the CA Fire Chief’s Association. Authored by Senator Hertzberg and sponsored by the California Professional Firefighters, the bill was signed into law by Governor Brown on October 10, 2015, and takes effect January 1, 2016.

In summary, the bill amends Government Code Sections 56017.2 and 56133, and adds GC §56134 relating to the extension of fire protection services outside existing city or district boundaries. The bill deems “existing boundaries” as those that exist as of 12-31, 2015. It requires LAFCo approval on any new contract for the extension of fire services or a contract extension or amendment that transfers greater than 25% of the service area or changes the employment status of more than 25% of employees of any affected agencies. Further, it requires the applicant to include in their application a comprehensive fiscal analysis (CFA) prepared by independent contract, and outlines the required contents of the application and the CFA. The contents of the CFA are identified in Section 56134 (f) and are not as exhaustive as what is required in a CFA for a proposed city incorporation.

What the bill is intended to do according to the sponsor:
- Require the applicant to provide LAFCo, as part of the application, proof that the 25% trigger is occurring.
- It is up to each LAFCo to determine what the required proof would be (for example, service maps demonstrating the change of +25% of the service area, or employment statistics that would provide proof of the 25% of change in employment status). Each LAFCo is encouraged to create local policies on what they would require as the proper documentation.
- While the term “employment status” found in 56134 (B) is not defined, it is the intent of the sponsor that this means a change in service providers (department as employer). While a change in wages/benefits/hours worked/working conditions may be viewed by some as a change in “employment status, but, it was, according to the sponsor, not the original intent of the term. Each LAFCo is encouraged to create a local policy to define this term.
- The change of +25% in employment status of the employees of any public agency affected by the contract or agreement is intended to apply to the entire department. In other words, +25% as compared to the department affected.
- Section 56134 (a) (2) states in part, that if a contract or agreement that, in combination with other contracts or agreements, triggers the +25% change in service area or employment status, it shall be subject to the definition of a fire protection contract pursuant to this section, and as such will not be exempt from this process. What is unclear about this situation is if it is just this one contract that is subject to the law, or if all existing contracts within the jurisdictional area are affected. The sponsor indicated it is their intent that it be just the one contract rather than all of the contracts within that service area, as all of the other contracts are not the trigger of the +25%. Each LAFCo is encouraged to consider a local policy to clarify this situation.

What the bill is not intended to do according to the sponsor:
- The bill is not intended to apply to the renewal of existing contracts, unless the renewal included amendments or the inclusion of new territory that triggered the +25% change in service area or employment status.
- The bill is not intended to apply to mutual or automatic aid agreements.
- The bill is not intended to apply to ambulance services agreements.
- If a current contract expires and a service area no longer wants to contract for services and will take over providing the services themselves, this bill does not apply, as there is no contract to review and approve.

What has yet to be determined:
- What happens if both parties agree on the contract? It has been suggested that future consideration may be given to an exemption in these cases. For now, if the situation meets the criteria, the new law must be followed, even though both parties may be in full agreement to the proposed changes.
- How to measure the cumulative effect of incremental extensions affecting less than 25% of the service area or employment status. Since the law requires the public agencies to go to LAFCo only in the instances where they have identified a greater than 25% impact, questions remain as to the process of documenting cumulative impacts to either the affected service area or the employment status when changes of either are less than 25%.

All LAFCos are encouraged to meet early with all of the stakeholders that may be impacted by this new law. You are also encouraged to create local polices as noted above to best implement the law based on local conditions and circumstances. Please contact CALAFCO with any questions.
Assembly Bill No. 464

CHAPTER 43

An act to amend Sections 56653 and 56857 of the Government Code, relating to local government.

[Approved by Governor July 10, 2017. Filed with Secretary of State July 10, 2017.]

legislative counsel's digest

AB 464, Gallagher. Local government reorganization.

The Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000, among other things, establishes procedures for consideration of a proposal for change of organization or reorganization, as defined. Existing law requires that an applicant seeking a change of organization or reorganization submit a plan for providing services within the affected territory that includes, among other requirements, an enumeration and description of the services to be extended to the affected territory and an indication of when those services can feasibly be extended.

This bill would specify that the plan is required to also include specific information regarding services currently provided to the affected territory, as applicable, and make related changes.

The Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 authorizes any district to which annexation of territory is proposed to adopt and transmit to the local agency formation commission a resolution requesting termination of proceedings, as specified, and requires the resolution to be based upon written findings supported by substantial evidence in the record that the request is justified by a financial or service-related concern.

This bill would require the resolution to be based upon written findings supported by substantial evidence in the record that the request is justified as described above or because the territory is already receiving electrical service under a service area agreement approved by the Public Utilities Commission, as specified. The bill would require findings related to existing provision of electrical service by an irrigation district pursuant to a service area agreement approved under a specified provision to be based on the records of the district and the Public Utilities Commission, as provided.

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

SECTION 1. Section 56653 of the Government Code, as amended by Section 2 of Chapter 784 of the Statutes of 2014, is amended to read:
56653. (a) If a proposal for a change of organization or reorganization is submitted pursuant to this part, the applicant shall submit a plan for providing services within the affected territory.

(b) The plan for providing services shall include all of the following information and any additional information required by the commission or the executive officer:

1. An enumeration and description of the services currently provided or to be extended to the affected territory.
2. The level and range of those services.
3. An indication of when those services can feasibly be extended to the affected territory, if new services are proposed.
4. An indication of any improvement or upgrading of structures, roads, sewer or water facilities, or other conditions the local agency would impose or require within the affected territory if the change of organization or reorganization is completed.
5. Information with respect to how those services will be financed.

(c) (1) In the case of a change of organization or reorganization initiated by a local agency that includes a disadvantaged, unincorporated community as defined in Section 56033.5, a local agency may include in its resolution of application for change of organization or reorganization an annexation development plan adopted pursuant to Section 99.3 of the Revenue and Taxation Code to improve or upgrade structures, roads, sewer or water facilities, or other infrastructure to serve the disadvantaged, unincorporated community through the formation of a special district or reorganization of one or more existing special districts with the consent of each special district’s governing body.

(2) The annexation development plan submitted pursuant to this subdivision shall include information that demonstrates that the formation or reorganization of the special district will provide all of the following:

(A) The necessary financial resources to improve or upgrade structures, roads, sewer, or water facilities or other infrastructure. The annexation development plan shall also clarify the local entity that shall be responsible for the delivery and maintenance of the services identified in the application.

(B) An estimated timeframe for constructing and delivering the services identified in the application.

(C) The governance, oversight, and long-term maintenance of the services identified in the application after the initial costs are recouped and the tax increment financing terminates.

(3) If a local agency includes an annexation development plan pursuant to this subdivision, a local agency formation commission may approve the proposal for a change of organization or reorganization to include the formation of a special district or reorganization of a special district with the special district’s consent, including, but not limited to, a community services district, municipal water district, or sanitary district, to provide financing to improve or upgrade structures, roads, sewer or water facilities, or other infrastructure to serve the disadvantaged, unincorporated community, in
conformity with the requirements of the principal act of the district proposed to be formed and all required formation proceedings.

(4) Pursuant to Section 56881, the commission shall include in its resolution making determinations a description of the annexation development plan, including, but not limited to, an explanation of the proposed financing mechanism adopted pursuant to Section 99.3 of the Revenue and Taxation Code, including, but not limited to, any planned debt issuance associated with that annexation development plan.

(d) This section shall not preclude a local agency formation commission from considering any other options or exercising its powers under Section 56375.

(e) This section shall remain in effect only until January 1, 2025, and as of that date is repealed.

SEC. 2. Section 56653 of the Government Code, as added by Section 3 of Chapter 784 of the Statutes of 2014, is amended to read:

56653. (a) If a proposal for a change of organization or reorganization is submitted pursuant to this part, the applicant shall submit a plan for providing services within the affected territory.

(b) The plan for providing services shall include all of the following information and any additional information required by the commission or the executive officer:

1. An enumeration and description of the services currently provided or to be extended to the affected territory.

2. The level and range of those services.

3. An indication of when those services can feasibly be extended to the affected territory, if new services are proposed.

