

LAFCO

Santa Barbara Local Agency Formation Commission
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June 7, 2012 (Agenda)

Local Agency Formation Commission
105 East Anapamu Street, Room 403
Santa Barbara CA 93101

Report on Pending Legislation – Assembly Bill 2698 – LAFCO Omnibus Bill

Dear Members of the Commission:

Recommendation

It is recommended the Commission receive this report, accept public testimony, adopt a position in support of AB 2698 and authorize the Chair to correspond with legislators and CALAFCO.

Introduction

After statutes are enacted, local officials and others often discover problems or inconsistencies in the language of the law and approach the Legislature to correct them. Some are obvious soon after enactment and others show up with the passage of time. Often these minor issues do not warrant separate bills, particularly since according to the Legislative Analyst, the average cost to produce a single bill in 2002 was \$17,890.

The California Association of LAFCOs (CALAFCO) and Assembly Local Government Committee have found in the past several years it is expeditious to respond to multiple minor, non-controversial requests for legislation by combining them into an annual "omnibus bill."

This practice began with AB 720 in 2000, a clean-up for AB 2838 (Hertzberg), a major rewrite of local agency reorganization laws.

The Assembly Local Government Committee staff is carrying on this practice by AB 2698 which provides a number of minor, but needed changes. These proposed amendments have been reviewed by counties, cities, special districts, the building industry, environmental interest organizations and others. Any proposed change that would evoke controversy or opposition has not been included in the bill.

Review of Proposed Legislation (AB 1698)

AB 2698 – referred to as the Cortese-Knox-Hertzberg Omnibus Bill - passed the Assembly on May 21; the vote was a 77-0 with 3 abstentions/non-voting. Now it goes to the Senate.

AB 2698 would change the law pertaining to local government reorganization procedures. The summary of the bill that went to the Assembly Floor reads.

Makes several minor, non-controversial changes to the laws affecting local government organization and reorganization. Specifically, this bill:

- 1) Reorganizes protest provisions contained in the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 (Act).
- 2) Repeals an outdated exemption contained in the Act for the Goleta West Sanitary district that expired January 1, 2003.
- 3) Revises and recasts provisions related to the initiation of a change of organization or reorganization that affects more than one special district, as specified.
- 4) Authorizes the waiver of protest proceedings under specified circumstances, and sets forth procedures that apply to those waivers, including the mailing of specified notices.
- 5) Makes other technical and conforming changes.

More specifically, the bill would do the following:

- Reorganize the protest provisions contained in the Act.

The best way to explain these changes is the attached “Proposed Legislative Solution to Problem of Confusing Provisions Regarding Protest Proceedings” prepared by William Smith legal counsel and consultant to the San Diego Local Agency Formation Commission.

- Repeal an expired exemption contained in the Act for the Goleta West Sanitary District that became inoperative on January 1, 2003.

In 1993 the Goleta West Sanitary District (GWSD) submitted an application to dissolve and concurrently annex its service area to the Goleta Sanitary District. In prior years GWSD had

tried unsuccessfully to “consolidate” with the Goleta Sanitary District with in the absence of approval by both District board would require a successful election in both Districts.

An application to dissolve GWSD and annex its customers to Goleta Sanitary District would require a confirmation election only 25% or more of registered voters within GWSD filed written protests against the reorganization.

Although GWSD withdrew its application before the Commission made a final decision on that proposal, the Goleta Sanitary District sought legislation to exempt a similar future proposal from being able to proceed without an election in both districts. The law that expired in 2003 and is now being deleted from the Code read “In light of the issues that were raised in connection with these earlier consolidation and reorganization proposals, a five-year moratorium on the application of Section 56854 to proposals affecting the Goleta Sanitary District or the Goleta West Sanitary District is necessary to ensure an opportunity for voter confirmation.”

