CITIES MERGE?

A Workshop on Municipal Consolidations and Disincorporations

TECHNICAL WORKSHOP
This intensive one-day workshop is designed to give staff, elected officials and stakeholders an in-depth look at the process for consolidation and/or disincorporation of cities. Participants will discuss both the current LAFCO process for consolidation and disincorporation and possible changes to the law, LAFCO guidelines, procedures and terms and conditions. Experts with a combined experience of more than a century with LAFCO will help lead the course.

FRIDAY
29 June 2012
10:00 am to 3:00 pm
MWD
700 N. Alameda Street
Room 1-102
Los Angeles, CA 90012

CALAFCO
1215 K Street, Suite 1650
Sacramento, CA 95814

NOTICE: Seating is limited. Registrations are transferable but there are no refunds.
Consolidation & Disincorporation of Cities

June 29, 2012
CALAFCO University
Los Angeles, CA

Cities Merge?

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Overview

- Set Stage for Today’s Discussion by:
  - Defining terms
  - Providing overview of bankruptcy, disincorporation, consolidation
  - Identifying open issues
Defining Our Terms

- Bankruptcy
  - Legal Process of Excusing Debts
- Dissolution of a City
- Consolidation – GC 56030
  - Merger of two or more cities or districts into a single successor

Defining Our Terms

- Charter City
  - A City governed under a charter approved by voters pursuant to CA Const. art. XI, §§ 3, 5
  - Other cities are called "general law cities" and are governed under laws passed by the Legislature
- Borough
  - A unit of subgovernment for a City
  - I.e., the five boroughs of NYC
  - No examples in CA

Defining Our Terms

- In rem proceeding
  - There are two kinds of law suits
    - In personam actions affect the people who are party to them
    - In rem actions affect everyone who has an interest in the subject matter of the suit, whether they participate or not
  - Actions to challenge reorganizations are in rem, as are bankruptcy cases
  - Such cases forever resolve the issues they address as to the whole world
Bankruptcy

- Governed by federal law
- Public agencies' access to federal bankruptcy court is governed by state law
- CA was historically generous — any local government could file
- Last year's AB 536 imposed a mediation process; this year's AB 1692 would impose a "neutral evaluator" process

Bankruptcy

- Federal law requires proof of effort to resolve debt by negotiation before filing
- Can restructure or eliminate debts, but cost is high in terms of loss of credit-worthiness and legal fees
- Relatively uncommon

Bankruptcy

- Bankruptcies result from:
  - A lawsuit or other catastrophic event
    - Mammoth Lakes
    - Orange County
  - General financial problems
    - Vallejo
    - Stockton
- Prospect that bankruptcy could affect labor agreements & pensions explains recent legislation
Disincorporation

- Initiated by petition or resolution of an affected local agency – GC 56654, 56700
- Petitions require signatures of 25% of voters – GC 56765
- Resolution requires service plan – GC 56653
- Can be accomplished by statute
  - E.g., last year’s AB 46 (Vernon bill)

Disincorporation

- R&T 99 agreement required
  - This allows County veto
    - Greenwood Addition HOA v. San Marino (1993) 14 CAMTH 1300
  - LAFCO review under usual factors – GC 56668

Disincorporation

- Terms & Conditions – GC 56885.5, 56886
  - Labor contracts – GC 56886(f)
  - Bonds & other debt – GC 56886(c, d, f, g)
  - Additional revenue – GC 56886(b, s, t, u)
  - But, debt limit continues to apply – GC 56887.5
  - Voter approval required for taxes under Props. 13, 32 & 218
  - Non-City territory cannot be taxed to cover City debts – GC 57419
Disincorporation

- Voter approval required – GC 57077
- Effect of Disincorporation
  - City ceases to exist – GC 57400
  - Assets revert to County – GC 57401
  - LAFCO or County must do audit – GC 57402, 57404
  - County may levy property tax to cover City debts – GC 57409
  - But voter approval required by Props. 13, 62, 218

Disincorporation

- More Effects of Disincorporation
  - If funds left after City's debts covered, County must transfer it to special districts serving former City or use it to pave streets there – GC 57411
  - County may assume City utilities – GC 57415
  - Does this mean LAFCO cannot designate a special district as successor to utilities over County objection?
  - Newly incorporated city with 2/3 of assessed value of old city may assume its assets and a proportionate share of its debts – GC 57418

- Over what timeframe? 100 years later?

Consolidation

- Process is Similar to that for Disincorporation
- Petition for consolidation requires signatures of 5% of voters of each city to be consolidated
Consolidation

- Effect of Consolidation
  - Voters can choose name – GC 57475
  - If a merged city is a charter city, successor can be, too – GC 57475
  - LAFCO must designate which officials of merged cities hold office until next election – GC 57475

Consolidation

- More Effects of Consolidation
  - Ordinances of predecessor city repealed except for assessments, zoning, etc. – GC 57478, 57479
  - Ordinances of city designated as successor remain in effect – GC 57480
  - Debts are not leveled as between merged cities unless terms & conditions so provide – GC 57481

Open Issues

- What happens to the employees? GC 56886()
- Who pays for all this?
- Ought LAFCO adopt local guidelines until CKH can be clarified?
- How ought LAFCO provide for meaningful input by the public, employees, the County, other affected agencies, and other stakeholders?
- What agencies other than the County are appropriate successors to City services?
Conclusions

- Bankruptcy, Disincorporation & Consolidation are all unlikely
- However, communities may need to understand them to refocus or more realistic solutions
- The statutes bear review and revision, especially as to voter approval of new taxes
- Today's discussion will likely identify many more questions and areas of the statutes in need of clarification and update.

LAFCO's Role in Regional Planning

Questions?
CALAFCO University
City Disincorporation/Consolidation
June 29, 2012

Initiation Subgroup

Definitions:

"Disincorporation" 56034. "Disincorporation" means the disincorporation, dissolution, extinguishment, and termination of the existence of a city and the cessation of its corporate powers, except for the purpose of winding up the affairs of the city."

"Consolidation" 56030. "Consolidation" means the uniting or joining of two or more cities located in the same county into a single new successor city or two or more districts into a single new successor district.

Initiation:
"Disincorporation" or "Consolidation" may be initiated by petition or resolution of application by city, county or other affected local district. The following are the petition requirements:

Disincorporation; signatures 56765. A petition for the disincorporation of a city shall be signed by not less than 25 percent of the registered voters residing in the city proposed to be disincorporated as shown on the county register of voters.

Consolidation of cities; signatures 56766. A petition for the consolidation of two or more cities shall be signed by not less than 5 percent of the registered voters of each affected city as shown on the county register of voters.

Resolution by application also requires a plan for providing services how those will be financed.
CALAFCO University  
City Disincorporation/Consolidation  
June 29, 2012

Terms and Conditions Subgroup

Conditional approval of change or organization or reorganization
56885.5. (a) In any commission order giving approval to any change of organization or reorganization, the commission may make that approval conditional upon any of the following factors:
(1) Any of the conditions set forth in Section 56886.
(2) The initiation, conduct, or completion of proceedings for another change of organization or reorganization.
(3) The approval or disapproval, with or without election, as may be provided by this division, of any resolution or ordinance ordering that change of organization or reorganization.

Prohibition for agencies being dissolved
(4) With respect to any commission determination to approve the disincorporation of a city, the dissolution of a district, or the reorganization or consolidation of agencies which results in the dissolution of one or more districts or the disincorporation of one or more cities, a condition prohibiting an agency being dissolved from taking any of the following actions, unless it first finds that an emergency situation exists as defined in Section 54956.5:
(A) Approving any increase in compensation or benefits for members of the governing board, its officers, or the executive officer of the agency.
(B) Appropriating, encumbering, expending, or otherwise obligating, any revenue of the agency beyond that provided in the current budget at the time the dissolution is approved by the commission.

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

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

(d) The commission order may also provide that in any election at which the questions of annexation and district reorganization or incorporation and district reorganization are to be considered at the same time, there shall be a single question appearing on the ballot upon the issues of annexation and district reorganization or incorporation and district reorganization.
No direct land use regulation
Any change of organization or reorganization may provide for, or be made subject to one or more of, the following terms and conditions. If a change of organization or reorganization is made subject to one or more of the following terms and conditions in the commission's resolution making determinations, the terms and conditions imposed shall constitute the exclusive terms and conditions for the change of organization or reorganization, notwithstanding the general provisions of Part 5 (commencing with Section 57300). However, none of the following terms and conditions shall directly regulate land use, property development, or subdivision requirements:

Payments
(a) The payment of a fixed or determinable amount of money, either as a lump sum or in installments, for the acquisition, transfer, use or right of use of all or any part of the existing property, real or personal, of any city, county, or district.

Taxes, charges, and assessments
(b) The levying or fixing and the collection of any of the following, for the purpose of providing for any payment required pursuant to subdivision (a):
(1) Special, extraordinary, or additional taxes or assessments.
(2) Special, extraordinary, or additional service charges, rentals, or rates.
(3) Both taxes or assessments and service charges, rentals, or rates.

Bonds, contracts, and other obligations
(c) The imposition, exemption, transfer, division, or apportionment, as among any affected cities, affected counties, affected districts, and affected territory of liability for payment of all or any part of principal, interest, and any other amounts which shall become due on account of all or any part of any outstanding or then authorized but thereafter issued bonds, including revenue bonds, or other contracts or obligations of any city, county, district, or any improvement district within a local agency, and the levying or fixing and the collection of any (1) taxes or assessments, or (2) service charges, rentals, or rates, or (3) both taxes or assessments and service charges, rentals, or rates, in the same manner as provided in the original authorization of the bonds and in the amount necessary to provide for that payment.
(d) If, as a result of any term or condition made pursuant to subdivision (c), the liability of any affected city, affected county, or affected district for payment of the principal of any bonded indebtedness is increased or decreased, the term and condition may specify the amount, if any, of that increase or decrease which shall be included in, or excluded from, the outstanding bonded indebtedness of that entity for the purpose of the application of any statute or charter provision imposing a limitation upon the principal amount of outstanding bonded indebtedness of the entity.

Improvement districts
(e) The formation of a new improvement district or districts or the annexation or detachment of territory to, or from, any existing improvement district or districts.

New indebtedness
(f) The incurring of new indebtedness or liability by, or on behalf of, all or any part of any local agency, including territory being annexed to any local agency, or of any existing or proposed new improvement district within that local agency. The new indebtedness may be the obligation solely
of territory to be annexed if the local agency has the authority to establish zones for incurring indebtedness. The indebtedness or liability shall be incurred substantially in accordance with the laws otherwise applicable to the local agency.

Bonds
(g) The issuance and sale of any bonds, including authorized but unissued bonds of a local agency, either by that local agency or by a local agency designated as the successor to any local agency which is extinguished as a result of any change of organization or reorganization.

Property
(h) The acquisition, improvement, disposition, sale, transfer, or division of any property, real or personal.

Funds
(i) The disposition, transfer, or division of any moneys or funds, including cash on hand and moneys due but uncollected, and any other obligations.

Water
(j) The fixing and establishment of priorities of use, or right of use, of water, or capacity rights in any public improvements or facilities or any other property, real or personal. However, none of the terms and conditions ordered pursuant to this subdivision shall modify priorities of use, or right of use, to water, or capacity rights in any public improvements or facilities that have been fixed and established by a court or an order of the State Water Resources Control Board.

Offices, departments, and boards
(k) The establishment, continuation, or termination of any office, department, or board, or the transfer, combining, consolidation, or separation of any offices, departments, or boards, or any of the functions of those offices, departments, or boards, if, and to the extent that, any of those matters is authorized by the principal act.

Employee benefits and rights
(l) The employment, transfer, or discharge of employees, the continuation, modification, or termination of existing employment contracts, civil service rights, seniority rights, retirement rights, and other employee benefits and rights.

Successor
(m) The designation of a city, county, or district, as the successor to any local agency that is extinguished as a result of any change of organization or reorganization, for the purpose of succeeding to all of the rights, duties, and obligations of the extinguished local agency with respect to enforcement, performance, or payment of any outstanding bonds, including revenue bonds, or other contracts and obligations of the extinguished local agency.

Designation of legislative body
(n) The designation of (1) the method for the selection of members of the legislative body of a district or (2) the number of those members, or (3) both, where the proceedings are for a consolidation, or a reorganization providing for a consolidation or formation of a new district and the principal act provides for alternative methods of that selection or for varying numbers of those members, or both.
Other proposals
(o) The initiation, conduct, or completion of proceedings on a proposal made under, and pursuant to, this division.

Effective date
(p) The fixing of the effective date or dates of any change of organization, subject to the limitations of Section 57202.