4. An indication of any improvement or upgrading of structures, roads, sewer or water facilities, or other conditions the local agency would impose or require within the affected territory if the change of organization or reorganization is completed.

5. Information with respect to how those services will be financed.

(c) This section shall become operative on January 1, 2025.

SEC. 3. Section 56857 of the Government Code is amended to read:

56857. (a) Upon receipt by the commission of a proposed change of organization or reorganization that includes the annexation of territory to any district, if the proposal is not filed by the district to which annexation of territory is proposed, the executive officer shall place the proposal on the agenda for the next commission meeting for information purposes only and shall transmit a copy of the proposal to any district to which an annexation of territory is requested.

(b) No later than 60 days after the date that the proposal is on the commission’s meeting agenda in accordance with subdivision (a), any district to which annexation of territory is proposed may adopt and transmit to the commission a resolution requesting termination of the proceedings. The resolution requesting termination of the proceedings shall be based upon written findings supported by substantial evidence in the record that the request is justified by a financial or service related concern or because
the territory is already receiving electrical service under a service area agreement approved by the Public Utilities Commission pursuant to Section 9608 of the Public Utilities Code. Prior to the commission’s termination of proceedings pursuant to subdivision (c), the resolution is subject to judicial review.

(c) If any district to which annexation of territory is proposed has adopted and transmitted to the commission a resolution requesting termination of proceedings within the time period prescribed by, and in accordance with, subdivision (b), and if the commission has not been served with notice that judicial review of that resolution is being sought pursuant to subdivision (b), then the commission shall terminate the proceedings no sooner than 30 days from receipt of the resolution from the district.

(d) For purposes of an annexation to a district pursuant to this section or Section 56668.3:

(1) “Financial concerns” means that the proposed uses within the territory proposed to be annexed do not have the capacity to provide sufficient taxes, fees, and charges, including connection fees, if any, to pay for the full cost of providing services, including capital costs. Cost allocation shall be based on generally accepted accounting principles and shall be subject to all constitutional and statutory limitations on the amount of the tax, fee, or charge.

(2) “Service concerns” means that a district will not have the ability to provide the services that are the subject of the application to the territory proposed to be annexed without imposing level of service reductions on existing and planned future uses in the district’s current service area. “Service concerns” does not include a situation when a district has the ability to provide the services or the services will be available prior to the time that services will be required.

(3) “Territory already receiving electrical service under a service area agreement approved by the Public Utilities Commission pursuant to Section 9608 of the Public Utilities Code” means territory that is outside the boundaries of an irrigation district but is currently receiving electrical services from the irrigation district pursuant to a service area agreement between the district and a public utility approved by the Public Utilities Commission as authorized by Sections 8101 to 8108, inclusive, and 9608 of the Public Utilities Code.

(4) A district may make findings regarding financial or service concerns based on information provided in the application and any additional information provided to the district by the commission or the applicant that is relevant to determining the adequacy of existing and planned future services to meet the probable future needs of the territory. Findings related to service or financial concerns may be based on an urban water management plan, capital improvement plan, financial statement, comprehensive annual financial report, integrated resource management plan, or other information related to the ability of a district to provide services. Findings related to existing provision of electrical service by an irrigation district pursuant to a service area agreement approved under Section 9608 of the Public Utilities
Code shall be based on the records of the district and the Public Utilities Commission evidencing approval of such a service area agreement by the Public Utilities Commission.

(5) Nothing in this section shall be construed to create a right or entitlement to water service or any specific level of water service.

(6) Nothing in this section is intended to change existing law concerning a district’s obligation to provide water service to its existing customers or to any potential future customers.

(e) This section shall not apply if all districts to which annexation of territory is proposed have adopted and transmitted to the commission a resolution supporting the proposed change of organization or reorganization.
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Assembly Bill No. 979

CHAPTER 203

An act to amend Sections 56332 and 56332.5 of the Government Code, relating to local government.

[Approved by Governor September 1, 2017. Filed with Secretary of State September 1, 2017.]

legislative counsel's digest

AB 979, Lackey. Local agency formation commissions: district representation.
Existing law, the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000, provides for the selection of representatives of independent special districts on each local agency formation commission by an independent special district selection committee pursuant to a nomination and election process. Existing law requires the executive officer of the commission to call and hold a meeting of the special district selection committee upon, among other things, receipt of a written request by one or more members of the selection committee, as specified.
This bill would additionally require the executive officer to call and hold a meeting of the special district selection committee upon the adoption of a resolution of intention by the committee relating to proceedings for representation of independent special districts upon the commission pursuant to specified law. The bill would also require the executive officer to call and hold a meeting of the special district selection committee upon receipt of a written request by one or more members of the selection committee notifying the executive officer of the need to appoint a member representing independent special districts to an oversight board of a successor agency to a dissolved redevelopment or community development agency. By increasing the duties of the executive officer, this bill would impose a state-mandated local program.
If the independent special district selection committee has determined to conduct business by mail or if the executive officer determines that a meeting of the special district selection committee, for the purpose of appointing the special district members or filling vacancies, is not feasible, existing law requires the executive officer to conduct the business of the committee, including elections, by mail in accordance with specified procedures. Existing law, for an election pursuant to these procedures to be valid, requires that at least a quorum of the special districts submit valid ballots.
This bill, for a vote on special district representation to be valid, would require that at least a quorum of the special districts submit valid ballots. The bill would require the selection committee, by majority vote of those
district representatives voting on the issue, to either accept or deny representation.

Existing law requires the commission, if it does not have representation from independent special districts on January 1, 2001, to initiate proceedings for representation of those districts upon the commission if requested by independent special districts. Existing law, upon receipt of resolutions proposing representation of independent special districts upon the commission by a majority of the independent special districts within a county, requires the commission to adopt a resolution of intention and specifies the procedures for those proceedings.

This bill would instead require the commission to adopt a resolution of intention upon either the receipt of a written request by one or more members of the selection committee representing districts having 10% or more of the assessed value of taxable property within the county or the adoption of a resolution by the commission proposing representation of special districts upon the commission.

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 no reimbursement is required by this act for a specified reason.

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

SECTION 1. Section 56332 of the Government Code is amended to read:

56332. (a) The independent special district selection committee shall consist of the presiding officer of the legislative body of each independent special district. However, if the presiding officer of an independent special district is unable to participate in a meeting or election of the independent special district selection committee, the legislative body of the district may appoint one of its members as an alternate to participate in the selection committee in the presiding officer's place. Those districts shall include districts located wholly within the county and those containing territory within the county representing 50 percent or more of the assessed value of taxable property of the district, as shown on the last equalized county assessment roll. Each member of the committee shall be entitled to one vote for each independent special district of which he or she is the presiding officer or his or her alternate as designated by the governing body. Members representing a majority of the eligible districts shall constitute a quorum.

(b) The executive officer shall call and give written notice of all meetings of the members of the selection committee. A meeting shall be called and held under one of the following circumstances:

(1) Whenever the executive officer anticipates that a vacancy will occur within the next 90 days among the members or alternate member representing independent special districts on the commission.
(2) Whenever a vacancy exists among the members or alternate member representing independent special districts upon the commission.

(3) Upon receipt of a written request by one or more members of the selection committee representing districts having 10 percent or more of the assessed value of taxable property within the county, as shown on the last equalized county assessment roll.

(4) Upon the adoption of a resolution of intention pursuant to Section 56332.5.

(5) Upon receipt of a written request by one or more members of the selection committee notifying the executive officer of the need to appoint a member representing independent special districts on an oversight board pursuant to paragraph (3) of subdivision (j) of Section 34179 of the Health and Safety Code.

(c) The selection committee shall appoint two regular members and one alternate member to the commission. The members so appointed shall be elected or appointed members of the legislative body of an independent special district residing within the county but shall not be members of the legislative body of a city or county. If one of the regular district members is absent from a commission meeting or disqualifies himself or herself from participating in a meeting, the alternate district member may serve and vote in place of the regular district member for that meeting. Service on the commission by a regular district member shall not disqualify, or be cause for disqualification of, the member from acting on proposals affecting the special district on whose legislative body the member serves. The special district selection committee may, at the time it appoints a member or alternate, provide that the member or alternate is disqualified from voting on proposals affecting the district on whose legislative body the member serves.

