

L A F C O M E M O R A N D U M

SANTA BARBARA LOCAL AGENCY FORMATION COMMISSION
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May 5, 2016 (Agenda)

TO: Each Member of the Commission

FROM: Paul Hood ^{PLH}
Executive Officer

SUBJECT: **Report on 2016 CALAFCO Legislative Committee Activities**

This is an Informational Report. No Action is Necessary

The CALAFCO Legislative Committee convened by conference call on April 22, 2016. A copy of the Meeting Agenda is attached as **Exhibit A**.

Of significance interest and subject to much discussion at the meeting, was Senate Bill 1318 (Wolk). A copy of the bill is attached as **Exhibit B**. SB 1318 deals with Disadvantaged Unincorporated Communities that lack adequate drinking water and wastewater services and infrastructure within or contiguous with an agencies sphere of influence. Staff will explain the impact on LAFCO's at the Commission meeting.

As part of last month's legislative update (SB 1266 (McGuire), I mentioned that the proposal to amend the Joint Exercise of Power Act (JPA) is a priority for CALAFCO this year. CALAFCO has had conversations with the author's office and stakeholders to reach agreement on language in the bill. The main issue is that LAFCO be apprised of the formation of JPA's. The stakeholders are now in agreement and the bill is moving ahead. SB 1266 is attached as **Exhibit C**.

EXHIBITS

Exhibit A CALAFCO Legislative Committee Agenda – April 22, 2016
Exhibit B Senate Bill 1318 (Wolk)
Exhibit C Senate Bill 1266 (McGuire)

Please contact the LAFCO office if you have any questions.

INFORMATION ITEM NO. 1

CALAFCO Legislative Committee MEETING AGENDA

**Friday, 22 April 2016 ♦ 9:30 am – 2:00 pm
Best Best & Krieger
500 Capitol Mall, Suite 1700, Sacramento, CA 95814**

		<u>Page</u>
1. Establish Quorum, Review Agenda	<i>P. Miller</i>	
2. Approval of minutes of the March 18, 2016 meeting*	<i>P. Miller</i>	3
3. 2016 Omnibus Bill Update - <u>AB 2910</u> *	<i>P. Novak</i>	7
4. Discussion of CALAFCO Sponsored Legislation* a. <u>SB 1266</u> (McGuire)	<i>K. Simonds</i>	19
5. Consideration of Positions of other LAFCo-related Legislation* <i>Priority One Bills:</i> a. <u>AB 2032</u> (Linder) – Disincorporations (As amended) b. <u>SB 1262</u> (Pavley) – Water Supply Planning c. <u>SB 1318</u> (Wolk) – Local Agencies and Water Infrastructure <i>Priority Three Bills:</i> d. <u>AB 2470</u> (Gonzalez) – Municipal water districts and Indian tribes	<i>P. Miller</i>	25
6. Discussion of other CALAFCO tracked legislation (Positions previously taken)* a. <u>AB 2471</u> (Quirk) - Healthcare Districts b. <u>AB 2414</u> (E. Garcia) – Desert Healthcare District c. <u>AB 1707</u> (Linder) – Public Records d. <u>AB 2801</u> (Gallagher) – Local Gov't fees for written protests	<i>P. Miller</i>	96
7. Other CALAFCO Tracked Legislation*	<i>P. Miller</i>	105
8. Other suggestions for consideration and tracking		
9. Items for Next Meeting		
10. Adjournment to 20 May, 2016 meeting via conference call		

* Please see attached staff report.



California
LEGISLATIVE INFORMATION

SB-1318 Local government: drinking water infrastructure or services: wastewater infrastructure or services. (2015-2016)

AMENDED IN SENATE APRIL 12, 2016

AMENDED IN SENATE MARCH 28, 2016

CALIFORNIA LEGISLATURE— 2015–2016 REGULAR SESSION

SENATE BILL

No. 1318

Introduced by Senator Wolk

February 19, 2016

An act to amend Sections ~~56133, 56133.5,~~ 56375, 56425, and 56430 of the Government Code, relating to local government.