- Redefine “local governmental agency” for which LAFCOs must prepare and update Spheres of Influence to include only cities and special districts within LAFCO jurisdiction.
- Change “residents” to “registered voters” with regard to the annexation of Disadvantaged Unincorporated Communities

Government Code Section 56375 was amended last year to prohibit LAFCO from approving a city annexation greater than 10 acres, or as determined by commission policy, if there is a disadvantaged unincorporated community contiguous to the proposed annexation, unless an application is filed to annex the disadvantaged unincorporated community. Exceptions to this requirement are (1) a prior application to annex the disadvantaged community was made in the preceding five years or (2) LAFCO finds a majority of registered voters within the affected territory are opposed to annexation.

- Use of Reorganization Committee for LAFCO initiated changes

It is proposed to amend Section 56827 to provide that if LAFCO initiates a change of organization that affects more than one special district, it may, and is encouraged to, utilize a reorganization committee to review the proposal.

- The bill makes other technical and conforming changes, i.e., correct numbering, etc.

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Please contact the LAFCO office if you have any questions.

Very truly yours,

A handwritten signature in blue ink that reads "Bob Braitman". The signature is written in a cursive style and is followed by a long horizontal line that extends to the right.

BOB BRAITMAN
Executive Officer

November 29, 2011

PROPOSED LEGISLATIVE SOLUTION TO PROBLEM OF CONFUSING
PROVISIONS REGARDING PROTEST PROCEEDINGS

William D. Smith
Consultant, San Diego Local Agency Formation Commission

Introduction. Mike Ott, Executive Officer of San Diego LAFCO requested preparation of proposed non-substantive legislation to clarify the provisions of the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 (“CKH,” Gov. Code § 56000 et. seq.)¹ with regard to protest proceedings, particularly those applying to dissolutions, disincorporation, incorporation, establishment of subsidiary districts, consolidation, merger or any combination of these proposals. Presently, these provisions are scattered among different sections of CKH, often with numerous and confusing cross-references. For example, Section 56854, a section that definitely applies to LAFCO acting as a conducting authority, is not included in Part 4 of CKH, which pertains to protest proceedings. Instead, Section 56854 is included in Article 2 of Chapter 5 of Part 3 of CKH, pertaining to commission proceedings. Further, it contains numerous cross-references to other provisions, including confusing “notwithstanding” language.

Drafting Process. An initial draft of proposed legislation was submitted this summer for comments to a Subcommittee of the CALAFCO Legislative Committee. A second draft of a proposal taking into account those comments and making other changes was then submitted to the full CALAFCO Legislative Committee and comments were received at the meeting of November 18, 2011. Attached are an informational copy of the proposed legislation, as revised, with comments, and a smooth version.

Goal of Legislation. The purpose of the attached legislation is to clarify and reorganize existing law without making substantive changes. Part of this goal is to place all provisions regarding protest proceedings into part 4 of CKH (commencing with section 57000), separating these provisions from those provisions of CKH dealing with commission proceedings. The amendments to section 57077 by AB 912, of course, have complicated this goal by combining commission proceedings and protest proceedings into one code section located in Part 4, but the overall goal of this proposed legislation remains the same.

Also, in response to the subcommittee comments, separate code sections are proposed regarding different types of proposals; e.g., incorporation, consolidation, etc. No changes, however, have been made in sections 57075 and 57076 (annexations,

¹ All section references are to the Government Code.

detachments, exercising or divesting of functions) since these sections are very clear in themselves and need not be tampered with. Comments made by the Legislative Committee at the November 18 meeting have also been taken into account.

In the process of considering and adopting this legislation, the Legislature and its consultants may see the need for substantive changes to be adopted at a future date.

The proposed legislation with comments is attached.

The legislation contains changes that are proposed throughout and not necessarily separately highlighted such as changing references to an "affected district" to the already defined "subject agency" and, in accordance with the Subcommittee request, changing the words "a petition containing signatures" to "protests." The entirely new sections are underlined in Attachment I with comments as to the origin of the language in those sections and comments stating reasons for the changes.