(d) If the office of a regular district member becomes vacant, the alternate member may serve and vote in place of the former regular district member until the appointment and qualification of a regular district member to fill the vacancy.

(e) A majority of the independent special district selection committee may determine to conduct the committee’s business by mail, including holding all elections by mailed ballot, pursuant to subdivision (f).

(f) If the independent special district selection committee has determined to conduct the committee’s business by mail or if the executive officer determines that a meeting of the special district selection committee is not feasible, the executive officer shall conduct the business of the committee by mail. Elections by mail shall be conducted as provided in this subdivision.

(1) The executive officer shall prepare and deliver a call for nominations to each eligible district. The presiding officer, or his or her alternate as designated by the governing body, may respond in writing by the date specified in the call for nominations, which date shall be at least 30 days from the date on which the executive officer mailed the call for nominations to the eligible district.
(2) At the end of the nominating period, if only one candidate is nominated for a vacant seat, that candidate shall be deemed appointed. If two or more candidates are nominated, the executive officer shall prepare and deliver one ballot and voting instructions to each eligible district. The ballot shall include the names of all nominees and the office for which each was nominated. Each presiding officer, or his or her alternate as designated by the governing body, shall return the ballot to the executive officer by the date specified in the voting instructions, which date shall be at least 30 days from the date on which the executive officer mailed the ballot to the eligible district.

(3) The call for nominations, ballots, and voting instructions shall be delivered by certified mail to each eligible district. As an alternative to the delivery by certified mail, the executive officer, with prior concurrence of the presiding officer or his or her alternate as designated by the governing body, may transmit materials by electronic mail.

(4) If the executive officer has transmitted the call for nominations or ballots by electronic mail, the presiding officer, or his or her alternate as designated by the governing body, may respond to the executive officer by electronic mail.

(5) Each returned nomination and ballot shall be signed by the presiding officer or his or her alternate as designated by the governing body of the eligible district.

(6) For an election to be valid, at least a quorum of the special districts must submit valid ballots. The candidate receiving the most votes shall be elected, unless another procedure has been adopted by the selection committee. Any nomination and ballot received by the executive officer after the date specified is invalid, provided, however, that if a quorum of ballots is not received by that date, the executive officer shall extend the date to submit ballots by 60 days and notify all districts of the extension. The executive officer shall announce the results of the election within seven days of the date specified.

(7) For a vote on special district representation to be valid, at least a quorum of the special districts must submit valid ballots. By majority vote of those district representatives voting on the issue, the selection committee shall either accept or deny representation.

(8) All election materials shall be retained by the executive officer for a period of at least six months after the announcement of the election results.

(g) For purposes of this section, “executive officer” means the executive officer or designee as authorized by the commission.

SEC. 2. Section 56332.5 of the Government Code is amended to read:

56332.5. (a) If the commission does not have representation from independent special districts on or before January 1, 2001, the commission shall initiate proceedings for representation of independent special districts upon the commission if either of the following occur:

(1) Upon receipt of a written request by one or more members of the selection committee representing districts having 10 percent or more of the
assessed value of taxable property within the county, as shown on the last equalized county assessment roll.

(2) Upon adoption of a resolution by the commission proposing representation of special districts upon the commission.

(b) The commission, at its next regular meeting, shall adopt a resolution of intention. The resolution of intention shall state whether the proceedings are initiated by the commission or by an independent special district or districts, in which case, the names of those districts shall be set forth. The commission shall order the executive officer to call and give notice of a meeting of the independent special district selection committee to be held within 15 days after the adoption of the resolution in order to determine whether independent special districts shall accept representation on the commission and appoint independent special district representation pursuant to Section 56332.

SEC. 3. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because a local agency or school district has the authority to levy service charges, fees, or assessments sufficient to pay for the program or level of service mandated by this act, within the meaning of Section 17556 of the Government Code.
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On July 1, 2018, more than 400 redevelopment agency (RDA) oversight boards will be consolidated into just one oversight board per county (and five oversight boards in Los Angeles County). When this occurs, each county’s Independent Special Districts Selection Committee will be granted the authority to appoint one special district representative to that county’s respective oversight board.

If the Independent Special District Selection Committee in a county fails to act by July 15, 2018, the governor will make the appointment on its behalf. Therefore, it is important that the special districts in each affected county, and the Local Agency Formation Commissions (LAFCOs) that administer the operations of the Independent Special Districts Selection Committees, take proactive steps to ensure a successful locally-controlled appointment process.

Much is at stake in the decisions that go before oversight boards. In fiscal years 2015-16 and 2016-17 combined, the governor’s 2016 May Revise estimated special districts will receive $316 million in property tax restoration due to the continued wind down of RDAs. Oversight board actions could affect the amount and speed of future property tax restorations to special districts and other local agencies.

Due to the newness and uniqueness of the statute providing for countywide oversight boards, the many cross-references within the statute, and the lack of familiarity most LAFCOs and special districts have with the Health and Safety Code in which the statute is included, the authorizing language for special district appointments may be challenging to some local officials.

For these reasons, the California Special Districts Association (CSDA) and California Local Agency Formation Commission (CALAFCO) convened a working group to outline the process for appointing special district representatives to countywide oversight boards, and to provide guidance on potential questions related to that process.

COUNTIES REQUIRING A COUNTYWIDE OVERSIGHT BOARD

The following thirty-seven counties have two or more oversight boards that will be consolidated into one countywide oversight board on July 1, 2018 (except for Los Angeles County, which will be consolidated into five oversight boards):

- Alameda
- Butte
- Contra Costa
- Fresno
- Humboldt
- Imperial
- Kern
- Kings
- Lake
- Los Angeles (five oversight boards)
- Madera
- Marin
- Monterey
- Mendocino
- Merced
- Nevada
- Orange
- Placer
- Riverside
- Sacramento
- San Bernardino
- San Diego
- San Joaquin
- San Luis Obispo
- San Mateo
- Santa Barbara
- Santa Clara
- Santa Cruz
- Shasta
- Solano
- Sonoma
- Stanislaus
- Sutter
- Tulare
- Ventura
- Yolo
- Yuba

Of the counties noted above, the following eleven counties do not currently have an Independent Special Districts Selection Committee in place. Therefore, the special districts and LAFCOs in each of these counties will need to form an Independent Special Districts Selection Committee in order to facilitate the appointment of a special district representative to the new countywide RDA oversight board:

- Fresno
- Imperial
- Kings
- Madera
- Merced
- San Joaquin
- Solano
- Stanislaus
- Tulare
- Yolo
- Yuba
The statutory authorization for appointing the special district representative to a countywide oversight board is found in Health and Safety Code 34179, which can be found in the appendix. This publication overviews the application of this authority in conjunction with the relevant code sections cross-referenced to the Cortese-Knox-Hertzberg Act or “LAFCo Law” in the Government Code.

On July 1, 2018, counties with 2 – 39 individual RDA oversight boards will be consolidated into one countywide oversight board. Upon consolidation, the county’s Independent Special District Selection Committee is responsible for appointing the special district representative to the new countywide oversight board. The Independent Special District Selection Committee consists of the presiding officer of the legislative body of each independent special district or district-appointed alternate (Government Code Section 56332(a)).

Procedures

The LAFCo Executive Officer/Designee is responsible for calling and giving written notice of meetings of the Independent Special District Selection Committee, at which a representative may be appointed to the countywide RDA oversight board. (Government Code Section 56332(b)).

- A majority of the Independent Special District Selection Committee may determine to conduct the committee’s business by mail, including holding all elections by mailed ballot (Government Code Section 56332(e)).