LEGISLATIVE COUNSEL'S DIGEST

SB 1318, as amended, Wolk. Local government: drinking water infrastructure or services: wastewater infrastructure or services.

The Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 governs the procedures for the formation and change of organization of cities and special districts.

~~Existing law authorizes a city or district to provide new or extended services by contract or agreement outside its jurisdictional boundaries only if the city or district requests and receives permission to do so from the local agency formation commission in the affected county. Under existing law, the commission may authorize a city or district to provide new or extended services outside both its jurisdictional boundaries and its sphere of influence under specified circumstances.~~

~~This bill would prohibit the commission from authorizing a city or a district to extend drinking water infrastructure or services or wastewater infrastructure or services until it has entered into an enforceable agreement to extend the same services to all disadvantaged communities within its sphere of influence or adjacent to its jurisdictional boundaries, unless specified conditions are met. The bill would prohibit the commission from approving a sphere of influence update where there exists a disadvantaged unincorporated community within the city's or special district's sphere of influence or contiguous with a city's or qualifying special district's jurisdictional boundaries that lacks safe drinking water infrastructure or services or adequate wastewater infrastructure or services unless specified conditions are met.~~

~~Existing law establishes a pilot program for the Napa and San Bernardino local agency formation commissions that permits these commissions to authorize a city or district to provide new or extended services outside both its jurisdictional boundaries and its sphere of influence under specified circumstances.~~

EXHIBIT B

~~This bill would prohibit those commissions from authorizing a city or a district to extend drinking water infrastructure or services or wastewater infrastructure or services until it has entered into an enforceable agreement to extend those services to all disadvantaged communities within its sphere of influence or contiguous with a city's or district's jurisdictional boundaries that lack safe drinking water or adequate wastewater infrastructure or services unless specified conditions are met.~~

Existing law, except as otherwise provided, prohibits a local agency formation commission from approving an annexation to a city of any territory greater than 10 acres, or as determined by commission policy, where there exists a disadvantaged unincorporated community, as specified, unless an application to annex the disadvantaged unincorporated community to the subject city has been filed with the executive officer.

~~This bill would extend that prohibition to an annexation to a qualified special district. The bill would additionally prohibit a commission from approving an annexation to a city or qualified special district of any territory greater than 10 acres, or as determined by commission policy, where there exists a disadvantaged unincorporated community within the sphere of influence of a city or qualified special district or contiguous to the city's or qualified special district's jurisdictional boundaries that lacks safe drinking water infrastructure or services or adequate wastewater infrastructure or services, unless, among other things, the city or qualified special district has entered into an enforceable agreement to extend those services into the disadvantaged community or communities. The bill would define "qualified special district" to mean a special district with more than 500 service connections that provides drinking water or wastewater services.~~

Existing law requires a local agency formation commission to develop and determine the sphere of influence of each city and each special district within the county and to enact policies designed to promote the logical and orderly development of areas within the sphere. Existing law authorizes the commission, in determining a sphere of influence, to assess the feasibility of governmental reorganization of particular agencies and recommend reorganization of those agencies, as provided.

~~This bill would instead require the commission to assess the feasibility of governmental reorganization of particular agencies and recommend reorganization of those agencies. The bill would prohibit a commission from approving a sphere of influence update that removes a disadvantaged community from a city's or special district's sphere of influence unless the commission makes a finding that removal of the community will result in improved service delivery to the community.~~

Existing law requires a commission, in preparing and updating spheres of influence, to conduct a service review of the municipal services provided in the county or other area designated by the commission. Existing law authorizes the commission, in conducting the review, to assess various alternatives for improving efficiency and affordability of infrastructure and service delivery, as specified, and to include a review of whether the agencies under review are in compliance with the California Safe Drinking Water Act.