Principal act conditions
(q) Any terms and conditions authorized or required by the principal act with respect to any change of organization.

Service continuation
(r) The continuation or provision of any service provided at that time, or previously authorized to be provided by an official act of the local agency.

Levying charges
(s) The levying of assessments, including the imposition of a fee pursuant to Section 50029 or 66484.3 or the approval by the voters of general or special taxes. For the purposes of this section, imposition of a fee as a condition of the issuance of a building permit does not constitute direct regulation of land use, property development, or subdivision requirements.

Continuation of charges
(t) The extension or continuation of any previously authorized charge, fee, assessment, or tax by the local agency or a successor local agency in the affected territory.

Transfer of authority for charges (Mello-Roos, etc.)
(u) The transfer of authority and responsibility among any affected cities, affected counties, and affected districts for the administration of special tax and special assessment districts, including, but not limited to, the levying and collecting of special taxes and special assessments, including the determination of the annual special tax rate within authorized limits; the management of redemption, reserve, special reserve, and construction funds; the issuance of bonds which are authorized but not yet issued at the time of the transfer, including not yet issued portions or phases of bonds which are authorized; supervision of construction paid for with bond or special tax or assessment proceeds; administration of agreements to acquire public facilities and reimburse advances made to the district; and all other rights and responsibilities with respect to the levies, bonds, funds, and use of proceeds that would have applied to the local agency that created the special tax or special assessment district.

Any other matter
(v) Any other matters necessary or incidental to any of the terms and conditions specified in this section. If a change of organization, reorganization, or special reorganization provides for, or is made subject to one or more of, the terms and conditions specified in this section, those terms and conditions shall be deemed to be the exclusive terms and conditions for the change of organization, reorganization, or special reorganization, and shall control over any general provisions of Part 5 (commencing with Section 57300).
Public utilities
56886.1. When applicable, the terms and conditions of any change of organization or reorganization shall provide public utilities, as defined in Section 216 of the Public Utilities Code, 90 days following the recording of the certificate of completion to make the necessary changes to impacted utility customer accounts.

Improvement districts; exclusion of land
56886.3. If the terms and conditions of any change of organization provide for the formation of a new improvement district, or the annexation or detachment of territory to, or from, an existing improvement district, the commission shall do all of the following:
(a) Exclude any lands proposed to be formed into, or to be annexed to, the improvement district which the commission finds will not be benefited by becoming a part of the improvement district.
(b) Exclude any lands proposed to be detached from an improvement district which the commission finds will be benefited by remaining a part of the improvement district.

Formation of new government; alternative existing agencies
56886.5. (a) If a proposal includes the formation of a district or the incorporation of a city, the commission shall determine whether existing agencies can feasibly provide the needed service or services in a more efficient and accountable manner. If a new single-purpose local agency is deemed necessary, the commission shall consider reorganization with other single-purpose local agencies that provide related services.

(b) If a proposal includes the consolidation of two or more special districts not formed pursuant to the same principal act, the commission shall determine whether any service provided at that time could be discontinued due to a lack of authority under the principal act of the successor. If a new single-purpose local agency is deemed necessary to provide the needed service or services, the commission shall consider the formation of a new district that is authorized to provide the service or services.

Limitation on conditions requiring service outside of sphere of influence
56886.6. The commission shall not impose a condition for the provision of services by the annexing city to an area which has not been placed within that city's adopted sphere of influence, as defined in Section 56076, unless that condition would mitigate effects which are a direct result of the annexation. In the case of any annexation proposal for which a certificate of completion was not recorded prior to January 1, 1985, a condition imposed thereon which does not comply with the requirements of this section is null and void and shall not affect the validity or terminate the annexation proceedings.

Limitations on conditions for road maintenance or public facility improvements
56886.7. (a) The commission shall not impose any condition on an annexing local agency with respect to the standards or frequency of maintenance of any existing street or road within the annexed territory.
(b) The commission shall not impose a condition which requires a local agency to improve an existing public facility which is not owned by the agency.
(c) This section shall not be construed as authorizing a commission to impose any conditions which it is not otherwise authorized to impose.
Any change of organization or reorganization may be conditionally approved by a local agency formation commission subject to the certification by the California Coastal Commission of an amendment to the local coastal program of a city or a county.

Application of terms and conditions to city or county; exception for indebtedness or liability

If any change of organization or reorganization pertains to city or district territory which is located, in whole or in part, within the boundaries of any city or county, any terms and conditions authorized by Section 56886 may be made applicable to that city or county. However, no indebtedness or liability which is subject to the requirement of an election, under the provisions of Section 18 of Article XVI of the California Constitution, shall be incurred or assumed by any city or county, except as provided in Section 18 of Article XVI of the California Constitution.
Disincorporations in California

The last successful disincorporation was the City of Cabazon (Riverside County) in the early 1970s.

Cabazon’s city government was completely defunct and hadn’t operated in years. There were no office holders and no assets. The Riverside LAFCO shepherded the disincorporation application through the old statutory process and got the city off the books. Since then, however, the Cabazon Indian tribe has become a gaming tribe and there’s been some talk of incorporation!

Anecdotally, I know that disincorporation petitions were circulated immediately after the incorporation of the City of Clearlake. As I recall the story, the incorporation process bitterly divided the town and when the anti-incorporation side lost, they started petitions to disincorporate. The way I remember the story, they were on the street the day that the new city council was sworn in! But they never got enough signatures.

There was talk of disincorporating the Town of Paradise (Butte County) in the first few years after its incorporation. Again, there was political instability in the community and on the town council. I think they went through something like 3 city managers in the first couple of years. Finally, some wiser voices were heard, folks settled down, and they achieved enough stability to govern.

When the City of East Palo Alto (Santa Clara County) and later the City of San Juan Bautista (San Benito County) ran out of money, there was talk in each community about disincorporation. In each case, however, other governments helped the cities get back on a stronger fiscal standing and no one ever pursued formal disincorporation proceedings.

I believe that there were enough signatures on disincorporation petitions for the City of Quincy (Plumas County) about 5 years ago. Bob Brailman was under contract to the Plumas LAFCO and I think he actually had to start the formal process. His review threw cold water on the idea --- folks began to understand that the Plumas County government was even less well equipped than the existing City government to deliver municipal-type services. Just as LAFCO must figure out if a proposed new city is able to provide services, in a disincorporation the LAFCO must figure out what happens to the current city services. The county would assume jurisdiction for street maintenance, law enforcement, land use, and other police power regulations. As I recall there weren’t any special districts available to take over the city water and sewer systems or the local parks. Plus, there may have been a CEQA angle. I don’t remember what prompted the disincorporation impulse, but it may have been a nasty personality dispute between some of the city officials. Bob will know.

In addition to disincorporation attempts, there have been many city consolidations in the past. But not recently. The most recent city consolidation was the combination of the former City of Alviso with the City of San Jose (Santa Clara County). I think the LAFCO approved that consolidation in the late 1960s but it was hung-up in the federal courts
and not completed until maybe 1974. Before that the next most recent city consolidation was North Sacramento with Sacramento in about 1961 or maybe a bit later. About a dozen cities in Los Angeles County consolidated over the years. There’s an intricately detailed history floating around if you’re obsessive enough to need it. I think it’s called "How The Cities Grew," or a similar title. Out of print, but originally published by the Randolph Foundation out of LA.

I’m copying this note to Bob, Bill Chiat, Al Sokolow at UC Davis, and my legislative colleagues because they may know of other disincorporation examples. If they do, I hereby encourage them to contact you directly with their additional knowledge.

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Re: LAFC §71-33-3 -- Proposed Disincorporation of the City of Cabazon by the Citizens of Cabazon for Disincorporation

Gentlemen:

The above proposal for disincorporation of the City of Cabazon has met all requirements of the law and was approved by the County Surveyor on June 20, 1971. It has been reviewed by all members of the Advisory Staff, and no unusual tax code problems have been noted by the County Auditor. All governmental jurisdictions have been notified.

This proposal was initiated by Citizens of Cabazon for Disincorporation, a committee consisting of five resident-voters of the City of Cabazon.

Physical Features:

The City of Cabazon covers an area of approximately 4½ square miles, with a rocky terrain, sloping generally southward to the San Gorgonio Mountains. It is accessible from Interstate 10.

Population:

Population is listed as 613, with 316 registered voters and 290 dwelling units.

Economic Factors:

Land use and zoning: land use is residential and commercial, with corresponding zoning.

Assessed valuation: land and improvements are assessed at a total of $1,204,140.

Purpose:

The proponents state in their questionnaire that the reasons the City of Cabazon should be disincorporated are the present inadequacies of fire and police protection and the general instability of the local government.
The questionnaire contains the statement: "The minutes and records of this City will show excessive recalls at great expense to the taxpayers and numerous resignations of Councilmen also arrest of some which clearly indicates the City inability to govern itself properly."

**Disincorporation Proceedings:**

1. Approval by the Local Agency Formation Commission. (If disapproved by the Commission, no proposal for disincorporation may be filed for a year).

2. Proponents file a petition with the City Council signed by 20% of the registered voters within the city.

3. City Council sets a special election.

4. If a majority of the votes cast is against disincorporation, another election on the question shall not be held for a period of at least two years.

5. If a majority of the votes cast is in favor of disincorporation, the city is disincorporated 30 days after the election and the Board of Supervisors is charged with the responsibility of winding up the affairs of the disincorporated city. Any funds remaining after paying all city indebtedness are turned over to the school district serving the former city.

**Discussion:**

The City of Cabazon was incorporated on November 15, 1955. Since incorporation the local government structure of the city has been and currently is very unstable. Cabazon is a General Law city and has a five-member elected City Council. The turnover rate of City Council members is extremely high. For instance, during the last two years, 15 different persons have served on the City Council and 6 of these have served as Mayor. The present Mayor took office on June 22, 1971, and recall proceedings were initiated two days later. Only one member served continuously as a Councilman during the two-year period mentioned above and he submitted his resignation at the Council meeting last Tuesday, after serving over 7 years. There have been three City Clerks during this two-year period. Turnover of Chiefs of Police and other city employees has also been frequent.

The history of the City of Cabazon has been replete with recall elections (an average of 4 or 5 per year) and various court actions. Two of the dominant factors involved in the instability of the city government structure are gambling interests (card game parlors) and pressures to allow substandard subdivisions.

Shortly after Cabazon became an incorporated city, an ordinance was adopted permitting the licensing and franchising of card game casinos. There is currently one card game casino, the Desert Sands Casino, under license by the city. In April 1971, the City Council adopted a new ordinance which requires an annual payment of $100 for each casino permit,
and a $25,000 annual license for the first 25 gaming tables and $1,000 for each table over 25. A referendum petition to nullify this ordinance was circulated in May 1971 and filed with the City Clerk.

Fourteen subdivision maps have been filed and recorded within the City of Cabazon since 1955. Until recently the City Council did not require performance bonds to assure that streets, utilities and other improvements were installed by the subdividers. Furthermore, many of the maps were approved even though they did not meet city subdivision standards. The result is that many lots in these subdivisions have been sold by land purchase contracts yet the streets, if they exist, were either dirt streets or, if paved, they were substandard (less than the required width or the thickness is less than the required 4-inch desert mix).

An example of the financial condition of the city is found in the official audit report performed by an outside auditor for the 1969-70 fiscal year. The letter of transmittal contains the following statement: "Because of the changes in clerical and other staff at the city offices and the resultant confusion caused by these changes, and because it was necessary for us to do most of the actual posting and balancing of the accounting records in order to obtain a workable set of records, we are unable to express an opinion on these reports." The audit report shows the total expenditures for the 1969-70 fiscal year at $72,570, with total revenue at $70,875. The current property tax rate for the City of Cabazon is 52c per $100 of assessed valuation.

One of the problems with the present boundaries of the City of Cabazon is that a portion of the center of the city is unincorporated, as that portion was excluded at the time of incorporation. The new post office, which is within one block of the City Hall, is in unincorporated territory.

As regards the adequacy of present services rendered by the City of Cabazon, fire protection is provided by an all-volunteer force. The one fire truck owned by the city has been out of commission until recently, and during this period fire protection services were provided by the County through the State Division of Forestry. When the Cabazon city fire truck is operable and when a fire within the city is reported, the Police Chief or his assistant sounds the siren, drives the fire truck to the fire and does what he can to suppress the fire until the volunteers arrive.

As regards police protection, the present force includes the Police Chief, a Senior Police Officer and a back-up Police Officer. Currently, however, the Chief of Police is under suspension by the City Council because of alleged misuse of the police squad car.