Attachment II is the "smooth" version of the actual legislation; that is, what will actually be adopted by the Legislature. The Legislative Counsel format for numbering subdivisions of sections has been followed throughout.

As you will note, the principal change is the repeal of section 56854 and several other provisions and reinstating with appropriate changes the applicable portions of the repealed code sections into an entirely rewritten section 57077 and new sections 57077.1-57077.4. This furthers the goal of placing protest proceeding provisions in Part 4 of CKH. The additional changes contained in the proposed legislation all follow from this change.

William D. Smith
Consultant, San Diego Local Agency Formation Commission

PROPOSED LEGISLATION WITH COMMENTS

An act adding sections 56375.1, 57077.1, 57077.2, 57077.3 and 57077.4 to the Government Code, amending sections 56853, 57077, 57107 and 57113 of the Government Code and repealing sections 56854, 57081 and 57114 of the Government Code relating to local government reorganization

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

Section 1. Section 56375.1 is added to the Government Code to read as follows:

56375.1. Where the commission has initiated a change of organization or reorganization affecting more than one special district, the commission may utilize and is encouraged to utilize a reorganization committee to review the proposal. [Origin-56853(c)]

REASON FOR CHANGE: The above language is presently inappropriately placed in subdivision (c) of section 56853, which deals with district consolidations initiated by the governing boards of special districts. Therefore the language has been removed from section 56853 and placed immediately after section 56375 because section 56375 authorizes the commission to initiate changes of organization and reorganizations of districts.

Although rarely used, reorganization committees are extensively described in CKH, and it is not the intent of this legislation to make any substantive changes regarding these committees.

Section 2. Section 56853 of the Government Code is amended to read as follows:

56853. (a) If a majority of the members of each of the legislative bodies of two or more local agencies adopt substantially similar resolutions of application making proposals either for the consolidation of districts or for the reorganization of all or any part of the districts into a single local agency, the commission shall approve, or conditionally approve, the proposal. ~~The commission shall order the consolidation or reorganization without an election, except as otherwise provided in subdivision (b) of Section 57081.~~

(b) Except as provided in subdivision (c) (d), a commission may order any material change in the provisions or the terms and conditions of the consolidation or reorganization, as set forth in the proposals of the local agencies. The commission shall direct the executive officer to give each subject agency mailed notice of any change prior to ordering a change. The commission shall not, without the written consent of all subject agencies, take any further action on the consolidation or reorganization for 30 days following that mailing. Upon written demand by any subject agency, filed with the executive officer during that 30-day period, the commission shall make determinations upon the proposals only after notice and hearing on the proposals. If no written demand is filed, the commission may make those determinations without notice and hearing. The application of any provision of this subdivision may be waived by consent of all of the subject agencies.

~~(c) Where the commission has initiated a change of organization or reorganization affecting more than one special district, the commission may utilize and is encouraged to~~

~~utilize a reorganization committee to review the proposal.~~

~~(c)(d) The commission shall not order a material change in the provisions of a consolidation or reorganization, as set forth in the proposals of the local agencies pursuant to subdivision (a), that would add or delete districts without the written consent of the applicant local agencies.~~

REASON FOR CHANGE: Section 57081, presently referred to in section 56853, is proposed for repeal with its language incorporated into the new sections 57077.2 through 57077.4

As noted above, the existing language in subdivision (c), which refers to reorganization committees, has been removed and added as a new section 56375.1.

Section 3. Section 56854 of the Government Code is repealed.