Where there exists a disadvantaged unincorporated community that lacks adequate drinking water and wastewater services and infrastructure within or contiguous with the subject sphere, this bill would instead require the commission to make the assessment of alternatives and to include the safe drinking water review described above if the information is readily available *from the State Water Resources Control Board or other sources. This bill would, on or before January 1, 2022, and every 5 years thereafter, require the commission to conduct service reviews sufficient to have reviewed the entire territory of the county. The bill would require the commission to file a map of the county that identifies disadvantaged unincorporated communities that lack safe drinking water or adequate wastewater with the Office of Planning and Research, and would require the Office of Planning and Research to post the map on its Internet Web site. The bill would additionally require the commission, within 2 years of identifying a disadvantaged unincorporated community that lacks safe drinking water or adequate wastewater services, to recommend a plan based on the alternatives analyzed and adopt any actions necessary to implement the plan, as specified.*

By imposing new duties on local government officials, this bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

Vote: majority Appropriation: no Fiscal Committee: yes Local Program: yes

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

~~SECTION 1. Section 56133 of the Government Code is amended to read:~~

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

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

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

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

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

~~(c) The commission shall not authorize a city or a district to extend drinking water infrastructure or services or wastewater infrastructure or services pursuant to this section until it has entered into an enforceable agreement to extend the same services to all disadvantaged communities within its sphere of influence or adjacent to its jurisdictional boundaries that lack safe drinking water or adequate wastewater services or infrastructure as soon as feasible to do so but within a period no longer than five years, unless either of the following conditions are met:~~

~~(1) The commission finds, based upon written evidence, that a majority of the residents of the affected disadvantaged community or communities are opposed to receiving the identified service or services. These findings shall not interfere with or inform other programs or policies designed to expand basic services to disadvantaged unincorporated communities, including, but not limited to, Sections 116680 to 116684, inclusive, of the Health and Safety Code.~~

~~(2) The extension of services is authorized pursuant to subdivision (c) or the extension of services is to a disadvantaged community.~~

~~(e)~~

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

~~(f)~~

~~This section does not apply to any of the following:~~

~~(1) Two or more public agencies where the public service to be provided is an alternative to, or substitute for, public services already being provided by an existing public service provider and where the level of service to be provided is consistent with the level of service contemplated by the existing service provider.~~

~~(2) The transfer of nonpotable or nontreated water.~~

~~(3) The provision of surplus water to agricultural lands and facilities, including, but not limited to, incidental residential structures, for projects that serve conservation purposes or that directly support agricultural industries. However, prior to extending surplus water service to any project that will support or induce~~

~~development, the city or district shall first request and receive written approval from the commission in the affected county.~~

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

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

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

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

~~(h)The commission shall not approve a sphere of influence update where there exists a disadvantaged unincorporated community within the city's or special district's sphere of influence or contiguous with a city's or qualifying special district's jurisdictional boundaries that lacks safe drinking water infrastructure or services or adequate wastewater infrastructure or services unless the city or special district or qualified special district has entered into an enforceable agreement to extend those services into the disadvantaged community or communities as soon as feasible to do so but within a period no longer than five years of the approval of the sphere of influence change or the commission finds, based upon written evidence, that a majority of the residents of the affected disadvantaged community or communities are opposed to receiving the identified service or services.~~

~~(1)These findings shall not interfere with or inform other programs or policies designed to expand basic services to disadvantaged unincorporated communities, including, but not limited to, Sections 116680 to 116684, inclusive, of the Health and Safety Code.~~

~~(2)A qualifying special district is a special district with more than 500 service connections that provides drinking water or wastewater services.~~

~~SEC. 2. Section 56133.5 of the Government Code is amended to read:~~

~~56133.5.(a)A pilot program is hereby established for the Napa and San Bernardino commissions. If consistent with adopted policy, the Napa and San Bernardino commissions may authorize a city or district to provide new or extended services outside its jurisdictional boundary and outside its sphere of influence to support existing or planned uses involving public or private properties, subject to approval at a noticed public hearing in which the commission makes all of the following determinations:~~