There are 41 miles of roads within the city, of which only 15 to 18 miles have been accepted for maintenance by the city. The gas tax revenues received by the city are not sufficient to properly maintain those roads accepted for maintenance. The city has authorized the installation of 112 street lights, which is more than adequate.

With regard to the economic base of the city, its assessed valuation is the lowest of the 16 incorporated cities in Riverside County. Likewise, its population is also lowest. The lack of growth since incorporation is a significant factor. Assuming that there were 500 inhabitants
at the time of incorporation (and this was questionable), the growth to
the present 613 population is indicative of the problems the city has had
in generating any growth. As regards assessed valuation, the increase
by the City of Cabazon during the past five years has been only 9%, where-
as the increase in the total assessed valuation for Riverside County during
the same period of time was approximately 28%.

If there is a dissolution election in the City of Cabazon, it will
obviously be extremely controversial, not only because of the issue of
retaining local government per se, but also because of the effect of
disincorporation on gambling as it currently exists in the city. If
Cabazon becomes unincorporated territory, the County's Ordinance #331
prohibiting gaming of any nature would be in effect.

In Summary:

The pattern of city government in Cabazon since incorporation over
15 years ago has been one of continual turnover of local government
officials, which has resulted in turmoil and dissension within the city.
As expressed by the Councilman who resigned last week, "We operated by
pressure, threats, intimidations and recalls."

This pattern of instability has been a detriment to the orderly
growth and development of a city which, at the time of incorporation,
lacked sufficient tax base and population.

I THEREFORE RECOMMEND that the proposal to disincorporate the City
of Cabazon be approved.

Respectfully submitted,

[Signature]

Robert J. Fitch
Ass't Executive Officer

RJF:rh
Municipal Disincorporation in California

By John H. Knox & Chris Hutchison*

I. INTRODUCTION

The combination of ever-increasing costs and the weakness of the housing market and the general economy has challenged the financial health of many California cities. At least one has already sought bankruptcy protection, and others may follow or are seriously considering the option. The severity of the current economic downturn has also raised the question of whether municipal disincorporation can provide additional or alternative relief to distressed cities. However, the process has rarely been used, and its legal effect is not well understood.

Following a discussion of the background and legal effect of disincorporation in California, this article examines each stage of the disincorporation process, paying attention to timetables, potential hurdles, and other areas of concern for a city or citizens’ group seeking to initiate such a proposal.

California law supplies a procedure for disincorporating a city, whether chartered or general law, involving four stages:

1. Initiation of Proceedings,
2. Consideration by the Local Agency Formation Commission (“LAFCO”),
3. Election, and

The process includes several avenues for public participation, whether through voting or public hearings before the LAFCO. Further, the LAFCO has significant authority and discretion over both the process and the substance of the proposal, with power to condition its approval on a "virtually limitless array of factors."

II. BACKGROUND

A. THE CORTESE-KNOX-HERTZBERG ACT

The Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 ("the Act")² provides the “sole and exclusive authority and procedure” for the disincorporation of a California city.³ The Act establishes the exclusive means for “changes of organization and reorganization for cities and districts.”⁴ A change of organization includes, among other things, “disincorporation of a city.”⁵ The Act defines disincorporation to mean the “disincorporation, dissolution, extinguishment, and termination of the existence of a city and the cessation of its corporate powers, except for the purpose of winding up the affairs of the city.”⁶ A reorganization is simply the combination of two or more changes of organization.

The Act (along with its predecessors) establishes a local agency formation commission

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("LAFCO" or "commission") in each county to oversee proposed changes of organization. Generally, the Act describes the role and authority of LAFCOs with regard to each type of local agency, including cities, and each type of change of organization (e.g., annexations, incorporations, and disincorporations) that could affect an agency. LAFCOs attempt to provide a guiding hand to the development of local agencies of all types, including not only cities, but also school districts, water districts, and many other special-purpose entities, with an eye toward ensuring coherent local and regional development. The primary purpose of a LAFCO is "to review and approve or disapprove with or without amendment, wholly, partially, or conditionally, proposals for changes of organization or reorganization." LAFCOs have statutory goals of "discouraging urban sprawl, preserving open-space and prime agricultural lands, efficiently providing governmental services, and encouraging the orderly formation and development of local agencies based upon local conditions and circumstances."19

Each LAFCO has authority to adopt its own written procedures, standards of review, and regulations for hearings, consistent with statute.10 The Act establishes many different deadlines and procedural requirements, both for those proposing disincorporation and for the commission hearing the proposal. However, with just two exceptions relating to the timing of hearings and requests for reconsideration, these deadlines are "reasonable" only, and do not bind the commission.11 Moreover, commission determinations receive a deferential standard of review, and are final unless a court finds "fraud or prejudicial abuse of discretion."12 This review requires only that the court ascertain whether the commission decision is supported by "substantial evidence in light of the whole record."13

B. COURT CHALLENGES

The Act requires that any suit challenging the validity of an approved disincorporation be brought pursuant to California's validation statutes.14 A validation action allows any public agency, or "any interested person" if no public agency brings suit, to bring an action in the nature of a proceeding in rem in the local superior court.15 Validation actions, regardless of the plaintiff, are subject to a 60-day statute of limitations, which begins on the date the LAFCO certifies the disincorporation as complete.16 "Interested persons" must also establish standing, which California courts interpret strictly.17 Also, the failure of any person or entity to receive notice, such as notice for a hearing, "shall not constitute grounds for any court to invalidate any action taken" pursuant to the notice.18

C. STATUTORY HISTORY

The Act amended the Cortese-Knox Local Government Reorganization Act of 1985 to invest greater authority in LAFCOs, among other changes.19 The Cortese-Knox Local Government Reorganization Act of 1985 consolidated three predecessor laws for local government boundary and organizational changes. Those laws were: the Knox-Nisbet Act of 1962, which first established LAFCOs; the District Reorganization Act of 1965, which concerned special districts; and the Municipal Organization Act of 1977, which concerned city incorporations and annexations.

D. STATUTORY DISINCORPORATION

California statute dictates the process for disincorporation. A city or group seeking to propose disincorporation may choose to follow the process set out in the Act or to seek a legislative
revision or exception to the existing process. The state legislature retains significant power over municipal organization. As the California Supreme Court put it, "In our federal system the states are sovereign but cities and counties are not; in California as elsewhere they are mere creatures of the state and exist only at the state's sufferance." The legislature could adopt an alternative means of disincorporation for a particular city, just as it has adopted an alternate system for certain annexations to cities in Santa Clara County, which do not undergo LAFCO review. The legislature could also disincorporate a city by statute, as it has several times in the past.

E. PRIOR DISINCORPORATIONS

Seventeen cities have disincorporated in California's history, including the cities of Long Beach, Pismo Beach, and Stanton, each of which later reincorporated. However, since the creation of LAFCOs in 1953, only two cities have disincorporated — Cabazon in 1972 and Hornitos in 1973. Of these, only Cabazon's disincorporation went through the process prescribed by the Act; Hornitos was disincorporated by statute.

Cabazon was a city of 613 residents in Riverside County incorporated in 1955. Following years of city-government turmoil related to the regulation of local gambling, including multiple recalls, resignations, and arrests of city council members, a group of citizens filed a disincorporation proposal with the local LAFCO. The LAFCO held a hearing, approved the proposal without requiring any additional terms or conditions, and set the question for election. Residents of the city voted 192 to 131 in favor of disincorporation, and after a several-month delay because of a legal challenge to the election procedures, the city ceased existence in early 1972.

Following the disincorporation, Riverside County inherited Cabazon's assets and liabilities and wound down its remaining affairs, including sale of the city's personal property and cancellation of its lease for various city buildings. The county paid the city's outstanding debts with the remaining city funds, along with funds generated from property sales and debts owed to the city. Nearly ten years later, the former city's account still had a surplus.

III. LEGAL EFFECT OF DISINCORPORATION

LAFCOs have broad authority to craft the legal effect of a disincorporation through the imposition of specific terms and conditions on a proposal. These terms and conditions supersede the Act's general provisions regarding the legal effect of disincorporation. However, LAFCOs may not require or allow terms and conditions in violation of the remainder of the Act.

A. EFFECT ON DEBTS AND CONTRACTS

A disincorporation may not impair the rights of "any bondholder or other creditor of any county, city, or district," nor may it impair contract rights or contracts entered into by a public entity pursuant to a joint exercise of powers agreement. Likewise, no disincorporation, or term or condition required, may limit the power of bondholders or other creditors to enforce their rights against the city or the successor county receiving the disincorporated city's assets. These limits stem not only from statute, but also the California Constitution's and the U.S. Constitution's prohibitions on the impairment of contracts by operation of state law.

The Act does not define "creditor," however California law elsewhere defines the term as "one in whose favor an obligation exists, by reason of which he is, or may become, entitled to the
payment of money."36 Also, "[i]n the absence of fraud every contract of a debtor is valid against all his creditors."37 The Myers-Millas-Brown Act, which governs collective bargaining between cities and their public employees, does not expressly make collective bargaining agreements, in the form of memoranda of understanding, enforceable; however, the California Supreme Court has held that such agreements become binding once approved by the city.38 Thus, as binding contracts, a city’s agreements with public employees’ unions might be inviolable in a disincorporation, at least under current California law.

That said, section 56886 of the Act expressly authorizes LAFCOs to impose terms and conditions related to public employment, including the modification and termination of existing employment contracts.39 This provision would be without meaning if such agreements were inviolable under the Act, lending credence to the argument that public employees’ unions and their members are not “creditors” within the Act’s use of the term.

While the California and U.S. Constitutions bar impairment of contracts by the state, this limit is “not an absolute one and is not to be read with literal exactness like a mathematical formula.”40 Courts determine whether an unconstitutional impairment of a contract exists by applying a balancing test that compares the severity of the impairment against the public interest in the action allegedly causing the impairment.41 The California Supreme Court found that a legislative act expressly invalidating certain collective bargaining agreements was unconstitutional in Sonoma County Organization of Public Employees.42 However, a disincorporation would not necessarily invalidate public employment contracts but might instead be viewed as a default by the city. If that were the case, the public employees may be able to assert any contractual rights against the former city’s remaining assets.

Thus, the disincorporation may not unconstitutionally impair the obligation of the contracts, but rather would, in the case of an insolvent former city, leave public employees with valid, if valueless, claims.43 Further, “it is well settled in California that public employment is not held by contract but by statute . . . .”44 Likewise, statute, not contract, controls the terms and conditions of public employment, and public employment contracts cannot circumvent contrary statutes.45 While a public employee may obtain a right protected by the contract clauses of the state and federal constitutions, as was the case in Sonoma County, such right does not include the “right to remain in an office or employment, or to the continuation of civil service status.”446

B. Effect on Former City’s Inhabitants and Territory

Upon the effective date of a disincorporation, the county board of supervisors is responsible for winding up the affairs of the former city.47 Residents of the former city no longer have any rights or duties as inhabitants or voters of a city.48 Prior to the effective date, public officers must turn over public property to the county board of supervisors, and the city council must turn over all city funds, as certified by the LAFCO or the county, to the county treasurer.49 The county tax collector may collect any levied but uncollected taxes owed to the disincorporated city, and the county may collect or sue for all debts owed the city.50 The county places all funds related to the former city in a special fund for winding up the city’s affairs and paying any debts owed by the city.51 If the special fund is insufficient to pay city indebtedness, the Act states that the county “shall cause to be levied, and there shall be collected from the territory formerly included within the city, taxes sufficient to pay the indebtedness as it becomes due.”52 If the special fund has a surplus, the Act gives the county discretion to use the funds for various public services within the former city’s
territory. Other territories within the county are not responsible and may not be taxed for the debts or liabilities of the former city.\footnote{34}

While the Act requires a county to impose taxes on the former territory of a disincorporated city to make its creditors and bondholders whole, this requirement predates California’s adoption of the “Jarvis Family of Initiatives” — Propositions 13 (1978), 4 (1979), 62 (1986), and 218 (1996) — and is likely unconstitutional absent some form of voter approval of the additional taxes.\footnote{35} Proposition 218 would require voters in the former city to approve a new special tax by a two-thirds majority or a new general tax by a simple majority,\footnote{36} while Proposition 13 would absolutely prohibit any additional property taxes within the former city’s territory, even with voter approval.\footnote{37} However, while the California Constitution does not allow a county to impose taxes directly under the Act,\footnote{38} LAFCO can require voter approval of such taxes as a condition of approving the disincorporation proposal in the first place.\footnote{38}

IV. THE DISINCORPORATION PROCESS\footnote{39}

A. STAGE 1 — INITIATION OF PROCEEDINGS

There are two ways to propose disincorporation of a California city — either by petitioning the area LAFCO or by filing a resolution of application adopted by any “affected local agency,”\footnote{40} which would include the city itself, the county, or any special district including a portion of the city.\footnote{41} This article uses a city as a representative local agency for purposes of filing a resolution of application; other affected local agencies also have such powers.