~~56854. (a) Notwithstanding Sections 57077 and 57107, the commission shall order (1) the consolidation of districts, (2) dissolution, (3) merger, or (4) the establishment of a subsidiary district, or (5) a reorganization that includes any of these changes of organization without an election, except that an election shall be held in each affected city or district if there are written protests as follows:~~

~~(1) Where the proposal was not initiated by the commission, and where an affected city or district has not objected by resolution to the proposal, a written protest has been submitted that meets the requirements specified in subdivisions (b) and (c) of Section 57081.~~

~~(2) Where the proposal was not initiated by the commission, and where an affected city or district has objected by resolution to the proposal, a written protest has been submitted that meets the requirements specified in paragraphs (1) and (2) of subdivision (a) and subdivision (b) of Section 57114.~~

~~(3) Where the proposal was initiated by the commission, and regardless of whether an affected city or district has objected to the proposal by resolution, a written protest has been submitted that meets the requirements of Section 57113.~~

~~(b) Notwithstanding subdivision (a), the commission shall not order a merger or establishment of a subsidiary district without the consent of the affected city.~~

~~(c) This section shall not apply to any proposal for a change of organization or reorganization that is submitted to the commission before January 1, 2003, where the Goleta Sanitary District or the Goleta West Sanitary District is an affected district. The Legislature finds and declares that a special law is necessary and that a general law cannot be made applicable within the meaning of Section 16 of Article IV of the California Constitution because of the following special circumstances: The voters of the Goleta Sanitary District previously voted against a proposed consolidation with the Goleta West Sanitary District by a margin of two to one. More recently, a reorganization proposal was submitted to the commission in Santa Barbara County that would have combined the Goleta Sanitary District and the Goleta West Sanitary District under circumstances where no opportunity for confirmation by the Goleta Sanitary District voters would be available. In light of the issues that were raised in connection with these earlier consolidation and reorganization proposals, a five-year~~

~~moratorium on the application of Section 56854 to proposals affecting the Goleta Sanitary District or the Goleta West Sanitary District is necessary~~

REASON FOR CHANGE: Section 56854 is proposed to be repealed because it is located in the part of CKH that deals with commission proceedings and yet it contains language that applies to protest proceedings. Its language, as applicable, has been incorporated into the new sections 57077.2-57077.4 plus the amended section 57107.

Section 4. Section 57077 is amended to read as follows:

57077. If a change of organization consists of an incorporation or disincorporation, or if a reorganization includes an incorporation or disincorporation, the commission shall order the change of organization or reorganization subject to confirmation of the voters. No protest proceedings shall be conducted.

REASON FOR CHANGE: Section 57077 and 56854 has been divided into separate provisions dealing with specified changes of organization or reorganizations. The newly proposed 57077 deals specifically with changes of organization or reorganizations that include incorporations or disincorporations. These proposals always require an election, and, as under existing law, no protest proceedings will be conducted. Sections 57077.1-57077.4 deal with other specific changes of organizations or reorganizations as specified in those sections.

~~57077. (a) If 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 formation 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 57107; otherwise, the commission shall take the action specified in paragraph (1).~~

~~—(b) Notwithstanding subdivision (a) or Section 57102, if a change of organization consists of the dissolution of a district that is consistent with a prior action of the commission pursuant to Section 56378, 56425, or 56430, the commission may do either of the following:~~

~~—(1) If the dissolution is initiated by the district board, immediately order the dissolution without an election or protest proceeding pursuant to this part.~~

~~—(2) If the dissolution is initiated by an affected local agency, by the commission pursuant to Section 56375, or by petition pursuant to Section 56650, order the dissolution after holding at least one noticed public hearing, and after conducting protest proceedings in accordance with this part. Notwithstanding any other law, the commission shall terminate proceedings if a majority protest exists in accordance with Section 57078. If a majority protest is not found the commission shall order the dissolution without an election.~~

~~—(e) If 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 56853.5, 56853.6, 56854, 57081, 57102, 57107, or 57111; otherwise, the commission shall take the action specified in paragraph (1).~~

Section 5. Section 57077.1 is added to the Government Code to read as follows:

57077.1. Notwithstanding section 57102, if a change of organization consists of the dissolution of a district that is consistent with a prior action of the commission pursuant to Section 56378, 56425, or 56430, the commission may do either of the following:

(a) If the dissolution is initiated by the district board, immediately approve and order the dissolution without an election or protest proceedings pursuant to this part.