~~(1)The extension of service or services deficiency was identified and evaluated in a review of municipal services prepared pursuant to Section 56430.~~

~~(2)The extension of service will not result in either (1) adverse impacts on open space or agricultural lands or (2) growth inducing impacts.~~

~~(3)A sphere of influence change involving the subject territory and its affected agency is not feasible under this division or desirable based on the adopted policies of the commission.~~

~~(b)Subdivision (d) of Section 56133 shall apply to any request for new or extended services pursuant to this section.~~

~~(c)The commissions shall not authorize a city or a district to extend drinking water infrastructure or services or wastewater infrastructure or services pursuant to this section until it has entered into an enforceable agreement to extend those services to all disadvantaged communities within its sphere of influence or contiguous with a city's or district's jurisdictional boundaries that lack safe drinking water or adequate wastewater infrastructure or services as soon as feasible to do so but within a period no longer than five years of the approval of the underlying extension, unless either of the following conditions are met:~~

~~(1)The commission finds, based upon written evidence, that a majority of the residents of the affected disadvantaged community or communities are opposed to receiving the identified service or services. These findings shall not interfere with or inform other programs or policies designed to expand basic services to disadvantaged unincorporated communities, including, but not limited to, Sections 116680 to 116684, inclusive, of the Health and Safety Code.~~

~~(2)The extension of services is to a disadvantaged community.~~

~~(d) For purposes of this section, "planned use" means any project that is included in an approved specific plan as of July 1, 2015.~~

~~(e) The Napa and San Bernardino commissions shall submit a report before January 1, 2020, to the Legislature on their participation in the pilot program, including how many requests for extension of services were received pursuant to this section and the action by the commission to approve, disapprove, or approve with conditions. The report required to be submitted pursuant to this subdivision shall be submitted in compliance with Section 9795 of the Government Code.~~

~~(f) The pilot program established pursuant to this section shall be consistent with Chapter 8.5 (commencing with Section 1501) of the Public Utilities Code.~~

~~(g) This section shall remain in effect only until January 1, 2021, and as of that date is repealed.~~

~~SEC. 3. Section 56375 of the Government Code is amended to read:~~

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

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

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

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

~~(B) The dissolution of a district.~~

~~(C) A merger.~~

~~(D) The establishment of a subsidiary district.~~

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

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

~~(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.

~~(8)(A) Except for those changes of organization or reorganization authorized under Section 56375.3, and except as provided by subparagraph (B), a commission shall not approve an annexation to a city or to a qualified special district of any territory greater than 10 acres, or as determined by commission policy, where either of the following exists:~~

~~(i)(I) A disadvantaged unincorporated community that is contiguous to the area of proposed annexation, unless an application to annex the disadvantaged unincorporated community to the subject city has been filed with the executive officer.~~

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

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

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

~~(ii) A disadvantaged unincorporated community within the sphere of influence of a city or qualified special district or contiguous to the city's or qualified special district's jurisdictional boundaries that lacks safe drinking water infrastructure or services or adequate wastewater infrastructure or services unless any of the following conditions are met:~~

~~(I) The city or qualified special district has entered into an enforceable agreement to extend those services into the disadvantaged community or communities as soon as feasible to do so but within a period no longer than five years of the approval of the annexation.~~

~~(II) The commission finds, based upon written evidence, that a majority of the residents of the affected disadvantaged community or communities are opposed to receiving the identified service or services. These findings shall not interfere with or inform other programs or policies designed to expand basic services to disadvantaged unincorporated communities, including, but not limited to, Sections 116680 to 116684, inclusive, of the Health and Safety Code.~~

~~(III) The annexation is an annexation of a disadvantaged community.~~

~~(B) For purposes of this paragraph, "a qualified special district" means a special district with more than 500 service connections that provides drinking water or wastewater services.~~

~~(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.~~

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

SECTION 1. *Section 56375 of the Government Code is amended to read:*

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

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

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

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

(B) The dissolution of a district.