Formal initiation of commission proceedings does not occur until the date the petition or resolution is accepted for filing and the LAFCO’s executive officer issues a certificate of filing.\footnote{42} These are two separate events under California law. After accepting and certifying the filing of the application, the executive officer must set the proposal for hearing within 90 days and give public notice at least 21 days prior to the hearing on the LAFCO website and in the local newspaper.\footnote{43} The LAFCO’s executive officer must also issue a report, including recommendations, to the commission, proponents, and affected local agencies no later than five days prior to the hearing.\footnote{44}

1. Procedure for Acceptance and Certification

A petitioner or city submits its application to the area LAFCO’s executive officer, who then immediately gives various local agencies notice, describing the proposal and the affected territory.\footnote{45} The executive officer has 30 days from receipt to determine whether the application is complete.\footnote{46} If the application is incomplete, the executive officer must immediately inform the applicant of any missing elements.\footnote{47} Even if complete at filing, however, the executive officer cannot accept an application for filing or issue a certificate of completion for at least 20 days from receipt.\footnote{48}

If the executive officer takes no action within 30 days, the application is deemed accepted for filing so long as it includes the required information.\footnote{49} After accepting the application for filing, the executive officer must immediately issue to the applicant a certificate of filing, detailing the date of the commission hearing on the proposal.\footnote{50}

2. Contents of Petitions and Resolutions

Petitions and resolutions must meet statutory informational requirements and conform to
the area LAFCO’s rules.\textsuperscript{71} Resolutions must contain the same information as required of petitions, aside from signature requirements.\textsuperscript{72}

3. Additional Requirements for Resolutions

Cites may provide public notice prior to adopting a resolution, but must do so at least 21 days in advance.\textsuperscript{73} A city filing a resolution of application must also submit a plan for providing services within the city that includes, among other things, specific information on the level of services and how those services will be financed.\textsuperscript{74}

4. Additional Requirements for Petitions

Petitioners must file a notice of intention, including a brief explanation of the proposal, with the LAFCO’s executive officer before circulating a petition for disincorporation.\textsuperscript{75} The executive officer then notifies the city and other affected local agencies about the petition.\textsuperscript{76}

More than 25% of the city’s registered voters must sign the petition for disincorporation.\textsuperscript{77} Signers of the petition must provide their dated signature and address.\textsuperscript{78} Signatures expire within six months of signing, and proponents must submit the petition within 60 days of gathering the last signature.\textsuperscript{79} There is a special procedure applicable to cities in Los Angeles County with over 100,000 residents requiring additional public notice and a shorter window of time (90 days) for gathering signatures.\textsuperscript{80}

Within 30 days (excluding weekends and holidays), the LAFCO’s executive officer must have the petition’s signatures reviewed by the county elections official according to Election Code standards, and must prepare a certificate of sufficiency stating whether the petition has enough valid signatures.\textsuperscript{81} If the petition is insufficient, proponents can gather signatures for a supplemental petition for an additional 15 days from the executive officer’s notice of insufficiency or, at their option, from submitting the petition.\textsuperscript{82} The executive officer then has ten days to review the supplemental petition and issue a new certificate of sufficiency.\textsuperscript{83}

B. STAGE 2—CONSIDERATION BY THE LAFCO

Once the LAFCO has initiated proceedings, it must hold a public hearing within 90 days, which is a mandatory deadline.\textsuperscript{84} The commission may continue the hearing for up to 70 days.\textsuperscript{85} Within 35 days of concluding the hearing, the LAFCO must either approve or disapprove the proposal by resolution, with or without amendment, including any terms or conditions required by the commission.\textsuperscript{86} The commission’s resolution can amend the proposal, so long as the amendment does not change the general nature of the proposal.\textsuperscript{87}

Apart from approval or disapproval, the commission’s resolution must also make any findings required by statute or by commission rule.\textsuperscript{88} Disapproval terminates the proceedings\textsuperscript{89} and bars reconsideration of a similar proposal for one year, subject to a commission waiver.\textsuperscript{90}

If the LAFCO approves the proposal for disincorporation, any person or affected agency has the option of requesting reconsideration of the decision within 30 days, another mandatory deadline.\textsuperscript{91} While the request is pending and throughout reconsideration, state law tolls statutes of limitations and procedural deadlines.\textsuperscript{92} The written request must specify any changes being sought to the resolution and what additional or different facts are claimed.\textsuperscript{93} After giving 21-days notice,
the commission must consider the request at its next meeting.\textsuperscript{94}

Reconsideration is quite similar to the commission’s initial public hearing, and the commission can continue the reconsideration for up to 35 days.\textsuperscript{95} At the end of reconsideration, the commission must approve or disapprove the request, with or without amendment, and the decision is final with regard to the reconsidered issue.\textsuperscript{96} However, if the commission approves the request, it must file a new resolution, which then has its own 30-day window for reconsideration requests and restarts this process.\textsuperscript{97}

If reconsideration eventually produces an approved proposal for disincorporation, or if no one files a request for reconsideration, the proposal moves forward to the election stage.\textsuperscript{98}

1. The Hearing and Factors for Review

LAFCOs must comply with California’s open meeting and “sunshine” laws, including the Brown Act.\textsuperscript{99} The commission must hear and receive any oral or written objections or evidence put before it, and also must consider the executive officer’s report and the city’s plan for providing services.\textsuperscript{100}

The commission also must consider a wide-ranging list of factors, including, in part:

1. the cost and adequacy of governmental services,
2. the effect on the governmental structure of the county,
3. the ability and financial wherewithal of the receiving entity to provide services,
4. the comments of residents, landowners, and voters, and
5. various other factors, such as environmental justice, water supplies, and housing needs.\textsuperscript{101}

2. Terms and Conditions

The LAFCO has broad authority to require additional terms and conditions of any proposed disincorporation.\textsuperscript{102} The California Supreme Court described this authority as the power to impose a “virtually limitless array of factors” on proposals.\textsuperscript{103} Further, the commission can grant conditional approval, such as requiring proceedings for an additional change of organization (e.g., incorporation of a new city or district), with up to a six-month delay in the proceedings for satisfaction of the condition.\textsuperscript{104} The California Attorney General confirmed that a commission can even condition its approval on voter approval of additional taxes.\textsuperscript{105}

3. Limitations on the LAFCO’s Authority

A LAFCO may not require or approve a disincorporation, or any terms or conditions required of a disincorporation, in violation of the Act. This includes the Act’s limits on the impairment of the rights of bondholders or creditors.\textsuperscript{106}

A LAFCO also may not impose terms or conditions that directly regulate land use density or intensity.\textsuperscript{107}

C. Stage 3—Election
After the LAFCO endorses a disincorporation proposal, the commission must adopt a resolution ordering the city's disincorporation, subject to voter approval. However, if the commission determines that a majority of voters in the city have filed written protests against the proposal, a vote is unnecessary, and the proposal is abandoned. If either a majority protest exists or a majority of voters disapprove the proposal in an election, the Act bars reconsideration of a similar proposal for two years, subject to a commission waiver.

The election must occur on the next regular election date at least 88 days after adoption of the resolution ordering the election. However, a special election on the matter may be conducted using mailed ballots if authorized by the county elections official. Unless the LAFCO and the proponents of disincorporation otherwise agree, the city (or its remaining assets) bears the costs of the election.

Only the voters within the city to be disincorporated may vote on the proposal. The general election and local election provisions of the California Elections Code govern the voting process, however any inconsistencies are resolved in favor of the local election provisions. Likewise, any inconsistencies between the Elections Code and the Act are resolved in favor of the Act. The Act provides specific notice requirements, including the contents of the notice, and a particular form for the ballot.

Within five days of calling the election, the LAFCO's executive officer must provide the commission with a brief, impartial analysis of the disincorporation proposal. The commission must then approve the analysis, with or without amendments, and submit it to the county elections official for inclusion in the ballot pamphlet. The city, any affected agency, voters, and citizen associations may also submit brief arguments for and against the proposal for similar inclusion in the pamphlet.

After the election, the county elections official must immediately submit the results to the LAFCO.

D. STAGE 4—COMPLETION OF PROCEEDINGS

If the voters approve the disincorporation, the LAFCO must issue a certificate of completion confirming its order within 30 days of the election canvass. The commission's executive officer then prepares and files a certificate of completion upon satisfaction of any terms and conditions required in the commission's approval of the disincorporation. The executive officer must file the certificate within 90 days of the election with the county recorder and each affected local agency.

If set by the commission, the effective date of an approved disincorporation must be within nine months after the election (but no earlier than the execution date of the certificate of completion). Otherwise, the disincorporation takes effect on the date the certificate of completion is recorded by the county recorder.

V. CONCLUSION

While no California city has disincorporated in over thirty-six years, disincorporation remains possible and provides an alternative that some California cities or concerned citizens may want to consider. However, there is no modern precedent for an economically motivated
disincorporation. The only use of the LAFCO-led disincorporation process, by Cabazon in 1972, did not involve unwinding complicated financial matters, the possible impairment of public employment contracts, or concerns that creditors would be left empty-handed. Disincorporation of a larger and more complex city would require the LAFCO to undertake a detailed process of determining how to avoid unconstitutional impairment of contracts and to transfer services to the county in a way that would not unduly burden the county while continuing to provide essential services to the residents of the former city. Given California’s constitutional limitations on new local taxes, a city that attempted to disincorporate without having sufficient revenues to satisfy its obligations might not be able to do so unless its citizens approved new taxing measures, as the LAFCO might well condition approval of the disincorporation on approval of new revenue measures sufficient to satisfy the obligations of the city.

If a city or group of citizens wants to pursue disincorporation, the support of the local LAFCO is critical, absent a legislative amendment or exception to the Act. The LAFCO has near-total control over the process and can modify or condition proposals as it sees fit. Support of the city’s residents will also be necessary. Lastly, given the lack of precedent, any disincorporation, particularly if driven by financial considerations, might involve litigation over both its process and legal effect. Disincorporation is a controversial option, and at least some citizens—let alone creditors and others with a stake in the city’s continued existence—should be expected to oppose it.

1 Bd. of Supervisors of Sacramento County v. Local Agency Formation Comm’n of Sacramento County, 838 P.2d 1198, 1203 (Cal. 1992) (discussing the predecessor to current section 56886 of the California Government Code).
2 CAL. GOV’T CODE §§ 56000-57550 (Deering 2009). Unless otherwise noted, all statutory citations are to the California Government Code.
3 § 56100.
4 Id. The Act makes no distinction between chartered and general law cities, defining “city” to include both categories. § 56023. While the California Constitution provides that chartered cities may disregard state legislative acts pertaining to municipal affairs, disincorporation is not a municipal affair. CAL. CONST. art. XI, § 5(a). California courts have held that annexations, as changes of organization under the Act, are matters of statewide concern and are not subject to a city’s charter. See Ferrini v. City of San Luis Obispo, 197 Cal. Rptr. 694, 699 (Cal. Ct. App. 1983) (holding that annexations, as “changes of organization” under the Act’s predecessor, were not municipal affairs subject to a contrary city charter’s provisions), cited with approval in DeVita v. County of Napa, 889 P.2d 1019, 1037 (Cal. 1995). Although no court has yet addressed the specific status of disincorporation, the same analysis would apply because the Act includes both annexation and disincorporation in its definition of “change of organization.” § 56021.
5 § 56021.
6 § 56034.
7 § 56073.
8 § 56375(a)(1).
9 § 56301.
10 § 56375(g)-(i).
11 § 56106.
12 § 56107(b).
13 § 56107(c).
14 § 56103.
15 CAL. CIV. PROC. CODE §§ 860, 863 (Deering 2009).
16 Id. § 860; CAL. GOV’T CODE § 56102.
18 § 56106.
19 See 2000 Cal. Stat. 761 (discussing effect on prior law).
20 Bd. of Supervisors of Sacramento County v. Local Agency Formation Comm’n of Sacramento County, 838 P.2d 1198, 1205 (Cal. 1992).
21 See § 56757(a).
California League of Cities, California Municipal Disincorporations (unpublished tbl., on file with author). The four cities disincorporated by statute include: Columbia (1870), Dutch Flat (1866), Felton (1917), and Hornitos (1973).

The disincorporated cities include: Bayside (1940), Boulder Creek (1915), Cabazon (1972), Columbia (1870), Coram (1918), Dutch Flat (1866), Felton (1917), Hornitos (1973), Kelseyville (1902), Kennett (1950), Long Beach (1890), McKittick (1927), North Sacramento (1963), Orangeboro (1925), Pismo Beach (1940), Porter Valley (1926), and Stanton (1924).

