

AMENDMENTS TO ASSEMBLY BILL NO. 1109

Amendment 1

Strike out lines 1 and 2 of the title and insert:

An act to amend Section 56375 of, and to add Sections 56057.5 and 56858 to, the Government Code, relating to local government.

Amendment 2

On page 1, before line 1, insert:

SECTION 1. Section 56057.5 is added to the Government Code, to read:

56057.5. "Nonperforming district" means a district that meets the following criteria as determined by the commission:

(a) The district provides a service that cannot be terminated without a substantial adverse effect on public health or safety in the territory of the district.

(b) The district is nonperforming. A district is nonperforming if one or more of the following are occurring:

(1) The district is not currently providing the service at minimally acceptable levels or is likely not to be able to provide the service at minimally acceptable levels in the near future.

(2) The district's income and other resources are insufficient to maintain the operations of the agency at minimally acceptable levels.

(3) The legislative body is unable to properly function due to vacancies on the body.

(4) The district has not maintained adequate and properly trained staff or contracted for services to provide the service at minimally adequate levels.

SEC. 2. Section 56375 of the Government Code is amended to read:

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

(a) (1) To review and approve 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.

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

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

(B) The dissolution of a district.

(C) A merger.

(D) The establishment of a subsidiary district.

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

(F) An order for administration of nonperforming districts.

~~(F)~~

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

(3) A commission may initiate a proposal described in paragraph (2) only if that change of organization or reorganization is consistent with a recommendation or



conclusion of a study prepared pursuant to Section 56378, 56425, or 56430, and the commission makes the determinations specified in subdivision (b) of Section 56881.

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

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

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

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

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

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

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

(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 rezoning designations. No subsequent change may be made to the general plan for the annexed territory or zoning that is not in conformance to the rezoning designations for a period of two years after the completion of the annexation, unless the legislative body for the city makes a finding at a public hearing that a substantial change has

occurred in circumstances that necessitate a departure from the rezoning in the application to the commission.

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

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

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

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

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

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

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

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

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

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

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

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

SEC. 3. Section 56858 is added to the Government Code, to read:

56858. (a) Upon receipt by the commission of a proposed change of organization or reorganization that includes a request for administration of a district, the executive officer shall place the proposal on the agenda for the next available commission meeting for preliminary consideration and shall transmit a copy of the proposal to the subject district and to the potential administrator agency.

(b) After considering any comments received at the preliminary hearing, the commission shall do one of the following:

(1) Determine that the agency does not meet the criteria for consideration for administration and terminate the proceedings.

(2) Direct commission staff to explore alternatives to administration.

(3) Direct the executive officer to commence preparation of a performance study of the district operations for formal hearing and consideration by the commission.

(c) If the commission determines at the preliminary hearing that the nonperformance of the district constitutes an imminent threat to public health and safety, it may order immediate placement of the district under temporary administration. The commission shall appoint an administrator immediately. The administrator shall assume immediate control of the agency. The commission shall prepare a performance study, pursuant to subdivision (d), and make a final determination of whether to continue the temporary administration on a longer term basis.

(d) The executive officer shall prepare, or cause to be prepared, a performance study of the district to provide information to the commission to determine whether to place the district under administration by another agency. The study shall include, but is not limited to, all of the following:

(1) A financial analysis of district income and expenses and a two-year projection of the district's income and expenses.

(2) An analysis of services being provided and an evaluation of whether the services meet and are likely to continue to meet minimally acceptable levels of service.

(3) An analysis of board, management, and staffing functionality.

(4) An identification of the likely agency to assume administration if ordered.

(5) An evaluation of the feasibility of alternatives to administration.

(6) Any other information as the commission or executive officer deems necessary.

(e) If the commission, at its preliminary hearing, decides to proceed with consideration of placing the district under administration, it may order that the district operations be limited as provided in paragraph (4) of subdivision (a) of Section 56885.5 pending the commission determination.

67231

03/31/09 04:48 PM
RN 09 10798 PAGE 5
Substantive

Amendment 3
On page 1, strike out lines 1 to 9, inclusive, and strike out page 2

- 0 -