(C) A merger.

(D) The establishment of a subsidiary district.

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

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

(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 rezone 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.

(8) (A) Except for those changes of organization or reorganization authorized under Section 56375.3, and except as provided by subparagraph (B), a commission shall not approve an annexation to a city *or to a qualified special district* of any territory greater than 10 acres, or as determined by commission policy, where there exists a disadvantaged unincorporated community that is contiguous to the area of proposed annexation, unless an application to annex the disadvantaged unincorporated community to the subject city has been filed with the executive officer.

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

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

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

(C) *For purposes of this paragraph, "a qualified special district" means a special district with more than 500 service connections that provides drinking water or wastewater services.*

(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.

(r) To approve with or without amendment, wholly, partially, or conditionally, or disapprove pursuant to this section the annexation of territory served by a mutual water company formed pursuant to Part 7 (commencing

with Section 14300) of Division 3 of Title 1 of the Corporations Code that operates a public water system to a city or special district. Any annexation approved in accordance with this subdivision shall be subject to the state and federal constitutional prohibitions against the taking of private property without the payment of just compensation. This subdivision shall not impair the authority of a public agency or public utility to exercise eminent domain authority.

SEC. 4. SEC. 2. Section 56425 of the Government Code is amended to read:

56425. (a) In order to carry out its purposes and responsibilities for planning and shaping the logical and orderly development and coordination of local governmental agencies subject to the jurisdiction of the commission to advantageously provide for the present and future needs of the county and its communities, the commission shall develop and determine the sphere of influence of each city and each special district, as defined by Section 56036, within the county and enact policies designed to promote the logical and orderly development of areas within or adjacent to the sphere.

(b) Prior to a city submitting an application to the commission to update its sphere of influence, representatives from the city and representatives from the county shall meet to discuss the proposed new boundaries of the sphere and explore methods to reach agreement on development standards and planning and zoning requirements within the sphere to ensure that development within the sphere occurs in a manner that reflects the concerns of the affected city and is accomplished in a manner that promotes the logical and orderly development of areas within the sphere. If an agreement is reached between the city and county, the city shall forward the agreement in writing to the commission, along with the application to update the sphere of influence. The commission shall consider and adopt a sphere of influence for the city consistent with the policies adopted by the commission pursuant to this section, and the commission shall give great weight to the agreement to the extent that it is consistent with commission policies in its final determination of the city sphere.

(c) If the commission's final determination is consistent with the agreement reached between the city and county pursuant to subdivision (b), the agreement shall be adopted by both the city and county after a noticed public hearing. Once the agreement has been adopted by the affected local agencies and their respective general plans reflect that agreement, then any development approved by the county within the sphere shall be consistent with the terms of that agreement.

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

(e) In determining the sphere of influence of each local agency, the commission shall consider and prepare a written statement of its determinations with respect to each of the following:

- (1) The present and planned land uses in the area, including agricultural and open-space lands.
- (2) The present and probable need for public facilities and services in the area.
- (3) The present capacity of public facilities and adequacy of public services that the agency provides or is authorized to provide.
- (4) The existence of any social or economic communities of interest in the area if the commission determines that they are relevant to the agency.
- (5) For an update of a sphere of influence of a city or special district that provides public facilities or services related to sewers, municipal and industrial water, or structural fire protection, that occurs pursuant to subdivision (g) on or after July 1, 2012, the present and probable need for those public facilities and services of any disadvantaged unincorporated communities within or adjacent to the existing sphere of influence.

(f) Upon determination of a sphere of influence, the commission shall adopt that sphere.

(g) On or before January 1, 2008, and every five years thereafter, the commission shall, as necessary, review and update each sphere of influence.