If the independent special district selection committee has determined to conduct the committee’s business by mail or if the executive officer/designee determines that a meeting of the special district selection committee, for the purpose of selecting the special district members or filling vacancies, is not feasible, the executive officer/designee shall conduct the business of the committee by mail. Elections by mail shall be conducted as follows (Government Code Section 56332(f)):

1) The executive officer/designee shall prepare and deliver a call for nominations to each eligible district. The presiding officer, or his or her alternate as designated by the governing body, may respond in writing by the date specified in the call for nominations, which date shall be at least 30 days from the date on which the executive officer mailed the call for nominations to the eligible district.

2) At the end of the nominating period, if only one candidate is nominated for a vacant seat, that candidate shall be deemed appointed. If two or more candidates are nominated, the executive officer/designee shall prepare and deliver one ballot and voting instructions to each eligible district. The ballot shall include the names of all nominees and the office for which each was nominated. Each presiding officer, or his or her alternate as designated by the governing body, shall return the ballot to the executive officer/designee by the date specified in the voting instructions, which date shall be at least 30 days from the date on which the executive officer/designee mailed the ballot to the eligible district.

3) The call for nominations, ballot, and voting instructions shall be delivered by certified mail to each eligible district. As an alternative to the delivery by certified mail, the executive officer/designee, with prior concurrence of the presiding officer or his or her alternate as designated by the governing body, may transmit materials by electronic mail.

4) If the executive officer/designee has transmitted the call for nominations or ballot by electronic mail, the presiding officer, or his or her alternate as designated by the governing body, may respond to the executive officer/designee by electronic mail.
5) Each returned nomination and ballot shall be signed by the presiding officer or his or her alternate as designated by the governing body of the eligible district.

6) For an election to be valid, at least a quorum of the special districts must submit valid ballots. The candidate receiving the most votes shall be elected, unless another procedure has been adopted by the selection committee. Any nomination and ballot received by the executive officer/designee after the date specified is invalid, provided, however, that if a quorum of ballots is not received by that date, the executive officer/designee shall extend the date to submit ballots by 60 days and notify all districts of the extension. The executive officer/designee shall announce the results of the election within seven days of the date specified.
   - A quorum is the majority of members representing eligible districts (Government Code Section 56332(a))

7) All election materials shall be retained by the executive officer/designee for a period of at least six months after the announcement of the election results.

Eligibility Requirements

Members appointed by the independent special district selection committee shall be elected or appointed members of the legislative body of an independent special district residing within the county but shall not be members of the legislative body of a city or county (Government Code Section 56332(c)).

- Special district appointees to current individual oversight boards (pre consolidation into countywide oversight boards) are not restricted to members of the legislative body of the district.

There is no clear indication that the members appointed by the selection committee must be located in a former RDA. However, it could be implied by Health and Safety Code Section 34179(j)(3).

- Current individual oversight boards (prior to consolidation into countywide oversight boards) limit eligibility to special districts that have territory in the territorial jurisdiction of the former RDA and are eligible to receive property tax residual from the RPTTF: “One member appointed by the largest special district, by property tax share, with territory in the territorial jurisdiction of the former redevelopment agency, which is of the type of special district that is eligible to receive property tax revenues pursuant to Section 34188” (Health and Safety Code Section 34179(a)(3)(A)).

Based on Health and Safety Code Section 34179(j)(3), the committee should appoint a representative from a special district that receives property tax residual from the Redevelopment Property Tax Trust Fund (RPTTF).

- Health and Safety Code Section 34179(j)(3) reads in full: "One member may be appointed by the independent special district selection committee established pursuant to Section 56332 of the Government Code, for the types of special districts that are eligible to receive property tax revenues pursuant to Section 34188."

Deadlines and Vacancies

If no one is appointed by July 15, 2018, the governor may appoint an individual on behalf of the Independent Special District Selection Committee. The governor may also appoint individuals for any member position that remains vacant for more than 60 days (Health and Safety Code Section 34179(k)).
Notification Requirements

Health and Safety Code Section 34179(j) does not include notification requirements of the selected special district appointee. However, the current individual oversight boards (prior to consolidation into countywide oversight boards) were required to elect one of their members as the chairperson and report the name of the chairperson and other members to the Department of Finance (Health and Safety Code Section 34179(a)). Additionally, the LAFCo Executive Officer/Designee must announce the results of an Independent Special District Selection Committee election within seven days (Government Code Section 56332(f)(6)).

Counties with Only One Individual Oversight Board

In each county where only one individual RDA oversight board exists, as of July 1, 2018, there will be no consolidation into a countywide oversight board and no change to the composition of the existing oversight board (Health and Safety Code Section 34179(l)).

Counties with 40 or More Individual Oversight Boards

In each county where 40 or more individual oversight boards exist (Los Angeles County), as of July 1, 2018, there will be a consolidation into five oversight boards. The special district membership of each oversight board shall be selected as outlined in Health and Safety Code Section 34179(j)(3) via the Independent Special District Selection Committee process (Health and Safety Code Section 34179(q)(1)).

The consolidated oversight boards in this county shall be numbered one through five, and their respective jurisdictions shall encompass the territory located within the respective borders of the first through fifth county board of supervisors districts, as those borders existed on July 1, 2018. Each oversight board shall have jurisdiction over each successor agency located within its borders (Health and Safety Code Section 34179(q)(2)).

- If a successor agency has territory located within more than one county board of supervisors’ district, the county board of supervisors shall, no later than July 15, 2018, determine which oversight board shall have jurisdiction over that successor agency. The county board of supervisors or their designee shall report this information to the successor agency and the department by the aforementioned date (Health and Safety Code Section 34179(q)(3)).

Health and Safety Code Section 34179(q) does not specify if the city and special district appointees must be from an agency located in the respective supervisorial seat.

POTENTIAL QUESTIONS

What if my county does not currently have an Independent Special District Selection Committee?

In the case where more than one successor agency exists within the county, an Independent Special District Selection Committee shall be created pursuant to Government Code Section 56332. Each independent special district shall appoint a member representative to the committee and notify the LAFCo of the appointed member. The LAFCo shall then call and conduct a meeting of the committee, pursuant to Section 56332, for purposes of appointing a representative to the countywide RDA oversight board.
Does the Independent Special District Selection Committee also select an alternate, as it does with LAFCo commissioners? How should a vacancy be addressed?

The strictest interpretation of the statute only authorizes the appointment of one person, but a reasonable argument can be made for the appointment of an alternate. The Legislature expressly incorporated Government Code Section 56332 without elaboration, and that section allows for alternates.

Health and Safety Code Section 34179 does not mention alternates for the countywide oversight boards, but does allow each appointing authority to appoint an alternate for the current individual oversight boards (prior to the consolidation into a countywide oversight board) (Health and Safety Code Section 34179(a)(11)). The selection process outlined in Government Code Section 56332(c) includes the selection of an alternate for the commission.

To resolve any ambiguity, the Independent Special District Selection Committee may choose to adopt local policies, pursuant to its authority in Government Code section 56332, expressly authorizing the appointment of an alternate.

If the LAFCo Executive Officer/Designee anticipates a vacancy will occur – or if an actual vacancy occurs – an election may be held for a representative to the countywide oversight board (Government Code section 56332(b)).

What is the term of an appointment to the countywide RDA oversight board?

Nothing in Health and Safety Code Section 34179 describes terms for members of the oversight board. Rather, Section 34179(g) provides that “Each member of an oversight board shall serve at the pleasure of the entity that appointed such member.”

Can an appointee be replaced mid-term?

Yes; nothing in Health and Safety Code Section 34179 describes terms for members of the oversight board. Rather, Section 34179(g) provides that “Each member of an oversight board shall serve at the pleasure of the entity that appointed such member.”

Can the Independent Special District Selection Committee replace a special district representative appointed by the governor due to a vacancy?

While not clearly outlined within the relevant statutes, the intent of having locally appointed representatives on the oversight board is undermined if the law is interpreted such that seats could become, essentially, permanent representatives of the governor.

That being said, Independent Special District Selection Committees are strongly encouraged to appoint a representative no later than July 15, 2018, and within 60 days of any vacancy thereafter, in order to avoid this potential question.

What should a LAFCo do where the law is not explicit as to the process for appointments to the countywide RDA oversight board?