Id.

Id.; see 1972 Cal. Stat. 1209-10 ("The Town of Hornitos is hereby disincorporated.").

Staff Report from Robert J. Fitch, Assistant Executive Officer, Riverside County LAFCO, to the Riverside County LAFCO 2 (July 15, 1971) (on file with author).

Id. at 1-2.

See Letter from Robert J. Fitch, Assistant Executive Officer, Riverside County LAFCO, to the Cabazon City Council 1 (July 22, 1971) (on file with author) (confirming approval of the LAFCO and next steps for disincorporation).


See FAM from Robert J. Fitch, Riverside County Admin. Officer, to Riverside County Counsel 1 (Oct. 5, 1981) (on file with author) (discussing remaining balance of $6,023.86 in the Cabazon Disincorporation Trust Fund).

§ 57302.

§ 56121.

§§ 56122, 56121(d).

People v. Banning Co., 138 P. 101, 102 (Cal. 1913) (citing the predecessor to article I, section 9 of the California Constitution and Article I, Section 10 of the U.S. Constitution).

CAL. CIV. CODE § 3430 (Deering 2009).

Id. § 3431.


§ 56886(f).

Sanoma County Orz. of Pub. Employees v. County of Sanoma, 591 P.2d 1, 5 (Cal. 1979) (citing Home Bldg. & Loan Ass’n v. Blastell, 290 U.S. 398, 428 (1933)).

U.S. Trust Co. of N.Y. v. N.J., 431 U.S. 1, 25 (1977) (holding that, with regard to government contracts, "[e]xcept as with laws impairing the obligations of private contracts, an impairment may be constitutional if it is reasonable and necessary to serve an important public purpose"). See Blastell, 290 U.S. at 438 ("The question is not whether the legislative action affects contracts incidentally, or directly, or indirectly, but whether the legislation is addressed to a legitimate end and the measures taken are reasonable and appropriate to that end."). The California Supreme Court has interpreted the California Constitution’s contract clause in parallel with that of the U.S. Constitution, applying the same balancing test approach to claims under both clauses. Sanoma County Orz. of Pub. Employees, 591 P.2d at 10-11.

Sanoma County Orz. of Pub. Employees, 591 P.2d at 11.


§ 57412.

§ 57400.

§§ 57401-404.

§§ 57405, 57413.

§ 57407.

§ 57409.
Section 57409 derives from former section 34-18 of the Government Code, which uses nearly identical language and was adopted by the legislature in 1949. 1949 Cal. Stat. 110.

Interestingly, article XIIIC, section 2(b) of the California Constitution, which was enacted as a part of Proposition 218, requires that majority-vote general taxes only be considered by the electorate at an election at which the members of the governing body of the city council are up for election. In the case of a disincorporation, it might be that there would be no further city council elections at which to consider such a measure.

See CAL. CONST. art. XIII, § 1(e).


See PETER M. DETHWILER, CAL. ENVTL. L. & LAND USE PRACTICE § 73.12 (2009), for general background on the process used by a LAFCO for proposed changes of organization. While not focused on disincorporation per se, this treatise is helpful in understanding the obstacles facing a proponent and the tools available to an opponent of disincorporation.

A LAFCO can self-initiate most changes of organization, however it cannot do so for disincorporation proposals. See § 56375(a)(2).

§§ 56650, 56654(a). See § 56700 (requirements for petitions) and § 56654 (requirements for resolutions).

§ 56651.

§§ 56658(b), 56660-61. See § 56157 (regarding notice requirements).

§ 56665.

§ 56658(b)(1).

§ 56658(d).

§ 56658(b).

§ 56658(e).

§ 56658(f).

§ 56658(g).

§§ 56652, 56700. Petitions and resolutions must include:

1. a statement that the proposal is made pursuant to the Act,
2. a statement of the nature of the proposal,
3. a map and description of the territory's boundaries,
4. any proposed terms or conditions for the disincorporation,
5. the reason(s) for the proposal,
6. any data or information required by the area LAFCO's regulations or by its executive officer,
7. contact information for the proponents,
8. a request for proceedings,
9. a statement whether the proposal is consistent with the city's sphere of influence, and
10. [for petitions only] a statement that the petition is signed by registered voters.

Id.

§ 56654(c).

§ 56654(c).

§ 56653.

§ 56700.4(a).

§ 56700.4(c).

§ 56765.

§ 56704.

§ 56705(a).

§§ 56705(b)(1), 56760.

§ 56706(c).

§ 56706(b).

§ 56706(c).

See § 56658(b).

§ 56668.

§ 56880.


§ 56881.

§ 56880.
§ 56884.
§ 56895(a), (c).
§ 56895(d).
§ 56895(a).
§ 56895(c).
§ 56895(f).
§ 56895(g)-(h).
Id.

Note that disincorporations are specifically exempt from the Act's requirement of protest proceedings before the LAPCO. See § 57000(a) (protest proceedings only required for changes of organization "not described in Section 57077").

§ 54953.
§ 56666(b).
§ 56668.

§ 56886. These terms and conditions may include:

(1) the payment of funds for use of public property, including the levying and collection of taxes, assessments, or other charges for providing such a payment,
(2) requirements relating to liability for bonds, contracts, and obligations of the city, including the levying and collection of taxes in an amount necessary to provide payment,
(3) the incurring of new indebtedness or liability by the city, including issuance of bonds by the city or its successor,
(4) requirements relating to the city's personal and real property,
(5) the disposition of city funds,
(6) "[t]he employment, transfer, or discharge of employees, the continuation, modification, or termination of existing employment contracts, civil service rights, seniority rights, retirement rights, and other employee benefits and rights."
(7) the designation of a successor to the city "for the purpose of succeeding to all of the rights, duties and obligations [of the city] . . . with respect to enforcement, performance, or payment of any outstanding bonds . . . or other contracts and obligations of the [city],"
(8) the initiation or completion of additional commission proceedings,
(9) the continuation or provision of services by the city,
(10) the continuation of prior taxes, assessments, fees, or other charges by the city or its successor,
(11) the transfer of authority among affected cities, counties, and districts, and
(12) "[a]ny other matters necessary or incidental to any of the [above] terms and conditions."
Id.

Id. of Supervisors of Sacramento County v. Local Agency Formation Comm'n of Sacramento County, 838 P.2d 1198, 1203 (Cal. 1992) (discussing the predecessor to current section 56880).

§ 56885.5.
§ 567132.
§ 57125(b).
§ 57144.
Id.
§ 57145.
§ 57149.
DISINCORPORATION STATUTES

§ 56021. "Change of organization"

"Change of organization" means any of the following:
(a) A city incorporation.
(b) A district formation.
(c) An annexation to, or detachment from, a city or district.
(d) A disincorporation of a city.
(e) A district dissolution.
(f) A consolidation of cities or special districts.
(g) A merger or establishment of a subsidiary district.

§ 56034. "Disincorporation"

"Disincorporation" means the disincorporation, dissolution, extinguishment, and termination of the existence of a city and the cessation of its corporate powers, except for the purpose of winding up the affairs of the city.

§ 56035. "Dissolution"

"Dissolution" means the dissolution, disincorporation, extinguishment, and termination of the existence of a district and the cessation of all its corporate powers, except as the commission may otherwise provide pursuant to Section 56886 or for the purpose of winding up the affairs of the district.

§ 56080. "Urban service area"

"Urban service area" means developed, undeveloped, or agricultural land, either incorporated or unincorporated, within the sphere of influence of a city, which is served by urban facilities, utilities, and services or which are proposed to be served by urban facilities, utilities, and services during the first five years of an adopted capital improvement program of the city if the city adopts that type of program for those facilities, utilities, and services. The boundary around an urban area shall be called the "urban service area boundary" and shall be developed in cooperation with a city and adopted by a commission pursuant to policies adopted by the commission in accordance with Sections 56300, 56301, and 56425.

§ 56119. Principal act of districts

It is not necessary for the principal act of any district to adopt or incorporate this division by reference and any change of organization or reorganization provided for by this division may be made by, or with respect to, any district. Except as otherwise provided in this division, in any change of organization or reorganization the principal act shall govern as to any provisions in the principal act pertaining to boundaries, to contiguity or noncontiguity of territory, to the incorporated or unincorporated status of territory, and to the overlapping of territory of a district with the territory of another district or city. Unless otherwise provided by the principal act, any territory annexed to a district shall be contiguous to the district and shall not be a part of another district formed under the same principal act without the consent of the other district.
§ 56121. Rights of creditors; Contract rights

No change of organization or reorganization, or any term or condition of a change of organization or reorganization, shall impair the rights of any bondholder or other creditor of any county, city, or district. Nor shall any change of organization or reorganization, or any term or condition of a change of organization or reorganization, impair the contract rights, or contracts entered into by a public entity created by a joint exercise of powers agreement established pursuant to Article 1 (commencing with Section 6500) of Chapter 5 of Division 7 of Title 1 of the Government Code. Notwithstanding any provision of this division, or of any change of organization or reorganization, or any term or condition of a change of organization or reorganization, each and every bondholder or other creditor may enforce all of his or her rights in the same manner, and to the same extent, as if the change of organization, reorganization, term, or condition had not been made. Those rights may also be enforced against agencies, and their respective officers, as follows:

(a) Annexation or detachment: against the city or district to, or from, which territory is annexed or detached.

(b) Incorporation: against the newly incorporated city.

(c) Formation: against the newly formed district.

(d) Disincorporation: against the successor county receiving distribution of the remaining assets of the disincorporated city.

(e) Dissolution: against the local agency receiving distribution of all or any part of the remaining assets of a dissolved district.

(f) Consolidation: against the consolidated successor city or district.

(g) Reorganization: against the affected city or district, successor county or newly incorporated city or newly formed district, as the case may be, for any of the above enumerated changes of organization or city incorporations which may be included in the particular reorganization.

§ 56375. Powers and duties

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

(a) To review and approve or disapprove with or without amendment, wholly, partially, or conditionally, proposals for changes of organization or reorganization, consistent with written policies, procedures, and guidelines adopted by the commission. The commission may initiate proposals for (1) consolidation of districts, as defined in Section 56036, (2) dissolution, (3) merger, or (4) establishment of a subsidiary district, or a reorganization that includes any of these changes of organization. A commission shall have the authority to initiate only a (1) consolidation of districts, (2) dissolution, (3) merger, (4) establishment of a subsidiary district, or (5) a reorganization that includes any of these changes of organization, 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. However, a commission shall not have the power to disapprove an annexation to a city, initiated by resolution, of contiguous territory that the commission finds is any of the following:

(1) 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.

(2) 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.

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

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.
A commission shall not impose any conditions that would directly regulate land use density or intensity, property development, or subdivision requirements. 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 buildout, 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. 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.

(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 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 not inconsistent 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 25210.90 or 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.

§ 56375.3. Additional annexation powers and duties; Approval; Requirements

(a) In addition to those powers enumerated in Section 56375, a commission shall do either of the following:

(1) Approve, after notice and hearing, the annexation to a city, and waive pro per mand proceedings pursuant to Part 4 (commencing with Section 57000) entirely, if all of the following are true:

(A) The annexation is initiated on or after January 1, 2000, and before January 1, 2007.

(B) The annexation is proposed by resolution adopted by the affected city.

(C) The commission finds that the territory contained in the annexation proposal meets all of the requirements set forth in subdivision (b).

(2) Approve, after notice and hearing, the annexation to a city, subject to subdivision (a) of Section 57080, if all of the following are true:

(A) The annexation is initiated on or after January 1, 2007.

(B) The annexation is proposed by resolution adopted by the affected city.

(C) The commission finds that the territory contained in the annexation proposal meets all of the requirements set forth in subdivision (b).

(b) Subdivision (a) applies to territory that meets all of the following requirements:

(1) It does not exceed 150 acres in area, and that area constitutes the entire island.

(2) The territory constitutes an entire unincorporated island located within the limits of a city, or constitutes a reorganization containing a number of individual unincorporated islands.

(3) It is surrounded in either of the following ways:

(A) Surrounded, or substantially surrounded, by the city to which annexation is proposed or by the city and a county boundary or the Pacific Ocean.

(B) Surrounded by the city to which annexation is proposed and adjacent cities.

(C) This subdivision shall not be construed to apply to any unincorporated island within a city that is a gated community where services are currently provided by a community services district.

(D) Notwithstanding any other provision of law, at the option of either the city or the county, a separate property tax transfer agreement may be agreed to between a city and a county pursuant to Section 99 of the Revenue and Taxation Code regarding an annexation subject to this subdivision without affecting any existing master tax sharing agreement between the city and county.