(h) In determining a sphere of influence, the commission ~~shall~~ *may* assess the feasibility of governmental reorganization of particular agencies and recommend reorganization of those agencies when reorganization is found to be feasible and if reorganization will further the goals of orderly development and efficient and

affordable service delivery. The commission shall make all reasonable efforts to ensure wide public dissemination of the recommendations.

(i) When adopting, amending, or updating a sphere of influence for a special district, the commission shall establish the nature, location, and extent of any functions or classes of services provided by existing districts.

(j) When adopting, amending, or updating a sphere of influence for a special district, the commission may require existing districts to file written statements with the commission specifying the functions or classes of services provided by those districts.

(k) The commission shall not approve a sphere of influence update that removes a disadvantaged community from a city or a special district unless the commission makes a finding, based on written evidence, that the removal of the disadvantaged community will result in improved service delivery to the community.

SEC. 5. SEC. 3. Section 56430 of the Government Code is amended to read:

56430. (a) In order to prepare and to update spheres of influence in accordance with Section 56425, the commission shall conduct a service review of the municipal services provided in the county or other appropriate area designated by the commission. The commission shall include in the area designated for service review the county, the region, the subregion, or any other geographic area as is appropriate for an analysis of the service or services to be reviewed, and shall prepare a written statement of its determinations with respect to each of the following:

- (1) Growth and population projections for the affected area.
- (2) The location and characteristics of any disadvantaged unincorporated communities within or contiguous to the sphere of influence.
- (3) Present and planned capacity of public facilities, adequacy of public services, and infrastructure needs or deficiencies including needs or deficiencies related to sewers, municipal and industrial water, and structural fire protection in any disadvantaged, unincorporated communities within or contiguous to the sphere of influence.
- (4) Financial ability of agencies to provide services.
- (5) Status of, and opportunities for, shared facilities.
- (6) Accountability for community service needs, including governmental structure and operational efficiencies.
- (7) Any other matter related to effective or efficient service delivery, as required by commission policy.

(b) In conducting a service review, the commission shall comprehensively review all of the agencies that provide the identified service or services within the designated geographic area. Where there exists a disadvantaged unincorporated community that lacks adequate drinking water and wastewater services and infrastructure within or contiguous with the subject sphere, the commission shall assess various alternatives for improving efficiency and affordability of *drinking water or wastewater* infrastructure and service delivery within and contiguous to the sphere of influence, including, but not limited to, the consolidation of governmental agencies or the extension of services, or both.

(c) In conducting a service review, the commission shall include a review of whether the agencies under review, including any public water system as defined in Section 116275 of the Health and Safety Code, are in compliance with the California Safe Drinking Water Act (Chapter 4 (commencing with Section 116270) of Part 12 of Division 104 of the Health and Safety Code) if the information is readily available *from the State Water Resources Control Board or other sources*. A public water system may satisfy any request for information as to compliance with that act by submission of the consumer confidence or water quality report prepared by the public water system as provided by Section 116470 of the Health and Safety Code.

(d) The commission may request information, as part of a service review under this section, from identified public or private entities that provide wholesale or retail supply of drinking water, including mutual water companies formed pursuant to Part 7 (commencing with Section 14300) of Division 3 of Title 1 of the Corporations Code, and private utilities, as defined in Section 1502 of the Public Utilities Code.

(e) (1) The commission shall conduct a service review before, or in conjunction with, but no later than the time it is considering an action to establish a sphere of influence in accordance with Section 56425 or 56426.5 or to update a sphere of influence pursuant to Section 56425.

(2) On or before January 1, 2022, and every five years thereafter, the commission shall conduct service reviews sufficient to have reviewed the entire territory of the county.

(f) The commission shall file a map of the county that identifies disadvantaged unincorporated communities that lack safe drinking water or adequate wastewater in electronic format with the Office of Planning and Research. The Office of Planning and Research shall make the map available on its Internet Web site.