(b) If the dissolution is initiated by an affected local agency, by the commission pursuant to Section 56375, or by petition pursuant to Section 56650, order the dissolution after holding at least one noticed public hearing, and after conducting protest proceedings in accordance with this part. Notwithstanding any other law, the commission shall terminate proceedings if a majority protest exists in accordance with Section 57078. If a majority protest is not found, the commission shall order the dissolution without an election

REASON FOR PROVISION: It appears that all existing laws relating to dissolution of a district have been superseded by the amendment made to section 57077 by AB 912. Therefore, the applicable provisions of that amendment are set forth above. Note, however, that as written, the language appears to allow approval of a dissolution that is merely consistent with a special study or service review even if not consistent with the relevant spheres as required by Section 56375.5.

In accordance with the Legislative Committee's request, however, the language has been left essentially same as found in section AB 912 in order not to cause substantive changes. Despite the general goal of this legislation to separate the commission approval process from the protest proceedings process, it was not possible to divide up the language enacted by AB 912 in this manner. Therefore, it is left the same and, as found above, remains in the protest proceedings part of CKH.

Section 6. Section 57077.2 is added to the Government Code to read as follows:

57077.2 (a) If the change of organization consists of a consolidation of two or more districts, the commission shall order the consolidation without confirmation by the voters, except that if the proposal meets the requirements of subdivision (b), the commission shall order the consolidation subject to confirmation of the voters.

(b) The commission shall order the consolidation subject to the confirmation of the voters as follows:

(1) The commission has approved a proposal submitted by a majority of the members of the legislative bodies of two or more local agencies pursuant to Section 56853, and the commission has found that protests meet the following protest thresholds:

(A) In the case of inhabited territory, protests have been signed by:

(i) At least 25 percent of the number of landowners within the territory subject to the consolidation who own at least 25 percent of the assessed value of land within the territory.

(ii) At least 25 percent of the voters entitled to vote as a result of residing within, or owning land within, the territory.

(B) In the case of a landowner-voter district, that the territory is uninhabited and that protests have been signed by at least 25 percent of the number of landowners within the territory subject to the consolidation, owning at least 25 percent of the assessed value of land within the territory. **[Taken from Section 57081]**

(2) Where the proposal was not initiated by the commission, and where a subject agency has not objected by resolution to the proposal, a written protest has been submitted that meets the requirements specified in paragraph (1) (A) or (B). **[Taken from 56854(a)(1), 57081.]**

(3) Where the proposal was not initiated by the commission, and where a subject agency has objected by resolution to the proposal, written protests have been submitted as follows:

(A) In the case of inhabited territory, protests have been signed by either of the following:

(i) At least 25 percent of the number of landowners within any subject agency within the affected territory who own at least 25 percent of the assessed value of land within the territory.

(ii) At least 25 percent of the voters entitled to vote as a result of residing within, or owning land within, any subject agency within the affected territory.

(B) In the case of a landowner-voter district, that the territory is uninhabited and protests have been signed by at least 25 percent of the number of landowners within any subject agency within the affected territory, owning at least 25 percent of the assessed value of land within the subject agency. **[Taken from 56854(a)(2), 57114]**

(4) Where the proposal was initiated by the commission, and regardless of whether a subject agency has objected to the proposal by resolution, written protests have been submitted that meet the requirements of Section 57113.

[Taken from 56854(a)(3)]

Section 7. Section 57077.3 is added to the Government Code to read as follows:

57077.3 (a) If a proposal consists of a reorganization not described in Sections 57075 through 57077, in Section 57111 or 57077.4, **[See comments at the end of this section]** the commission shall order the reorganization without confirmation by the voters except that if the reorganization meets the requirements of subdivision (b), the commission shall order the reorganization subject to confirmation of the voters.