(4) It is substantially developed or developing. The finding required by this subparagraph shall be based upon one or more factors, including, but not limited to, any of the following factors:

(A) The availability of public utility services.
(B) The presence of public improvements.

(C) The presence of physical improvements upon the parcel or parcels within the area.

(5) It is not prime agricultural land, as defined by Section 56064.

(6) It will benefit from the annexation or is receiving benefits from the annexing city.

(c) Notwithstanding any other provision of this subdivision, this subdivision shall not apply to all or any part of that portion of the development project area referenced in subdivision (e) of Section 33492.41 of the Health and Safety Code that as of January 1, 2000, meets all of the following requirements:

(1) Is unincorporated territory.

(2) Contains at least 100 acres.

(3) Is surrounded or substantially surrounded by incorporated territory.

(4) Contains at least 100 acres zoned for commercial or industrial uses or is designated on the applicable county general plan for commercial or industrial uses.

§ 56425.5. Sphere of influence

(a) A determination of a city's sphere of influence, in any case where that sphere of influence includes any portion of the redevelopment project area referenced in subdivision (e) of Section 33492.41 of the Health and Safety Code, shall not preclude any other local agency, as defined in Section 54951, including the redevelopment agency referenced in Section 33492.41 of the Health and Safety Code, in addition to that city, from providing facilities or services related to development, as defined in subdivision (e) of Section 56426, to or in that portion of the redevelopment project area that, as of January 1, 2000, meets all of the following requirements:

(1) Is unincorporated territory.

(2) Contains at least 100 acres.

(3) Is surrounded or substantially surrounded by incorporated territory.

(4) Contains at least 100 acres zoned for commercial or industrial uses or is designated on the applicable county general plan for commercial or industrial uses.

(b) Facilities or services related to development may be provided by other local agencies to all or any portion of the area defined in paragraphs (1) to (4), inclusive, of subdivision (a). Subdivision (a) shall apply regardless of whether the determination of the sphere of influence is made before or after January 1, 2000.

§ 56429. Requirements for petition for removal of territory

(a) Notwithstanding Sections 56425, 56427, and 56428, a petition for removal of territory from a sphere of influence determination may be brought pursuant to this section by landowners within the redevelopment project area referenced in subdivision (e) of Section 33492.41 of the Health and Safety Code, if, at the time the petition is submitted, the area for which the petition is being requested meets all of the following requirements:

(1) Is unincorporated territory.

(2) Contains at least 100 acres.

(3) Is surrounded or substantially surrounded by incorporated territory.

(4) Contains at least 100 acres zoned for commercial or industrial uses or is designated on the applicable county general plan for commercial or industrial uses.

(b) On receipt of a petition signed by landowners owning at least 25 percent of the assessed value of the land within the affected territory, the commission shall hear and consider oral or written testimony.
(c) The petition shall be placed on the agenda of the commission in accordance with subdivision (b) of Section 56428.

(d) The executive officer shall give notice of the hearing in accordance with Section 56427.

(e) From the date of filing of the petition to the conclusion of the hearing, the commission shall accept written positions from any owner of land in the unincorporated territory that is seeking removal from a city's sphere of influence.

(f) The petition to remove territory from a city's sphere of influence shall be granted and given immediate effect if the commission finds that written positions filed in favor of the petition and not withdrawn prior to the conclusion of the hearing represent landowners owning 50 percent or more of the assessed value of the land within the affected territory.

(g) No removal of territory from a city's sphere of influence that is proposed by petition and adopted pursuant to this section shall be repealed or amended except by the petition and adoption procedure provided in subdivisions (a) to (f), inclusive. In all other respects, a removal of territory from a city's sphere of influence proposed by petition and adopted pursuant to this section shall have the same force and effect as any amendment to or removal of territory from a city's sphere of influence approved by the commission. No territory removed from a city's sphere of influence pursuant to this section shall be annexed to that city, unless the territory is subsequently added to the sphere of influence of the city pursuant to the petition and adoption procedure provided in this section.

(h) Pursuant to Section 56383, the commission may establish a schedule of fees for the costs of carrying out this section.

(i) All proper expenses incurred in connection with removal of territory from a city's sphere of influence pursuant to this section shall be paid by the proponents.

§ 56434. Extensions of services (Repealed January 1, 2007)

(a) The commission may review and approve a proposal that extends services into previously unserved territory within unincorporated areas and may review the creation of new service providers to extend urban type development into previously unserved territory within unincorporated areas to ensure that the proposed extension is consistent with the policies of Sections 56001, 56300, 56301, and the adopted policies of the commission implementing these sections, including promoting orderly development, discouraging urban sprawl, preserving open space and prime agricultural lands, providing housing for persons and families of all incomes, and the efficient extension of governmental services.

(b) This section shall remain in effect only until January 1, 2007, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2007, deletes or extends that date.

§ 56668. Factors for review of proposal

Factors to be considered in the review of a proposal shall include, but not be limited to, all of the following:

(a) Population and population density; land area and land use; per capita assessed valuation; topography, natural boundaries, and drainage basins; proximity to other populated areas; the likelihood of significant growth in the area, and in adjacent incorporated and unincorporated areas, during the next 10 years.

(b) Need for organized community services; the present cost and adequacy of governmental services and controls in the area; probable future needs for those services and controls; probable effect of the proposed incorporation, formation, annexation, or exclusion and of alternative courses of action on the cost and adequacy of services and controls in the area and adjacent areas.

"Services," as used in this subdivision, refers to governmental services whether or not the services are services which would be provided by local agencies subject to this division, and includes the public facilities necessary to provide those services.

(c) The effect of the proposed action and of alternative actions, on adjacent areas, on mutual social and economic interests, and on the local governmental structure of the county.
(d) The conformity of both the proposal and its anticipated effects with both the adopted commission policies on providing planned, orderly, efficient patterns of urban development, and the policies and priorities set forth in Section 56377.

(e) The effect of the proposal on maintaining the physical and economic integrity of agricultural lands, as defined by Section 56016.

(f) The definiteness and certainty of the boundaries of the territory, the nonconformance of proposed boundaries with lines of assessment or ownership, the creation of islands or corridors of unincorporated territory, and other similar matters affecting the proposed boundaries.

(g) Consistency with city or county general and specific plans.

(h) The sphere of influence of any local agency which may be applicable to the proposal being reviewed.

(i) The comments of any affected local agency.

(j) The ability of the newly formed or receiving entity to provide the services which are the subject of the application to the area, including the sufficiency of revenues for those services following the proposed boundary change.

(k) Timely availability of water supplies adequate for projected needs as specified in Section 65352.5.

(l) The extent to which the proposal will affect a city or cities and the county in achieving their respective fair shares of the regional housing needs as determined by the appropriate council of governments consistent with Article 10.6 (commencing with Section 65580) of Chapter 3 of Division 1 of Title 7.

(n) Any information or comments from the landowner or owners.

(o) Any information relating to existing land use designations.

§ 56740. Tidelands or submerged lands

(a) No tidelands or submerged lands, as defined in subdivision (g), which are owned by the state or by its grantees in trust shall be incorporated into, or annexed to, a city, except lands which may be approved by the State Lands Commission.

(b) If those tidelands or submerged lands are included within the boundaries of any territory proposed to be incorporated into, or annexed to, a city, a description of the boundaries, together with a map showing the boundaries, shall be filed with the State Lands Commission by the proponents of the incorporation or annexation. The filing with the State Lands Commission shall be made prior to the executive officer issuing a certificate of filing for the proposal.

(c) The State Lands Commission shall approve or disapprove all portions of the boundaries located upon the tidelands or submerged lands. In making that determination, it shall, where feasible and appropriate, require any extensions of land boundaries of the city or proposed city to be at right angles to the general direction of the shoreline at each point of intersection of the shoreline with the land boundaries of the city or proposed city. However, in the interest of ensuring an orderly and equitable pattern of offshore boundaries, the State Lands Commission may establish angles and other courses for each offshore boundary it deems necessary considering any irregularity of the shoreline, other geographical features, the effect of incorporation or annexation of the offshore or submerged lands on the uplands of the city, or proposed city, and adjoining territory, and the existing and potential boundaries of other cities and of unincorporated communities.

(d) Within 45 days after the filing of the boundary description and map with the State Lands Commission, the State Lands Commission shall make a determination of the proper offshore or submerged lands boundaries. That determination shall be final and conclusive. If the State Lands Commission does not make the determination within that time, the proposed offshore or submerged lands boundaries shall be deemed approved.

(e) The State Lands Commission shall report its determination to the executive officer and to each affected city, affected county, affected district, or person, if any, that has filed the boundary description and map. Thereafter, filings and action may be taken pursuant to this part.

(f) The local agency formation commission may review and make determinations as to all portions of the boundaries, other than those offshore or submerged lands boundaries.
(g) "Submerged lands," as used in this section, includes, but is not limited to, lands underlying navigable waters which are in sovereign ownership of the state whether or not those waters are subject to tidal influences.

§ 56744. Complete surrounding by territory

Unless otherwise determined by the commission pursuant to subdivision (m) of Section 56375, territory shall not be incorporated into, or annexed to, a city pursuant to this division if, as a result of that incorporation or annexation, unincorporated territory is completely surrounded by that city or by territory of that city on one or more sides and the Pacific Ocean on the remaining sides.

§ 56747. Abutting property

(a) Notwithstanding Section 56031, unincorporated territory consisting of property abutting on a street, highway, or road, and the street, highway, or road, to the extent that it abuts that property, together with the road strip may be annexed to a city pursuant to this division under the following conditions:

(1) The annexation may be made only if the property to be annexed is within the sphere of influence of the annexing city, as adopted by the commission, and lies within an unincorporated area wholly surrounded by the annexing city or the annexing city and the county line or the annexing city and the Pacific Ocean or the annexing city and a boundary of another city.

(2) The property to be annexed shall not be annexed if the distance between the boundary of the annexing city and the point closest to the annexing city at which the road strip connects with the abutting property, as measured by the road strip, is more than one-half mile.

(b) Subsequent annexations to the road strip and abutting territory shall not be made unless both of the following conditions are met:

(1) The distance between the point at which the original road strip abuts the boundary of the annexing city and the point closest to the city at which the road strip connects with the abutting property to be annexed, as measured by the road strip, is one-half mile or less.

(2) The annexation is contiguous to the road strip.

(c) As used in this section:

(1) "Property to be annexed" means the property abutting on a street, highway, or road, and the street, highway, or road, to the extent it abuts the property.

(2) "Road strip" means the street, highway, or road which connects the territory of the property to be annexed to the annexing city.

(d) This section applies only to the City of Cupertino.

§ 56757. Urban service areas

(a) The commission shall not review a reorganization that includes an annexation to any city in Santa Clara County of unincorporated territory that is within the urban service area of the city if the reorganization is initiated by resolution of the legislative body of the city.

(b) The city council shall be the conducting authority for the reorganization and the proceedings for the reorganization shall be initiated and conducted as nearly as may be practicable in accordance with Part 4 (commencing with Section 57000).

(c) The city council, in adopting the resolution approving the reorganization, shall make all of the following findings:

(1) That the unincorporated territory is within the urban service area of the city as adopted by the commission.
(2) That the county surveyor has determined the boundaries of the proposal to be definite and certain, and in compliance with the road annexation policies of the commission. The city shall reimburse the county for the actual costs incurred by the county surveyor in making this determination.

(3) That the proposal does not split lines of assessment or ownership.

(4) That the proposal does not create islands or areas in which it would be difficult to provide municipal services.

(5) That the proposal is consistent with the adopted general plan of the city.

(6) That the territory is contiguous to existing city limits.

(7) That the city has complied with all conditions imposed by the commission for inclusion of the territory in the urban service area of the city.

(d) All reorganizations which involve territory for which the land use designation in the general plan of the city has changed from the time that the urban service area of the city was last adopted by the commission, and which are processed by a city pursuant to this section shall be subject to an appeal to the commission upon submission of a petition of appeal, signed by at least 50 registered voters in the county.

(e) An appeal to the commission may also be made by submission of a resolution of appeal adopted by the legislative body of a special district solely for the purpose of determining whether some or all of the territory contained in the reorganization proposal should also be annexed or detached from that special district.

(f) Any petition submitted under subdivision (d) or resolution submitted under subdivision (e) shall be submitted to the executive officer within 15 days of the adoption by the city council of the resolution approving the annexation. The executive officer shall schedule the hearing for the next regular meeting of the commission as is practicable. The commission may set a reasonable appeal fee.

§ 56765. Voters required to sign petition

A petition for the disincorporation of a city shall be signed by not less than 25 percent of the registered voters residing in the city proposed to be disincorporated as shown on the county register of voters.