LAFCOs should adopt local commission policies. Government Code Section 56300 allows LAFCos to adopt local policies either to clarify requirements or specify how a LAFCo will implement State law taking into account the local conditions. Case law has also indicated that these policies are allowed so long as they are not in conflict with State law.
For example, Government Code 56325(d) indicates that, notwithstanding any other provision of the Cortese-Knox-Hertzberg Act, each LAFCo can appoint one member and one alternate member who represents the public at large. The same section goes on to specify that the appointment of the public and alternate members must be subject to an affirmative vote of at least one of the members from the other appointed authorities; and it also specifies the noticing requirements to announce the vacancy in this position. Section 56325(d) does not contain any direction for the process of appointing public members, nor does it have an indication of the vetting process for candidates eligible to be appointed to this position. With this unclear in the law, some LAFCos have adopted policies to clarify and indicate the basic appointment process.

LAFCos may establish local polices for appointing special district representatives to the countywide RDA oversight board, so long as they are not in conflict with State law.

**DEFINITIONS**

*Taxing entities*

Cities, counties, a city and county, special districts, and school entities, as defined in subdivision (f) of Section 95 of the Revenue and Taxation Code, that receive passthrough payments and distributions of property taxes pursuant to the provisions of this part (Health and Safety Code Section 34171(k)).

*Executive officer*

The executive officer or designee as authorized by the Local Agency Formation Commission (Government Code Section 56332(g)).
APPENDIX

HEALTH AND SAFETY CODE

DIVISION 24. COMMUNITY DEVELOPMENT AND HOUSING [33000 - 37964] (Heading of Division 24 amended by Stats. 1975, Ch. 1137.)

PART 1.85. DISSOLUTION OF REDEVELOPMENT AGENCIES AND DESIGNATION OF SUCCESSOR AGENCIES [34170 - 34191.6] (Part 1.85 added by Stats. 2011, 1st Ex. Sess., Ch. 5, Sec. 7.)

CHAPTER 4. Oversight Boards [34179 - 34181] (Chapter 4 added by Stats. 2011, 1st Ex. Sess., Ch. 5, Sec. 7.)

34179. (a) Each successor agency shall have an oversight board composed of seven members. The members shall elect one of their members as the chairperson and shall report the name of the chairperson and other members to the Department of Finance on or before May 1, 2012. Members shall be selected as follows:

(1) One member appointed by the county board of supervisors.

(2) One member appointed by the mayor for the city that formed the redevelopment agency.

(3) (A) One member appointed by the largest special district, by property tax share, with territory in the territorial jurisdiction of the former redevelopment agency, which is of the type of special district that is eligible to receive property tax revenues pursuant to Section 34188.

(B) On or after the effective date of this subparagraph, the county auditor-controller may determine which is the largest special district for purposes of this section.

(4) One member appointed by the county superintendent of education to represent schools if the superintendent is elected. If the county superintendent of education is appointed, then the appointment made pursuant to this paragraph shall be made by the county board of education.

(5) One member appointed by the Chancellor of the California Community Colleges to represent community college districts in the county.

(6) One member of the public appointed by the county board of supervisors.

(7) One member representing the employees of the former redevelopment agency appointed by the mayor or chair of the board of supervisors, as the case may be, from the recognized employee organization representing the largest number of former redevelopment agency employees employed by the successor agency at that time. In the case where city or county employees performed administrative duties of the former redevelopment agency, the appointment shall be made from the recognized employee organization representing those employees. If a recognized employee organization does not exist for either the employees of the former redevelopment agency or the city or county employees performing administrative duties of the former redevelopment agency, the appointment shall be made from among the employees of the successor agency. In voting to approve a contract as an enforceable obligation, a member appointed pursuant to this paragraph shall not be deemed to be interested in the contract by virtue of being an employee of the successor agency or community for purposes of Section 1090 of the Government Code.

(8) If the county or a joint powers agency formed the redevelopment agency, then the largest city by acreage in the territorial jurisdiction of the former redevelopment agency may select one member. If there are no cities with territory in a project area of the redevelopment agency, the county superintendent of education may appoint an additional member to represent the public.

(9) If there are no special districts of the type that are eligible to receive property tax pursuant to Section 34188, within the territorial jurisdiction of the former redevelopment agency, then the county may appoint one member to represent the public.
If a redevelopment agency was formed by an entity that is both a charter city and a county, the oversight board shall be composed of seven members selected as follows: three members appointed by the mayor of the city, if that appointment is subject to confirmation by the county board of supervisors, one member appointed by the largest special district, by property tax share, with territory in the territorial jurisdiction of the former redevelopment agency, which is the type of special district that is eligible to receive property tax revenues pursuant to Section 34188, one member appointed by the county superintendent of education to represent schools, one member appointed by the Chancellor of the California Community Colleges to represent community college districts, and one member representing employees of the former redevelopment agency appointed by the mayor of the city if that appointment is subject to confirmation by the county board of supervisors, to represent the largest number of former redevelopment agency employees employed by the successor agency at that time.

Each appointing authority identified in this subdivision may, but is not required to, appoint alternate representatives to serve on the oversight board as may be necessary to attend any meeting of the oversight board in the event that the appointing authority’s primary representative is unable to attend any meeting for any reason. If an alternate representative attends any meeting in place of the primary representative, the alternate representative shall have the same participatory and voting rights as all other attending members of the oversight board.

The governor may appoint individuals to fill any oversight board member position described in subdivision (a) that has not been filled by May 15, 2012, or any member position that remains vacant for more than 60 days.

The oversight board may direct the staff of the successor agency to perform work in furtherance of the oversight board’s and the successor agency’s duties and responsibilities under this part. The successor agency shall pay for all of the costs of meetings of the oversight board and may include such costs in its administrative budget. Oversight board members shall serve without compensation or reimbursement for expenses.

Oversight board members are protected by the immunities applicable to public entities and public employees governed by Part 1 (commencing with Section 810) and Part 2 (commencing with Section 814) of Division 3.6 of Title 1 of the Government Code.

A majority of the total membership of the oversight board shall constitute a quorum for the transaction of business. A majority vote of the total membership of the oversight board is required for the oversight board to take action. The oversight board shall be deemed to be a local entity for purposes of the Ralph M. Brown Act, the California Public Records Act, and the Political Reform Act of 1974. All actions taken by the oversight board shall be adopted by resolution.

All notices required by law for proposed oversight board actions shall also be posted on the successor agency’s Internet Web site or the oversight board’s Internet Web site.

Each member of an oversight board shall serve at the pleasure of the entity that appointed such member.

The department may review an oversight board action taken pursuant to this part. Written notice and information about all actions taken by an oversight board shall be provided to the department as an approved resolution by electronic means and in a manner of the department’s choosing. Without abrogating the department’s authority to review all matters related to the Recognized Obligation Payment Schedule pursuant to Section 34177, oversight boards are not required to submit the following oversight board actions for department approval:

(A) Meeting minutes and agendas.

(B) Administrative budgets.

(C) Changes in oversight board members, or the selection of an oversight board chair or vice chair.

(D) Transfers of governmental property pursuant to an approved long-range property management plan.
(E) Transfers of property to be retained by the sponsoring entity for future development pursuant to an approved long-range property management plan.

(2) An oversight board action submitted in a manner specified by the department shall become effective five business days after submission, unless the department requests a review of the action. Each oversight board shall designate an official to whom the department may make those requests and who shall provide the department with the telephone number and e-mail contact information for the purpose of communicating with the department pursuant to this subdivision. Except as otherwise provided in this part, in the event that the department requests a review of a given oversight board action, it shall have 40 days from the date of its request to approve the oversight board action or return it to the oversight board for reconsideration and the oversight board action shall not be effective until approved by the department. In the event that the department returns the oversight board action to the oversight board for reconsideration, the oversight board shall resubmit the modified action for department approval and the modified oversight board action shall not become effective until approved by the department. If the department reviews a Recognized Obligation Payment Schedule, the department may eliminate or modify any item on that schedule prior to its approval. The county auditor-controller shall reflect the actions of the department in determining the amount of property tax revenues to allocate to the successor agency. The department shall provide notice to the successor agency and the county auditor-controller as to the reasons for its actions. To the extent that an oversight board continues to dispute a determination with the department, one or more future Recognized Obligation Payment Schedules may reflect any resolution of that dispute. The department may also agree to an amendment to a Recognized Obligation Payment Schedule to reflect a resolution of a disputed item; however, this shall not affect a past allocation of property tax or create a liability for any affected taxing entity.