(b) The commission shall order the reorganization subject to confirmation of the voters as follows:

(1) The commission has approved a proposal submitted by a majority of the members of

the legislative bodies of two or more local agencies pursuant to Section 56853, and the commission has found that protests meet the following protest thresholds:

(A) In the case of inhabited territory, protests have been signed by:

(i) At least 25 percent of the number of landowners within the territory with the affected territory who own at least 25 percent of the assessed value of land within the territory.

(ii) At least 25 percent of the voters entitled to vote as a result of residing within, or owning land within, the affected territory.

(B) In the case of a landowner-voter district, that the territory is uninhabited and that protests have been signed by at least 25 percent of the number of landowners within the affected territory, owning at least 25 percent of the assessed value of land within the territory. [Taken from 56854(a)(1) 57081]

(2) Where the proposal was not initiated by the commission, and where a subject agency has not objected by resolution to the proposal, a written protest has been submitted that meets the requirements specified in paragraph (1) (A) or (B).

(3) Where the proposal was not initiated by the commission, and where a subject agency has objected by resolution to the proposal, written protests have been submitted as follows:

(A) In the case of inhabited territory, protests have been signed by either of the following:

(i) At least 25 percent of the number of landowners within any subject agency within the affected territory who own at least 25 percent of the assessed value of land within the territory.

(ii) At least 25 percent of the voters entitled to vote as a result of residing within, or owning land within, any subject agency within the affected territory.

(B) In the case of a landowner-voter district, that the territory is uninhabited and protests have been signed by at least 25 percent of the number of landowners within any subject agency within the affected territory, owning at least 25 percent of the assessed value of land within the subject agency. [Taken from 56854(a)(2), 57114]

(4) Where the proposal was initiated by the commission, and regardless of whether a subject agency has objected to the proposal by resolution, written protests have been submitted that meet the requirements of Section 57113. [Taken from 56854(a)(3)]

(c) This section shall not apply to reorganizations governed by Section 56853.5 and Section 56853.6.

[Section 57075 and 57076 apply to reorganizations that include annexations, detachments, exercise of new or different functions and have their own procedure spelled out. Section 57075.5 applies only to Los Angeles County. Section 57077 applies to reorganizations that include an incorporation or disincorporation and always require an election. Section 57111 applies to reorganizations containing components that do not require an election. Section 57077.4 applies to reorganizations that involve the dissolution of a district and the annexation of its territory to another district and has a specific procedure spelled out now found in section 57114. Therefore, the first paragraph of this section exempts these reorganizations from its provisions.]

Section 8. Section 57077.4 is added to the Government Code to read:

57077.4. (a) Where a reorganization consists of the dissolution of one or more districts and the annexation of all or substantially all the territory to another district not initiated pursuant to section 56853 or by the commission pursuant to section 56375, the commission shall order the reorganization without confirmation by the voters except that where the reorganization meets the requirements of subdivision (b), the commission shall order the reorganization subject to confirmation by the voters.

(b) The commission shall order the reorganization subject to confirmation by the voters as follows:

(1) In the case of inhabited territory, protests have been signed by either of the following:

(A) At least 25 percent of the number of landowners within any subject agency within the affected territory who own at least 25 percent of the assessed value of land within the territory.

(B) At least 25 percent of the voters entitled to vote as a result of residing within, or owning land within, any subject agency within the affected territory.

(C) In the case of a landowner-voter district, that the territory is uninhabited and protests have been signed by at least 25 percent of the number of landowners within any subject agency within the affected territory, owning at least 25 percent of the assessed value of land within the subject agency. *[Taken from 57114]*

(2) Where the reorganization has been initiated by the commission pursuant to section 56375, protests have been submitted that meet the requirements of section 57113.

Section 9. Section 57081 of the Government Code is repealed.