§ 56810. Determining amount of property tax revenue to be exchanged by affected local agencies

(a)

(1) If the proposal includes the incorporation of a city, as defined in Section 56043, the commission shall determine the amount of property tax revenue to be exchanged by the affected local agency pursuant to this section and Section 56815.

(2) If the proposal includes the formation of a district, as defined in Section 2215 of the Revenue and Taxation Code, the commission shall determine the amount of property tax to be exchanged by the affected local agency pursuant to this section.

(b) The commission shall notify the county auditor of the proposal and the services which the new jurisdiction proposes to assume within the area, and identify for the auditor the existing service providers within the area subject to the proposal.

(c) If the proposal would not transfer all of an affected agency's service responsibilities to the proposed city or district, the commission and the county auditor shall do all of the following:

(1) The county auditor shall determine the proportion that the amount of property tax revenue derived by each affected local agency pursuant to subdivision (b) of Section 93 of the Revenue and Taxation Code bears to the total amount of revenue from all sources, available for general purposes, received by each affected local agency in the prior fiscal year. For purposes of making this determination and the determination required by paragraph (3), "total amount of revenue from all sources available for general purposes" means the total amount of revenue which an affected local agency may use on a discretionary basis for any purpose and does not include any of the following:

(A) Revenue which, by statute, is required to be used for a specific purpose.
(B) Revenue from fees, charges, or assessments which are levied to specifically offset the cost of particular services and do not exceed the cost reasonably borne in providing these services.

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

(2) The commission shall determine, based on information submitted by each affected local agency, an amount equal to the total net cost to each affected local agency during the prior fiscal year of providing those services which the new jurisdiction will assume within the area subject to the proposal. For purposes of this paragraph, "total net cost" means the total direct and indirect costs that were funded by general purpose revenues of the affected local agency and excludes any portion of the total cost that was funded by any revenues of that agency that are specified in subparagraphs (A), (B), and (C) of paragraph (1).

(3) The commission shall multiply the amount determined pursuant to paragraph (2) for each affected local agency by the corresponding proportion determined pursuant to paragraph (1) to derive the amount of property tax revenue used to provide services by each affected local agency during the prior fiscal year within the area subject to the proposal. The county auditor shall adjust the amount described in the previous sentence by the annual tax increment according to the procedures set forth in Chapter 6 (commencing with Section 95) of Part 5 of Division 1 of the Revenue and Taxation Code, to the fiscal year in which the new city or district receives its initial allocation of property taxes.

(4) For purposes of this subdivision, in any county in which, prior to the adoption of Article XIII A of the California Constitution, and continuing thereafter, a separate fund or funds were established consisting of revenues derived from the unincorporated area of the county and from which fund or funds services rendered in the unincorporated area have been paid, the amount of property tax revenues derived pursuant to paragraph (3), may, at the discretion of the commission, be transferred to the proposed city over a period not to exceed 12 fiscal years following its incorporation. In determining whether the transfer of the amount of property tax revenues determined pursuant to paragraph (3) shall occur entirely within the fiscal year immediately following the incorporation of the proposed city or shall be phased in over a period not to exceed 12 full fiscal years following the incorporation, the commission shall consider each of the following:

(A) The total amount of revenue from all sources available to the proposed city.

(B) The fiscal impact of the proposed transfer on the transferring agency.

(C) Any other relevant facts which interested parties to the exchange may present to the commission in written form.

The decision of the commission shall be supported by written findings setting forth the basis for its decision.

(d) If the proposal would transfer all of an affected agency's service responsibilities to the proposed city or district, the commission shall request the auditor to determine the property tax revenue generated for the affected service providers by tax rate area, or portion thereof, and transmit that information to the commission.

(e) The executive officer shall notify the auditor of the amount determined pursuant to paragraph (3) of subdivision (c) or subdivision (d), as the case may be, and, where applicable, the period of time within which and the procedure by which the transfer of property tax revenues will be effected pursuant to paragraph (4) of subdivision (c), at the time the executive officer records a certificate of completion pursuant to Section 57203 for any proposal described in subdivision (a), and the auditor shall transfer that amount to the new jurisdiction.

(f) The amendments to this section enacted during the 1985-86 Regular Session of the Legislature shall apply to any proposal described in subdivision (a) for which a certificate of completion is recorded with the county recorder on or after January 1, 1987.

(g) For purposes of this section, "prior fiscal year" means the most recent fiscal year for which data on actual direct and indirect costs and revenues needed to perform the calculations required by this section are available preceding the issuance of the certificate of filing.

(h) An action brought by a city or district to contest any determinations of the county auditor or the commission with regard to the amount of property tax revenue to be exchanged by the affected local agency pursuant to this section shall be commenced within three years of the effective date of the city's incorporation or the district's formation. These actions may be brought by any city that incorporated or by any district that formed on or after January 1, 1986.

(i) This section applies to any city that incorporated or district that formed on or after January 1, 1986.
(j) The calculations and procedures specified in this section shall be made prior to and shall be incorporated into the calculations specified in Section 56815.

§ 56885.5. Conditional approval factors

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

1. Any of the conditions set forth in Section 56886.
2. The initiation, conduct, or completion of proceedings for another change of organization or a reorganization.
3. The approval or disapproval, with or without election, as may be provided by this division, of any resolution or ordinance ordering that change of organization or reorganization.
4. With respect to any commission determination to approve the disincorporation of a city, the dissolution of a district, or the reorganization or consolidation of agencies which results in the dissolution of one or more districts or the disincorporation of one or more cities, a condition prohibiting an agency being dissolved from taking any of the following actions, unless it first finds that an emergency situation exists as defined in Section 54956.5:
   A. Approving any increase in compensation or benefits for members of the governing board, its officers, or the executive officer of the agency.
   B. Appropriating, encumbering, expending, or otherwise obligating, any revenue of the agency beyond that provided in the current budget at the time the dissolution is approved by the commission.
   C. If the commission so conditions its approval, the commission may order that any further action pursuant to this division be continued and held in abeyance for the period of time designated by the commission, not to exceed six months from the date of that conditional approval.
   D. The commission order may also provide that any election called upon any change of organization or reorganization shall be called, held, and conducted before, upon the same date as, or after the date of any election to be called, held, and conducted upon any other change of organization or reorganization.
   D. The commission order may also provide that in any election at which the questions of annexation and district reorganization or incorporation and district reorganization are to be considered at the same time, there shall be a single question appearing on the ballot upon the issues of annexation and district reorganization or incorporation and district reorganization.

§ 57077. Commission action taken for specified change of organization or reorganization

(a) Where a change of organization consists of a dissolution, disincorporation, incorporation, establishment of a subsidiary district, consolidation, or merger, the commission shall do either of the following:

1. Order the change of organization subject to confirmation of the voters, or in the case of a landowner-voter district, subject to confirmation by the landowners, unless otherwise stated in the organization provisions of the enabling statute of the district or otherwise authorized pursuant to Section 56854.
2. Order the change of organization without election if it is a change of organization that meets the requirements of Section 56854, 57081, 57102, or 57117; otherwise, the commission shall take the action specified in paragraph (1).

(b) Where a reorganization consists of one or more dissolutions, incorporations, formations, disincorporations, mergers, establishments of subsidiary districts, consolidations, or any combination of those proposals, the commission shall do either of the following:

1. Order the reorganization subject to confirmation of the voters, or in the case of landowner-voter districts, subject to confirmation by the landowners, unless otherwise authorized pursuant to Section 56854.
2. Order the reorganization without election if it is a reorganization that meets the requirements of Section 56854, 57081, 57102, 57107, or 57111; otherwise, the commission shall take the action specified in paragraph (1).
§ 57078.5. Protests for specified communities

If the affected territory with respect to a proposed annexation to a city consists of (a) territories that are not contiguous to one another and (b) two or more distinct communities, as defined in the county general plan, the census unincorporated places listing, or other commonly recognized community designation, as determined by the commission, and any one community has more than 250 registered voters, any protest filed pursuant to Section 57078 shall be accounted separately for that community, unless the annexation is proposed pursuant to Section 56375.3.

§ 57118. Determinations relative to election

In any resolution ordering a change of organization or reorganization subject to the confirmation of the voters, the commission shall determine that an election will be held:

(a) Within the territory of each city or district ordered to be incorporated, formed, disincorporated, dissolved or consolidated.

(b) Within the entire territory of each district ordered to be merged with or established as a subsidiary district of a city, or both within the district and within the entire territory of the city outside the boundaries of the district.

(c) If the executive officer certifies a petition pursuant to Section 57108 or 57109, within the territory of the district ordered to be merged with or established as a subsidiary district of a city.

(d) Within the territory ordered to be annexed or detached.

(e) If ordered by the commission pursuant to Section 56876 or 56759, both within the territory ordered to be annexed or detached and within all or the part of the city or district which is outside of the territory.

(f) If the election is required by Section 57114, separately within the territory of each affected district that has filed a petition meeting the requirements of Section 57114.

§ 57150. Allocation of election expenses

All proper expenses incurred in conducting elections for a change of organization or reorganization pursuant to this chapter shall be paid, unless otherwise provided by agreement between the commission and the proponents, as follows:

(a) In the case of annexation or detachment proceedings, by the local agency to or from which territory is annexed, or from which territory is detached, or was proposed to be annexed or detached.

(b) In the case of incorporation or formation proceedings, by the newly incorporated city or the newly formed district, if successful, or by the county within which the proposed city or district is located if the incorporation proceedings are terminated. In the case of a separate election for city officers held following the election for incorporation pursuant to Section 56825.5, by the newly incorporated city.

(c) In the case of disincorporation or dissolution proceedings, from the remaining assets of the disincorporated city or dissolved district or by the city proposed to be disincorporated or the district proposed to be dissolved if disincorporation or dissolution proceedings are terminated.

(d) In the case of consolidation proceedings, by the successor city or district or by the local agencies proposed to be consolidated, to be paid by those local agencies in proportion to their respective assessed values, if proceedings are terminated.

(e) In the case of a reorganization:

(1) If the reorganization is ordered, by the affected local agencies or successor local agencies, as the case may be, for any of the above-enumerated changes of organization which may be included in the particular reorganization, to be paid by those local agencies in proportion to their assessed value.

(2) If the reorganization proceedings are terminated or the proposal is defeated, by the county within which the city is located.
§ 57329. County roads and highways to become city streets; Exceptions

(a) If unincorporated territory was, or is hereafter, annexed to a city, all roads and highways or portions of a road or highway in the territory which had been accepted into the county road system pursuant to Section 941 of the Streets and Highways Code are, or shall become, as the case may be, city streets on the effective date of the annexation.

(b) Subdivision (a) does not apply to a road or highway which had been accepted into the county road system pursuant to Section 941 of the Streets and Highways Code after the date of the first signature on a petition for annexation or incorporation, the adoption of a resolution of application by an affected local agency, or a date mutually agreed upon by the city and the county.

(c) Nothing in subdivision (a) requires a city to improve the affected road or highway to city standards.

§ 57376. Application of county ordinances; Joint powers agreement for construction of bridges and thoroughfares in Orange County

(a) If the newly incorporated city comprises territory formerly unincorporated, the city council shall, immediately following its organization and prior to performing any other official act, adopt an ordinance providing that all county ordinances previously applicable shall remain in full force and effect as city ordinances for a period of 120 days after incorporation, or until the city council has enacted ordinances superseding the county ordinances, whichever occurs first. However, if the Board of Supervisors of the County of Orange has adopted an ordinance or resolution, or both, pursuant to Section 50029 or 66484.3 prior to the effective date of an incorporation of a city within that county, that ordinance or resolution shall not be repealed or superseded by the city until the county ordinance or resolution has been repealed or superseded by the board of supervisors of that county. If the county ordinance or resolution is repealed or superseded, then within 30 days of the effective date of the ordinance or resolution repealing or superseding the county ordinance or resolution, the city council shall enact a new ordinance or resolution conforming in all respects to the action taken by the county. The ordinance enacted by the city council immediately following its organization also shall provide that no city ordinance enacted within that 120-day period of time be deemed to supersede any county ordinance unless the city ordinance specifically refers to the county ordinance, and states an intention to supersede it. Enforcement of the continuing county ordinances in the incorporated area shall be by the city, except insofar as enforcement services are furnished in accordance with Section 57384.

(b) In the event that the County of Orange and any city within that county have entered into a joint powers agreement for the purpose of constructing the bridges and major thoroughfares referred to in Sections 50029 and 66484.3, and if a newly incorporated city within that county comprises territory formerly unincorporated but within an area of benefit established pursuant to Section 66484.3, then the city shall comply in all respects with the agreement, including any subsequent modifications thereof, as if the city were a party thereto.