(i) Oversight boards shall have fiduciary responsibilities to holders of enforceable obligations and the taxing entities that benefit from distributions of property tax and other revenues pursuant to Section 34188. Further, the provisions of Division 4 (commencing with Section 1000) of the Government Code shall apply to oversight boards. Notwithstanding Section 1099 of the Government Code, or any other law, any individual may simultaneously be appointed to up to five oversight boards and may hold an office in a city, county, city and county, special district, school district, or community college district.

(j) Except as specified in subdivision (q), commencing on and after July 1, 2018, in each county where more than one oversight board was created by operation of the act adding this part, there shall be only one oversight board, which shall be staffed by the county auditor-controller, by another county entity selected by the county auditor-controller, or by a city within the county that the county auditor-controller may select after consulting with the department. Pursuant to Section 34183, the county auditor-controller may recover directly from the Redevelopment Property Tax Trust Fund, and distribute to the appropriate city or county entity, reimbursement for all costs incurred by it or by the city or county pursuant to this subdivision, which shall include any associated startup costs. However, if only one successor agency exists within the county, the county auditor-controller may designate the successor agency to staff the oversight board. The oversight board is appointed as follows:

(1) One member may be appointed by the county board of supervisors.

(2) One member may be appointed by the city selection committee established pursuant to Section 50270 of the Government Code. In a city and county, the mayor may appoint one member.

(3) One member may be appointed by the independent special district selection committee established pursuant to Section 56332 of the Government Code, for the types of special districts that are eligible to receive property tax revenues pursuant to Section 34188.

(4) One member may be appointed by the county superintendent of education to represent schools if the superintendent is elected. If the county superintendent of education is appointed, then the appointment made pursuant to this paragraph shall be made by the county board of education.

(5) One member may be appointed by the Chancellor of the California Community Colleges to represent community college districts in the county.

(6) One member of the public may be appointed by the county board of supervisors.
(7) One member may be appointed by the recognized employee organization representing the largest number of successor agency employees in the county.

(k) The governor may appoint individuals to fill any oversight board member position described in subdivision (j) that has not been filled by July 15, 2018, or any member position that remains vacant for more than 60 days.

(l) Commencing on and after July 1, 2018, in each county where only one oversight board was created by operation of the act adding this part, then there will be no change to the composition of that oversight board as a result of the operation of subdivision (j).

(m) Any oversight board for a given successor agency, with the exception of countywide oversight boards, shall cease to exist when the successor agency has been formally dissolved pursuant to Section 34187. A county oversight board shall cease to exist when all successor agencies subject to its oversight have been formally dissolved pursuant to Section 34187.

(n) An oversight board may direct a successor agency to provide additional legal or financial advice than what was given by agency staff.

(o) An oversight board is authorized to contract with the county or other public or private agencies for administrative support.

(p) On matters within the purview of the oversight board, decisions made by the oversight board supersede those made by the successor agency or the staff of the successor agency.

(q) (1) Commencing on and after July 1, 2018, in each county where more than 40 oversight boards were created by operation of the act adding this part, there shall be five oversight boards, which shall each be staffed in the same manner as specified in subdivision (j). The membership of each oversight board shall be as specified in paragraphs (1) through (7), inclusive, of subdivision (j).

(2) The oversight boards shall be numbered one through five, and their respective jurisdictions shall encompass the territory located within the respective borders of the first through fifth county board of supervisors districts, as those borders existed on July 1, 2018. Except as specified in paragraph (3), each oversight board shall have jurisdiction over each successor agency located within its borders.

(3) If a successor agency has territory located within more than one county board of supervisors’ district, the county board of supervisors shall, no later than July 15, 2018, determine which oversight board shall have jurisdiction over that successor agency. The county board of supervisors or their designee shall report this information to the successor agency and the department by the aforementioned date.

(4) The successor agency to the former redevelopment agency created by a county where more than 40 oversight boards were created by operation of the act adding this part, shall be under the jurisdiction of the oversight board with the fewest successor agencies under its jurisdiction.

(Amended by Stats. 2015, Ch. 325, Sec. 11. Effective September 22, 2015.)
Senate Bill No. 448

CHAPTER 334

An act to amend Sections 26909, 56073.1, and 56375 of, to add Sections 12463.4 and 56042 to, and to add Article 6 (commencing with Section 56879) to Chapter 5 of Part 3 of Division 3 of Title 5 of, the Government Code, relating to local government.

[Approved by Governor September 27, 2017. Filed with Secretary of State September 27, 2017.]

legislative counsel's digest

SB 448, Wieckowski. Local government: organization: districts.

(1) Existing law requires the officer of each local agency, as defined, who has charge of the financial records of the local agency, to furnish to the Controller a report of all the financial transactions of the local agency during the next preceding fiscal year within 7 months after the close of each fiscal year. Existing law also requires a report of an audit of a special district’s accounts and records made by a certified public accountant or public accountant to be filed with the Controller and the county auditor of the county in which the special district is located within 12 months of the end of the fiscal year or years under examination.

This bill would instead require special districts defined by a specified provision to file those audit reports with the Controller and special districts defined by another specified provision to file those audit reports with the Controller and with the local agency formation commission of either the county in which the special district is located or, if the special district is located in 2 or more counties, with each local agency formation commission within each county in which the district is located. The bill would also require the Controller to publish on the Controller’s Internet Web site a comprehensive list of special districts on or before July 1, 2019, and to annually update that list.

(2) The Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 provides the exclusive authority and procedure for the initiation, conduct, and completion of changes of organization and reorganization for cities and districts, as specified.

This bill would require the Controller to create a list of special districts that are inactive, as provided. The bill would also require the Controller to publish this list and to notify a local agency formation commission in the county or counties in which the special district is located if the Controller has included the special district in this list. The bill would require a local agency formation commission to initiate proceedings for the dissolution of any special district that is an inactive district and to dissolve those districts. The bill would define the term “inactive district” for these purposes. This
bill would also make conforming changes. By increasing the duties of local officials, this bill would impose a state-mandated local program.

(3) 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 no reimbursement is required by this act for a specified reason.

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

SECTION 1. Section 12463.4 is added to the Government Code, to read:

12463.4. On or before July 1, 2019, the Controller shall publish on the Controller’s Internet Web site a comprehensive list of special districts. The Controller shall update the list every year thereafter. For purposes of this section, the term “special district” means an “independent district” or “independent special district” as those terms are defined in Section 56044.

SEC. 2. Section 26909 of the Government Code, as amended by Section 1 of Chapter 164 of the Statutes of 2016, is amended to read:

26909. (a) (1) The county auditor shall either make or contract with a certified public accountant or public accountant to make an annual audit of the accounts and records of every special district within the county for which an audit by a certified public accountant or public accountant is not otherwise provided. In each case, the minimum requirements of the audit shall be prescribed by the Controller and shall conform to generally accepted auditing standards.

(2) (A) If an audit of a special district’s accounts and records is made by a certified public accountant or public accountant, the minimum requirements of the audit shall be prescribed by the Controller and shall conform to generally accepted auditing standards.

(B) A report of the audit required pursuant to subparagraph (A) shall be filed within 12 months of the end of the fiscal year or years under examination as follows:

(i) For a special district defined in paragraph (2) of subdivision (d) of Section 12463, with the Controller.

(ii) For a special district defined in Section 56036, with the Controller and with the local agency formation commission of the county in which the special district is located, unless the special district is located in two or more counties, then with each local agency formation commission within each county in which the district is located.

(3) Any costs incurred by the county auditor, including contracts with, or employment of, certified public accountants or public accountants, in making an audit of every special district pursuant to this section shall be borne by the special district and shall be a charge against any unencumbered funds of the district available for the purpose.
(4) For a special district that is located in two or more counties, this subdivision shall apply to the auditor of the county in which the treasury is located.