~~57081. (a) If authorized by the commission pursuant to Section 56853, the protest proceedings shall be conducted for the consolidation of districts or the reorganization of all or any part of those districts into a single local agency pursuant to this section. The commission shall hold at least one noticed public hearing on the proposal within 30 days after approval of the application by the commission. After the conclusion of the hearing, the commission shall order the consolidation or reorganization without an election, except as otherwise provided in subdivision (b). (b) An election shall only be held if the commission finds either of the following:~~

~~—(1) In the case of inhabited territory, that a petition requesting that the proposal be submitted to confirmation by the voters has been signed by either of the following:~~

~~—(A) At least 25 percent of the number of landowners within the territory subject to the consolidation or reorganization who own at least 25 percent of the assessed value of land within the territory.~~

~~—(B) At least 25 percent of the voters entitled to vote as a result of residing within, or owning land within, the territory.~~

~~—(2) In the case of a landowner-voter district, that the territory is uninhabited and a petition requesting that the proposal be submitted to confirmation by the voters has been signed by at least 25 percent of the number of landowners within the territory subject to the consolidation or reorganization, owning at least 25 percent of the assessed value of land within the territory.~~

~~—(c) The petition shall be filed with the commission prior to the conclusion of the protest hearing.~~

REASON FOR CHANGE: Section 57081 is proposed for repeal because its provisions have been incorporated into 57077.1-57077.3.

Section 10. Section 57107 of the Government Code is amended to read as follows:

57107 (a) In any resolution ordering a merger or establishment of a subsidiary district, the commission shall approve the change of organization without an election except that if the reorganization meets the requirements of subdivision (b), the commission shall order the change of organization subject to confirmation of the voters.

(b) The commission shall order the reorganization subject to confirmation of the voters within any subject agency as follows:

(1) Where the proposal was not initiated by the commission, and where a subject agency has not objected by resolution to the proposal, the commission has found that protests meet the following protest thresholds:

(A) In the case of inhabited territory, protests have been signed by:

(i) At least 25 percent of the number of landowners within the affected territory who own at least 25 percent of the assessed value of land within the territory.

(ii) At least 25 percent of the voters entitled to vote as a result of residing within, or owning land within, the affected territory.

(B) In the case of a landowner-voter district, that the territory is uninhabited and that protests have been signed by at least 25 percent of the number of landowners within the affected territory owning at least 25 percent of the assessed value of land within the territory. [Taken from 56854(a)(1), 57081]

(2) Where the proposal was not initiated by the commission, and where a subject agency has objected by resolution to the proposal, written protests have been submitted as follows:

(A) In the case of inhabited territory, protests have been signed by either of the following:

(i) At least 25 percent of the number of landowners within any subject agency within the affected territory who own at least 25 percent of the assessed value of land within the territory.

(ii) At least 25 percent of the voters entitled to vote as a result of residing within, or owning land within, any subject agency within the affected territory.

(B) In the case of a landowner-voter district, that the territory is uninhabited and protests have been signed by at least 25 percent of the number of landowners within any subject agency within the affected territory, owning at least 25 percent of the assessed value of land within the subject agency. [Taken from 56854(a)(2), 57114.]

(3) Where the proposal was initiated by the commission, and regardless of whether a subject agency has objected to the proposal by resolution, written protests have been submitted that meet the requirements of Section 57113. [Taken from 56854(a)(3)].

(c) Notwithstanding subdivision (a) or (b), the commission shall not order the merger or establishment of a subsidiary district without the consent of the subject city. [Taken from 56854(b).]

(a) Order the merger or establishment of the subsidiary district subject to confirmation of

~~the voters upon the questions, as the case may be, of merger, the establishment of a subsidiary district, or both merger and the establishment of a subsidiary district.~~

~~(b) Order the merger or establishment of the subsidiary district without election, if the legislative body of the city and the board of directors of the district have by resolution consented to the merger or the establishment of the subsidiary district~~

REASON FOR CHANGE: The language stricken above was superseded by language in section 56854 and 57113. The provisions of section 57108 and 57109 that require, upon sufficient petition, that the election be held only within the subject district have been left intact.