§ 57384. Period for which county to continue to serve incorporated area; Reimbursement of county by city

(a) Except as provided in subdivision (b), whenever a city has been incorporated from territory formerly unincorporated, the board of supervisors shall continue to furnish, without additional charge, to the area incorporated all services furnished to the area prior to the incorporation. Those services shall be furnished for the remainder of the fiscal year during which the incorporation became effective or until the city council requests discontinuance of the services, whichever occurs first.

(b) This subdivision applies only to incorporations for which the petition or resolution of application for incorporation is filed with the commission on or after January 1, 1987. Prior to the commission adopting a resolution making determinations, the board of supervisors may request that the city reimburse the county for the net cost of services provided pursuant to subdivision (a). The commission shall impose this requirement as a term and condition of its resolution. The city shall be obligated to reimburse the county within five years of the effective date of the incorporation or for a period in excess of five years, if the board of supervisors agrees to a longer period. As used in this subdivision, "net cost of services" means the total direct and indirect expense to the county of providing services, as determined pursuant to paragraph (2) of subdivision (c) of Section 56810, adjusted by any subsequent change in the California Consumer Price Index, less any revenues which the county retains that were generated from the formerly unincorporated
territory during the period of time the services are furnished pursuant to subdivision (a). This subdivision applies only to those services which are to be assumed by the city.

(c) At the request of the city council, the board of supervisors, by resolution, may determine to furnish, without charge, to the area incorporated all or a portion of services furnished to the area prior to the incorporation for an additional period of time after the end of the fiscal year during which the incorporation became effective. The additional period of time after the end of the fiscal year during which the incorporation became effective for which the board of supervisors determines to provide services, without charge, and the specific services to be provided shall be specifically stated in the resolution adopted by the board of supervisors.

§ 57385. County roads and highways to become city streets; Exceptions

(a) If unincorporated territory was, or hereafter becomes, incorporated, all roads and highways or portions of a road or highway in the territory which had been accepted into the county road system pursuant to Section 941 of the Streets and Highways Code are, or shall become, as the case may be, city streets on the effective date of the incorporation.

(b) Subdivision (a) does not apply to a road or highway which had been accepted into the county road system pursuant to Section 941 of the Streets and Highways Code after the date of the first signature on a petition for annexation or incorporation, the adoption of a resolution of application by an affected local agency, or a date mutually agreed upon by the city and the county.

(c) Nothing in subdivision (a) requires a city to improve the affected road or highway to city standards.

§ 57400. Rights and duties of inhabitants

Except as otherwise provided in this chapter, on and after the effective date of a disincorporation, the territory of the disincorporated city, all inhabitants within the territory, and all persons formerly entitled to vote by reason of residing within the territory shall cease to be subject to the jurisdiction of the disincorporated city and shall have none of the rights or duties of inhabitants or voters of a city.

§ 57401. Turnover of public property to county

Prior to the effective date of the disincorporation, every public officer of the city shall turn over to the board of supervisors the public property in his or her possession.

§ 57402. Certification of financial condition of city

After ascertaining that disincorporation has occurred, the commission shall determine and certify in a written statement to the board of supervisors the indebtedness of the city, the amount of money in its treasury, and the amount of any tax levy or other obligation due the city which is unpaid or has not been collected.

§ 57403. Turnover of city money

Within 30 days after the disincorporation election but prior to the effective date of the disincorporation, the city council of the disincorporated city shall turn over to the county treasurer all city money in its possession.

§ 57404. When county to determine financial condition of city

If the commission does not provide the board of supervisors with the certified statement required by Section 57402, the board shall make the determinations provided for in that section.
§ 57405. Collection of uncollected taxes

If a tax has been levied by the disincorporated city and remains uncollected, the county tax collector shall collect it when due and pay it into the county treasury.

§ 57406. Redemption of property from tax liens

All property upon which any tax levied by the disincorporated city has become delinquent, and all property sold for any tax levied by the disincorporated city, may be redeemed by any interested party, on payment to the county treasurer of the sum which the auditor estimates would have been necessary to redeem the property if there had been no disincorporation.

§ 57407. Fund for money received from city

All money paid into the county treasury pursuant to this chapter shall be placed to the credit of a special fund established for the purpose of settling the affairs of the disincorporated city.

§ 57408. Payment of city indebtedness from fund

Warrants for city indebtedness shall be drawn by the board of supervisors on the special fund.

§ 57409. Levy of taxes to pay city indebtedness

If there is not sufficient money in the treasury to the credit of the special fund to pay any city indebtedness, the board of supervisors shall cause to be levied, and there shall be collected from the territory formerly included within the city, taxes sufficient to pay the indebtedness as it becomes due.

§ 57410. Collection of taxes levied to pay indebtedness

Any taxes levied pursuant to Section 57409 shall be assessed, levied, and collected in the same manner and at the same time as other county taxes, and are additional taxes upon the property included within the territory of the disincorporated city.

§ 57411. Use of surplus in fund

Any surplus remaining in the special fund after the payment of any debts shall be, at the discretion of the board of supervisors, transferred to the school districts, community college districts, or districts included in the former city or used for the improvement of streets within the territory of the former city.

§ 57412. County to wind up city affairs

The board of supervisors shall provide for collection of debts due the city and wind up its affairs. Upon an order by the board of supervisors, the appropriate county officer shall perform any act necessary for winding up the city affairs, with the same effect as if it had been performed by the proper city officer.

§ 57413. Collection of debts to city

The county succeeds to all of the rights of the city in the debts and may collect or sue for them in the name of the county.
§ 57414. Liability for expenses of winding up

All costs and expenses incurred in winding up city affairs are part of the special fund.

§ 57415. Assumption of control of utility owned by city

By ordinance, the board of supervisors may assume control of, and continue to administer, all electric, power, lighting, or gas plants and all systems of waterworks, street lighting, or any other public utility owned by the city at the time of its disincorporation.

§ 57416. Levy of taxes to pay for administration or improvement of utility

If the revenues from any public utility referred to in Section 57415 are not sufficient for its administration, conduct, or improvement, the board of supervisors shall levy a special tax upon all property within the disincorporated city. The special tax shall be levied upon the assessed value of the property as shown by the equalized assessment roll in effect on the first day of March of that year, and collected in the same manner and form of other county taxes.

§ 57417. Fund for utility taxes

All sums collected shall be placed in a separate fund in the county treasury for the administration, conduct, and improvement of the public utility for which the tax is levied.

§ 57418. Transfer of property and liability for debts to existing city

If any city has within its boundaries, at the time of incorporation, at least two-thirds of the assessed value of an assessable property formerly contained within a disincorporated city, it becomes the owner of all public property formerly belonging to the disincorporated city and that proportion of the debts, liabilities, and credits owned by or due to the disincorporated city as the value of the assessable property of the disincorporated city lying within the boundaries of the new city bears to the value of all assessable property formerly contained within the disincorporated city. The value is that shown by the equalized assessment roll in effect in the fiscal year in which the city was disincorporated.

§ 57419. Territories not liable for debts of former city

No tax shall be levied upon any territory not included within the former limits of the disincorporated city for any debt or liability of the disincorporated city.

§ 57420. Determination of proportion of former city in existing city

Upon written request by the legislative body of a newly incorporated city, the board of supervisors shall cause the county auditor to prepare, without cost, a statement of the value of the assessable property in the disincorporated city and the value of that property now contained in the incorporated city. If the statement shows that at least two-thirds of the assessed value of all assessable property formerly contained within the disincorporated city is contained within the boundaries of the newly incorporated city, the board of supervisors shall fix the relative proportion by an order entered in the minutes, and the newly incorporated city is liable for that proportion of the debts and liabilities of the disincorporated city.

§ 57421. Effect of existing city taking over portion of former city

The board of supervisors shall forward a certified copy of the order to the Secretary of State and the city clerk, and turn over to the city council all public property taken by the board of supervisors and the proportion of the special fund
to which the city is entitled. Thereafter, ownership of, and title to, all public property formerly belonging to the disincorporated city is vested in the city as fully as if the property had been originally acquired by it.

§ 57422. Levy of taxes on former city's territory

Annually, at the time other city taxes are levied and collected, the city council shall levy and collect a special tax on the territory of the disincorporated city within the limits of the city sufficient to pay its proportion of the bonded indebtedness as it becomes due.

§ 57423. Levy of taxes by new city on remainder of territory

Annually, at the time other county taxes are levied and collected, the board of supervisors shall levy and collect a special tax on the remainder of the territory sufficient to pay the balance of the debt, and pay this sum to the city treasurer.

§ 57424. Payment of bonded indebtedness by new city

With the proceeds of those taxes, the city treasurer shall pay the bonded indebtedness as it becomes due.

§ 57425. Property sold for taxes

If any property within the former limits of the disincorporated city was sold for taxes levied by that city, it may be redeemed or a tax bond issued as if the city had not disincorporated. Those proceedings shall be had and deeds issued in the name of the city in which the land is situated.

§ 57450. Powers

On and after the effective date of the dissolution of a district, the district shall be dissolved, disincorporated, and extinguished, its existence shall be terminated, and all of its corporate powers shall cease, except as the commission may otherwise provide pursuant to Section 56886 or for the purpose of winding up the affairs of the district and as otherwise provided in this chapter. The general provisions of this chapter shall not be construed as limiting in any manner the authority of the commission to impose one or more of the terms and conditions set forth in Section 56886.

§ 57451. Determination of successor to district

For the purpose of winding up the affairs of a dissolved district, the successor of the dissolved district shall be determined as follows:

(a) If the territory of a dissolved district is located entirely within the incorporated territory of a single city, the city is the successor.

(b) If the territory of a dissolved district is located entirely within the unincorporated territory of a single county, the county is the successor.

(c) If the territory of a dissolved district is located within the incorporated territory of more than one city or the unincorporated territory of more than one county, or any combination of the incorporated or unincorporated territory of two or more such cities and counties, the successor is that city whose incorporated territory or that county whose unincorporated territory shall, upon the effective date of dissolution, contain the greater assessed value of all taxable property within the territory of the dissolved district, as shown on the last equalized assessment roll or rolls of the county or counties.

(d) If the terms and conditions provide that all of the remaining assets of a dissolved district shall be distributed to a single existing district, the single existing district is the successor.
(e) If the terms and conditions provide that all of the remaining assets of a dissolved district shall be distributed to two or more existing districts, the successor is that existing district which, upon the effective date of dissolution, contains the greater assessed value of all taxable property within the territory of the dissolved district, as shown on the last equalized assessment roll or rolls of the county or counties.

§ 57457. Distribution of district assets

Remaining assets of the dissolved district shall be distributed by the successor as follows:

(a) If the territory of the dissolved district is located entirely within the incorporated territory of a single city, all of the assets shall be distributed to that city.

(b) If the territory of the dissolved district is located entirely within the unincorporated territory of a single county, all the assets of the dissolved district shall be distributed to that county.

(c) If the territory of a dissolved district is located within the incorporated territory of more than one city, or the unincorporated territory of more than one county, or any combination of the incorporated or unincorporated territory of two or more such cities and counties, the assets of the dissolved district shall be apportioned between all such cities and counties and distributed as follows:

(1) All real property located within the incorporated territory of any city or within the unincorporated territory of any county, as the case may be, shall be distributed to that city or county.

(2) All moneys or funds including cash on hand and money due but uncollected and all personal property shall be divided among and distributed to each city or county in the proportion that the assessed value of the taxable property of the dissolved district within the incorporated territory of each city or within the unincorporated territory of each county shall bear to the total assessed value of all taxable property within the dissolved district, the assessed values being those shown upon the last equalized assessment roll or rolls of the county or counties upon the effective date of the dissolution.

§ 57475. Charters; Officers

If the successor city has a freeholder’s charter, the successor city shall be governed as a new city under the freeholder’s charter of the successor city. If the successor city was organized under former Part 2 (commencing with Section 35000) of Division 2 of Title 4, or its predecessors, the successor city shall be governed in the same manner as a new city. Except as otherwise provided in this chapter, the successor city shall be governed in the name of the successor city. If the electors have expressed a preference for the name of the successor city, the successor city is deemed to have the name favored by the electors. The predecessor cities are dissolved and disincorporated and if any of them has a freeholder’s charter, it is deemed surrendered and annulled and they are merged into the successor city. Immediately upon qualifying, the officers of the successor city who have been elected shall enter upon the duties of their offices and hold office until the next general municipal election and until their successors are elected and qualified. All persons in possession of, or occupying, the offices in each of the predecessor cities shall surrender them immediately to the proper officers of the successor city.