(5) The county controller, or ex officio county controller, shall effect this section in those counties having a county controller or ex officio county controller.

(b) A special district may, by unanimous request of the governing board of the special district and with unanimous approval of the board of supervisors, replace the annual audit required by this section with one of the following, performed in accordance with professional standards, as determined by the county auditor:

1. A biennial audit covering a two-year period.

2. An audit covering a five-year period if the special district’s annual revenues do not exceed an amount specified by the board of supervisors.

3. An audit conducted at specific intervals, as recommended by the county auditor, that shall be completed at least once every five years.

(c) (1) A special district may, by unanimous request of the governing board of the special district and with unanimous approval of the board of supervisors, replace the annual audit required by this section with a financial review, or an agreed-upon procedures engagement, in accordance with the appropriate professional standards, as determined by the county auditor, if the following conditions are met:

A. All of the special district’s revenues and expenditures are transacted through the county’s financial system.

B. The special district’s annual revenues do not exceed one hundred fifty thousand dollars ($150,000).

C. The special district shall pay for any costs incurred by the county auditor in performing an agreed-upon procedures engagement. Those costs shall be charged against any unencumbered funds of the district available for that purpose.

2. If the board of supervisors is the governing board of the special district, it may, upon unanimous approval, replace the annual audit of the special district required by this section with a financial review, or an agreed-upon procedures engagement, in accordance with the appropriate professional standards, as determined by the county auditor, if the special district satisfies the requirements of subparagraphs (A) and (B) of paragraph (1).

(d) (1) A special district may, by annual unanimous request of the governing board of the special district and with annual unanimous approval of the board of supervisors, replace the annual audit required by this section with an annual financial compilation of the special district to be performed by the county auditor in accordance with professional standards, if all of the following conditions are met:

A. All of the special district’s revenues and expenditures are transacted through the county’s financial system.

B. The special district’s annual revenues do not exceed one hundred fifty thousand dollars ($150,000).
(C) The special district shall pay for any costs incurred by the county auditor in performing a financial compilation. Those costs shall be a charge against any unencumbered funds of the district available for that purpose.

(2) A special district shall not replace an annual audit required by this section with an annual financial compilation of the special district pursuant to paragraph (1) for more than five consecutive years, after which a special district shall comply with subdivision (a).

(e) Notwithstanding this section, a special district shall be exempt from the requirement of an annual audit if the financial statements are audited by the Controller to satisfy federal audit requirements.

(f) Upon receipt of the financial review, agreed-upon procedures engagement, or financial compilation, the county auditor shall have the right to appoint, pursuant to subdivision (a), a certified public accountant or a public accountant to conduct an audit of the special district, with proper notice to the governing board of the special district and board of supervisors.

(g) This section shall remain in effect only until January 1, 2027, and as of that date is repealed.

SEC. 3. Section 26909 of the Government Code, as added by Section 2 of Chapter 164 of the Statutes of 2016, is amended to read:

26909. (a) (1) The county auditor shall either make or contract with a certified public accountant or public accountant to make an annual audit of the accounts and records of every special district within the county for which an audit by a certified public accountant or public accountant is not otherwise provided. In each case, the minimum requirements of the audit shall be prescribed by the Controller and shall conform to generally accepted auditing standards.

(2) (A) If an audit of a special district’s accounts and records is made by a certified public accountant or public accountant, the minimum requirements of the audit shall be prescribed by the Controller and shall conform to generally accepted auditing standards.

(B) A report of the audit required pursuant to subparagraph (A) shall be filed within 12 months of the end of the fiscal year or years under examination as follows:

(i) For a special district defined in paragraph (2) of subdivision (d) of Section 12463, with the Controller.

(ii) For a special district defined in Section 56036, with the Controller and with the local agency formation commission of the county in which the special district is located, unless the special district is located in two or more counties, then with each local agency formation commission within each county in which the district is located.

(3) Any costs incurred by the county auditor, including contracts with, or employment of, certified public accountants or public accountants, in making an audit of every special district pursuant to this section shall be borne by the special district and shall be a charge against any unencumbered funds of the district available for the purpose.
(4) For a special district that is located in two or more counties, this subdivision shall apply to the auditor of the county in which the treasury is located.

(5) The county controller, or ex officio county controller, shall effect this section in those counties having a county controller or ex officio county controller.

(b) A special district may, by unanimous request of the governing board of the special district and with unanimous approval of the board of supervisors, replace the annual audit required by this section with one of the following, performed in accordance with professional standards, as determined by the county auditor:

(1) A biennial audit covering a two-year period.

(2) An audit covering a five-year period if the special district’s annual revenues do not exceed an amount specified by the board of supervisors.

(3) An audit conducted at specific intervals, as recommended by the county auditor, that shall be completed at least once every five years.

(c) (1) A special district may, by unanimous request of the governing board of the special district and with unanimous approval of the board of supervisors, replace the annual audit required by this section with a financial review, in accordance with the appropriate professional standards, as determined by the county auditor, if the following conditions are met:

(A) All of the special district’s revenues and expenditures are transacted through the county’s financial system.

(B) The special district’s annual revenues do not exceed one hundred fifty thousand dollars ($150,000).

(2) If the board of supervisors is the governing board of the special district, it may, upon unanimous approval, replace the annual audit of the special district required by this section with a financial review in accordance with the appropriate professional standards, as determined by the county auditor, if the special district satisfies the requirements of subparagraphs (A) and (B) of paragraph (1).

(d) Notwithstanding this section, a special district shall be exempt from the requirement of an annual audit if the financial statements are audited by the Controller to satisfy federal audit requirements.

(e) This section shall become operative on January 1, 2027.

SEC. 4. Section 56042 is added to the Government Code, to read:

56042. “Inactive district” means a special district that meets all of the following:

(a) The special district is as defined in Section 56036.

(b) The special district has had no financial transactions in the previous fiscal year.

(c) The special district has no assets and liabilities.

(d) The special district has no outstanding debts, judgments, litigation, contracts, liens, or claims.

SEC. 5. Section 56073.1 of the Government Code is amended to read:

56073.1. “Resolution of application” means the document adopted by a local agency or school district initiating a change of organization or
reorganization pursuant to Section 56654 or the document adopted by a commission pursuant to paragraph (2) of subdivision (a) of Section 56375 or by subdivision (c) of Section 56879.

SEC. 6. Section 56375 of the Government Code is amended to read:

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

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

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

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

(B) The dissolution of a district.

(C) A merger.

(D) The establishment of a subsidiary district.

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

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

(G) The dissolution of an inactive district pursuant to Section 56879.

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

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

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

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

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

(5) As a condition to the annexation of an area that is surrounded, or substantially surrounded, by the city to which the annexation is proposed, the commission may require, where consistent with the purposes of this division, that the annexation include the entire island of surrounded, or substantially surrounded, territory.
(6) A commission shall not impose any conditions that would directly regulate land use density or intensity, property development, or subdivision requirements.

(7) The decision of the commission with regard to a proposal to annex territory to a city shall be based upon the general plan and prezoning of the city. When the development purposes are not made known to the annexing city, the annexation shall be reviewed on the basis of the adopted plans and policies of the annexing city or county. A commission shall require, as a condition to annexation, that a city prezone the territory to be annexed or present evidence satisfactory to the commission that the existing development entitlements on the territory are vested or are already at build-out, and are consistent with the city’s general plan. However, the commission shall not specify how, or in what manner, the territory shall be prezoned.

(8) (A) Except for those changes of organization or reorganization authorized under Section 56375.3, and except as provided by subparagraph (B), a commission shall not approve 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 that is contiguous to the area of proposed annexation, unless an application to annex the disadvantaged unincorporated community to the subject city has been filed with the executive officer.