(g) (1) Within two years of identification of a disadvantaged unincorporated community that lacks safe drinking water or adequate wastewater services pursuant to this section, the commission shall recommend a plan based on the alternatives analyzed and shall adopt any actions necessary to implement the plan, including sphere of influence updates, extensions of service, or changes of organization.

(2) Actions taken to adopt a plan under this subdivision shall not be subject to an election or any protest proceedings, as defined in Section 56069.5, except that the commission shall conduct protest proceedings for residents of the disadvantaged community.

(3) The commission shall not be required to adopt or implement a plan if the commission finds, based on substantial evidence, that there is no technical or economically feasible way of connecting the disadvantaged unincorporated community to an existing system, considering any financial assistance available from the State Water Resources Control Board or any other applicable source of financial assistance. These findings shall not interfere with or inform other programs or policies designed to expand basic services to disadvantaged unincorporated communities, including, but not limited to, Sections 116680 to 116684, inclusive, of the Health and Safety Code.

(h) (1) Notwithstanding Section 56133, 56133.5, or 56375, on and after January 1, 2022, a commission shall not change the sphere of influence of, or authorize extension of services by, a qualifying city or special district if the commission has not done one of the following:

(A) Conducted the analysis required by this section.

(B) Adopted a plan or taken the actions required by subdivision (g).

(2) Notwithstanding Section 56133, 56133.5, or 56375, a commission shall not change the sphere of influence of, or authorize an extension of services by, a qualifying city or special district if the city or special district has been designated in a plan developed pursuant to subdivision (g) to provide water or wastewater services and the city or special district has not begun providing water or wastewater service, as identified by the commission's plan, within three years of being designated in the plan.

(3) The prohibition against a change to a sphere of influence or extension of service pursuant to paragraphs (1) and (2) shall not apply to either of the following:

(A) An application to extend services to, or include in their sphere of influence, a disadvantaged unincorporated community.

(B) An extension of service authorized pursuant to subdivision (c) of Section 56133.

(i) As used in this section, "a qualifying city or special district" means a city or special district that provides water service or wastewater services and serves 500 or more connections.

SEC. 6. SEC. 4. If the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code.



California
LEGISLATIVE INFORMATION

SB-1266 Joint Exercise of Powers Act: agreements: filings. (2015-2016)

AMENDED IN SENATE APRIL 12, 2016

AMENDED IN SENATE MARCH 28, 2016

CALIFORNIA LEGISLATURE— 2015–2016 REGULAR SESSION

SENATE BILL

No. 1266

Introduced by Senator McGuire

February 18, 2016

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

LEGISLATIVE COUNSEL'S DIGEST

SB 1266, as amended, McGuire. Joint Exercise of Powers Act: agreements: filings.

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

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

By requiring specified joint powers agencies to file certain documents with a local agency formation commission, this bill would impose a state-mandated local program.

EXHIBIT C

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

Vote: majority Appropriation: no Fiscal Committee: yes Local Program: yes

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

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

6503.6. (a) When an agency or entity files a notice of agreement or amendment to the agreement with the office of the Secretary of State pursuant to Section 6503.5, the agency or entity shall file a copy of the full text of the original joint powers agreement, and any amendment to the agreement, with the Controller. An agency or entity that meets the definition of a joint powers authority or joint powers agency under Section 56047.7 that was formed for the purpose of providing municipal services and that includes a local agency member that is a city, district, or county shall, within ~~90~~ 30 days after the effective date of the agreement or amendment to the agreement, file a copy of the agreement or amendment to the agreement with the local agency formation commission in each county within which all or any part of a local agency member's territory is located.

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

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

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

(b) Notwithstanding any other provision of this chapter, any agency or entity administering a joint powers agreement or amendment to such an agreement, which fails to file the notice with a local agency formation commission required by this section on or before July 1, 2017, shall not thereafter, and until those filings are completed, issue any bonds or incur indebtedness of any kind.

SEC. 3. If the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code.