Section 11. Section 57113 of the Government Code is amended to read as follows:

57113. (a) Notwithstanding Section ~~57081~~, 57102, ~~57107~~, 57108, or 57111, for any proposal that was initiated by the commission pursuant to subdivision (a) of Section 56375, the commission shall forward the change of organization or reorganization for confirmation by the voters if the commission finds either of the following:

~~(a)(4) In the case of inhabited territory, protests have been signed by either of the following: that a petition requesting that the proposal be submitted to confirmation by the voters has been signed by either of the following:~~

~~(A)(1) At least 10 percent of the number of landowners within any affected district subject agency within the affected territory who own at least 10 percent of the assessed value of land within the territory.~~

However, if the number of landowners within ~~an affected district~~ a subject agency is less than 300, ~~the petition requesting the proposal to be submitted to the voters shall be signed~~ the protests shall be signed by at least 25 percent of the landowners who own at least 25 percent of the assessed value of land within the territory of the subject agency.

~~(B)(2) At least 10 percent of the voters entitled to vote as a result of residing within, or owning land within, any affected district subject agency within the affected territory.~~

However, if the number of voters entitled to vote within a subject agency ~~n affected district~~ is less than 300, ~~the petition requesting the proposal to be submitted to the voters~~ the protests shall be signed by at least 25 percent of the voters entitled to vote.

~~(b)(2) In the case of a landowner-voter district, that the territory is uninhabited and a petition requesting that the proposal be submitted to confirmation by the voters has~~ protests have been signed by at least 10 percent of the number of landowners within any ~~affected district~~ subject agency within the affected territory, owning at least 10 percent of the assessed value of land within the territory. However, if the number of voters entitled to vote within an ~~affected district~~ subject agency is less than 300, ~~the petition requesting the proposal to be submitted to the voters shall be signed~~ protests shall be signed by at least 25 percent of the voters entitled to vote.

~~(b) The petition shall be filed with the commission prior to the conclusion of the protest hearing. [Not needed-see 57026 (g) and (h)]~~

REASON FOR CHANGE: Sections 57081 and 57107 have been deleted from the “notwithstanding” language because 57081 is being repealed by this legislation and 57107 incorporates this section by reference in its proposed amended version.

Section 12. Section 57114 of the Government Code is repealed.

~~57114. (a) Notwithstanding sections 56854 and 57111, for any proposal for the dissolution of one or more districts and the annexation of all or substantially all of their territory to another district, not initiated by the commission pursuant to subdivision (a) of Section 56375, the commission shall forward the change of organization or reorganization for confirmation by the voters if the commission finds either of the following:~~

~~(1) In the case of inhabited territory, that a petition requesting that the proposal be submitted to confirmation by the voters has been signed by either of the following:~~

~~(A) At least 25 percent of the number of landowners within any affected district within the affected territory who own at least 25 percent of the assessed value of land within the territory.~~

~~(B) At least 25 percent of the voters entitled to vote as a result of residing within, or owning land within, any affected district within the affected territory.~~

~~(2) In the case of a landowner-voter district, that the territory is uninhabited and a petition requesting that the proposal be submitted to confirmation by the voters has been signed by at least 25 percent of the number of landowners within any affected district within the affected territory, owning at least 25 percent of the assessed value of land within the territory of that district.~~

~~(b) If a petition that meets the requirements of this section has been filed, the commission shall order the proposal subject to confirmation by the voters of each district that has filed such a petition. The voter confirmation requirements set forth in subdivision (a) shall not apply to any proposal initiated by the commission under Section 56375 or where each affected district has consented to the proposal by a resolution adopted by a majority vote of its board of directors.~~

REASON FOR CHANGE: Section 57114 is proposed for repeal because its provisions have been incorporated into sections 57077.2-57077.4.