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

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

(ii) The commission finds, based upon written evidence, that a majority of the registered voters within the affected territory are opposed to annexation.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

SEC. 7. Article 6 (commencing with Section 56879) is added to Chapter 5 of Part 3 of Division 3 of Title 5 of the Government Code, to read:

Article 6. Inactive Special Districts

56879. (a) On or before November 1, 2018, and every year thereafter, the Controller shall create a list of special districts that are inactive, as defined in Section 56042, based upon the financial reports received by the Controller pursuant to Section 53891. The Controller shall publish the list of inactive districts on the Controller’s Internet Web site. The Controller shall also notify the commission in the county or counties in which the district is located if the Controller has included the district in this list.

(b) The commission shall initiate dissolution of inactive districts by resolution within 90 days of receiving notification from the Controller pursuant to subdivision (a), unless the commission determines that the district does not meet the criteria set forth in Section 56042. The commission shall notify the Controller if the commission determines that a district does not meet the criteria set forth in Section 56042.

(c) The commission shall dissolve inactive districts. The commission shall hold one public hearing on the dissolution of an inactive district pursuant to this section no more than 90 days following the adoption of the resolution initiating dissolution. The dissolution of an inactive district shall not be subject to any of the following:

(1) Chapter 1 (commencing with Section 57000) to Chapter 7 (commencing with Section 57176), inclusive, of Part 4.

(2) Determinations pursuant to subdivision (b) of Section 56881.
(3) Requirements for commission-initiated changes of organization described in paragraph (3) of subdivision (a) of Section 56375.

56880. This article shall not apply to a special district formed by special legislation that is required by its enabling statute to obtain funding within a specified period of time or be dissolved. That district shall not be subject to this article during that specified period of time.

SEC. 8. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because a local agency or school district has the authority to levy service charges, fees, or assessments sufficient to pay for the program or level of service mandated by this act, within the meaning of Section 17556 of the Government Code.
Assembly Bill No. 1361

CHAPTER 449

An act to amend Section 71611.5 of the Water Code, relating to water.

[Approved by Governor October 3, 2017. Filed with Secretary of State October 3, 2017.]

legislative counsel's digest


Existing law, the Municipal Water District Law of 1911, provides for the formation of municipal water districts and grants to those districts specified powers. Existing law permits a district to acquire, control, distribute, store, spread, sink, treat, purify, recycle, recapture, and salvage any water for the beneficial use of the district, its inhabitants, or the owners of rights to water in the district. Existing law, upon the request of certain Indian tribes and the satisfaction of certain conditions, requires a district to provide service of water at substantially the same terms applicable to the customers of the district to the Indian tribe’s lands that are not within a district, as prescribed.

This bill would additionally authorize a district to apply to the applicable local agency formation commission to provide this service of water to Indian lands, as defined, that are not within the district. The bill would require the local agency formation commission to approve the application and authorize the commission to impose conditions on the district with regard to the extension of service. By imposing additional duties on local officials, this bill would impose a state-mandated local program. The bill would prohibit a local agency formation commission from approving an application pursuant to the bill’s provisions received on or after January 1, 2023, but would authorize a district that received authorization to extend water service to Indian lands before that date to continue to do so after that date.

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 no reimbursement is required by this act for a specified reason.

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

SECTION 1. Section 71611.5 of the Water Code is amended to read:

71611.5. (a) (1) Except as provided in paragraph (2), upon the request of an Indian tribe and the satisfaction of the conditions stated in subdivision (b), a district shall provide service of water at substantially the same terms
applicable to the customers of the district to an Indian tribe’s lands that are not within a district as if the lands had been fully annexed into the district and into any other public agencies required for the provision of water service if the Indian tribe’s lands meet all of the following requirements:

(A) The lands were owned by the tribe on January 1, 2016.

(B) The lands are contiguous with at least two districts.

(C) The lands lie within the special study area of at least one district.

(D) At least 70 percent of the Indian tribe’s total Indian lands are currently within the boundaries of one or more districts.

(2) (A) Upon the request of an Indian tribe that does not meet the requirements of paragraph (1) and upon the satisfaction of the conditions stated in subdivision (b), a district may, until January 1, 2023, apply to the applicable local agency formation commission to extend water service at substantially the same terms applicable to customers of the district to Indian lands that are not within a district as if the lands had been fully annexed into the district and into any other public agencies required for the provision of water service. The local agency formation commission shall approve the application and may impose conditions on the district with regard to the extension of service in accordance with Section 56886 of the Government Code, as long as those terms and conditions do not impair the provision of water service to Indian lands pursuant to this section and similar to those imposed on all agency service recipients without discrimination. A district shall provide the water extension agreement to the local agency formation commission.

(B) A local agency formation commission shall not approve an application on or after January 1, 2023. A district that received authorization to extend water service to Indian lands pursuant to subparagraph (A) may continue to do so after January 1, 2023, provided that the district continues to comply with the conditions imposed by the local agency formation commission.

(C) For purposes of this subdivision, “Indian lands” means Indian lands, as defined in Section 2703 of Title 25 of the United States Code, that were part of a reservation or held in trust as of January 1, 2017.

(b) Before a district provides service of water pursuant to this section, the Indian tribe shall satisfy all of the following conditions:

(1) The Indian tribe complies with all federal and tribal laws.

(2) The Indian tribe acquires all federal and tribal approvals necessary for the applicable district to provide water service to the tribal lands on substantially the same terms applicable to customers of the district.

(3) The Indian tribe accepts, by agreement, all terms of, and payments to (including service payments), the district and any public agency providing water to said district, as if the Indian tribe’s lands were fully annexed into the district and into the service area of any other public agency, which terms and payments are also a condition of continued service by a district and by any public agency providing water to said district.

(c) If a district provides service of water to an Indian tribe’s lands pursuant to this section, the service areas of the district and of any public
agencies providing water to the district are deemed for all purposes to include
the Indian tribe’s lands for the longest of the following periods of time:
(1) The time service of water is provided by the district to the Indian
tribe.
(2) The time moneys are owed by the Indian tribe to the district for the
service of water.
(3) The term of any agreement between the district and the Indian tribe.
SEC. 2. No reimbursement is required by this act pursuant to Section 6
of Article XIII B of the California Constitution because a local agency or
school district has the authority to levy service charges, fees, or assessments
sufficient to pay for the program or level of service mandated by this act,
within the meaning of Section 17556 of the Government Code.
Transparency Guideline Checklist

REQUIRED: Do you have or do the following (1 point each)?

___ Comply with the Ralph M. Brown Act, including posting current agenda on website
___ Comply with the Public Records Act
___ Comply with applicable conflict of interest laws
___ Adopted Annual Budget
___ Adopted policies and procedures and posted on web site
___ Online catalog of enterprise systems pursuant to SB 272 with link on homepage
___ All required notices and public hearing notices posted on web site
___ Total Points (7 possible)

Website – Do you maintain a website with the following basic items (1 point each):

___ Adopted fee schedule and all forms/applications
___ Information about how to serve on Commission and deadlines
___ Names and contact information of executive officer and key staff
___ Board/Commission meeting schedule (this is in addition to current agenda and staff reports)
___ Agency mission statement and/or by-laws
___ Description of LAFCo’s services/functions and service area
___ Authorizing statute/enabling act (CKH Act and, if applicable, others)
___ Current and prior year budgets
___ Maps of jurisdictional boundaries/service area and spheres
___ Archive of meeting agendas, minutes, and video and/or audio recordings (if applicable) for at least the last 6 months
___ Information about how to receive email notices and meeting agendas
___ Information about how to ask for public records
___ Total Points (12 possible)
Website – Do you maintain a website with the following additional items (2 points each):

_____ Most recent financial audit and prior annual audits

_____ Municipal Service Review (MSR) and Sphere of Influence (SOI) studies along with appropriate maps

_____ Listing of all agencies within your LAFCo’s purview and links directly to their websites

_____ Compensation information (pay schedule required to be public if in CALPERS)

_____ Important contracts

_____ Home page link to agendas/board packets

_____ Other transparency measures taken by your organization

_____ Total Points (14 possible)

____ Grand Total

27 - 33 = Pretty darn transparent
19 - 26 = Good – with room for improvement
10 - 18 = OK – but let’s do a few more things
0 - 9 = Hmmm....
One thing I/we want to do to improve my/our LAFCo’s transparency (Be as specific as possible):

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