



● **Board of Directors**
Communications and Legislation Committee

6/14/2016 Board Meeting

8-7

Subject

Adopt Policy Principles on Annexation, Service Area Consolidation, or Extension of Water Service by Contract

Executive Summary

Existing law, the California Safe Drinking Water Act (Act), authorizes the State Water Resources Control Board (SWRCB) to force public water systems to consolidate or extend service to disadvantaged unincorporated communities where a public water system, or a state small water system within a disadvantaged community, consistently fails to provide an adequate supply of safe drinking water. The Act also authorizes the SWRCB to order the extension of service to an area that does not have access to an adequate supply of safe drinking water so long as the extension of service is an interim extension of service in preparation for consolidation. The Act also prohibits a consolidated water system from increasing charges on existing customers of the receiving water system solely as a consequence of the consolidation or extension of service unless the customer receives a corresponding benefit.

Annexation of territory to cities and districts is governed by the Cortese-Knox-Hertzberg Local Government Reorganization Act (LAFCO Act). Annexations to Metropolitan and its member agencies are processed through county local agency formation commissions (LAFCOs) consistent with the LAFCO Act and with the annexation provisions of the Metropolitan Water District Act. The procedures ensure orderly extensions of service areas for both Metropolitan and its member agencies and fair allocation of the financial costs of providing the water supply system that serves the new territory.

Two bills pending in the California Assembly, SB 552 ([Attachment 1](#)) and SB 1318 ([Attachment 2](#)) by Senator Lois Wolk (D-Davis), present concerns for Metropolitan and its member agencies. The bills expand existing law to mandate the delivery of safe drinking water and other community services to disadvantaged communities. Although supportive of the goal to ensure that every Californian has access to an adequate supply of safe water for daily human needs, SB 552 and SB 1318 fail to address the need to annex, consolidate or extend service to all water agencies in the chain of supply, including Metropolitan and several of its wholesale member agencies. Additionally, SB 552 and SB 1318 provide no firm funding source to cover the cost of serving disadvantaged communities, which potentially shifts those costs to existing ratepayers within the agencies ordered to provide service. If enacted in their current form, SB 552 and SB 1318 could result in service of Metropolitan water supplies outside its service area and inconsistent service area boundaries between Metropolitan and its member agencies. Both bills continue to be “works in progress” and stakeholder discussions are ongoing.

Recognizing the unsettled nature of SB 552 and SB 1318 and in anticipation of subsequent legislation regarding extension of water service to disadvantaged communities, staff recommends the adoption of policies to guide Metropolitan’s engagement on state policy.

Details

Under the LAFCO Act, annexation of new territory to the retail water agency also requires annexation to each wholesale water agency in the chain of supply. This assures Metropolitan and its member agencies will have the same service areas and the revenues collected through taxes and charges will be equitably applied within those

service areas. An annexation proposal is reviewed and approved by each agency from retail to wholesale, and then finally approved by the LAFCO for the relevant county. The LAFCO Act is intended by the Legislature to provide for “additional growth within, or through the expansion of, the boundaries of those local agencies which can best accommodate and provide necessary government services and housing for persons and families of all incomes in the most efficient manner feasible.”

In performing its function to identify the best means of providing government service, a LAFCO must consider the financial circumstances and consequences of annexing new territory to an agency, and can condition its approval on the levying, fixing, and collecting of taxes, assessments and charges in the annexed territory. Metropolitan charges an annexation fee that is currently \$5,125 per acre to recover a proportionate share of the historic investment in the water system. Additionally, new territories must pay the applicable ad valorem property taxes and standby charges. If the water agency and LAFCO approve an annexation, the formal boundary changes and tax levies are sent to the California Board of Equalization and relevant county assessor so that the service area boundary is officially changed and the relevant taxes and charges are collected.

Under existing law, the SWRCB has the power to force consolidation of water agencies or extension of service to unincorporated areas, without following the LAFCO procedures, where necessary to ensure safe reliable service to disadvantaged communities. However, existing law fails to address the situation where multiple water agencies are in the chain of supply for a retail water agency ordered to serve a new territory. Although the SWRCB is authorized to make funds available for an ordered consolidation, including the LAFCO fees to process the consolidation as a reorganization, its funding is subject to legislative appropriation. Funding the initial cost to the retail agency of extending service does not cover the costs of its wholesale providers, nor does it provide the revenues that would be collected through property taxes and charges that can only be collected after annexation.

SB 552 and SB 1318 by Senator Lois Wolk would expand existing law to mandate the delivery of safe drinking water and other community services to disadvantaged communities. SB 552 expands SWRCB authority by imposing an administrator to “assist” the water system operator, including providing for full management and control. SB 1318 would require LAFCOs to initiate annexation of any disadvantaged communities that do not have access to safe drinking water.

Changes to state annexation policy should require, or provide funding for, the annexation fees that collect the proportionate share of water system costs from newly annexed customers and should authorize the setting and collection of property taxes and charges in land newly served as a result of consolidation. Otherwise, water agencies are left with the risk of litigation by new customers that object to paying for costs of the existing water supply system that are not related to the consolidation, or by existing customers that object to paying the water system costs that are not being shared by customers in the new territory.

Staff recommends adopting the following policy to guide staff on legislative initiatives, such as SB 552 and SB 1318, to address the concerns identified above.

Policy Principles on Annexation, Service Area Consolidation, or Extension of Water Service by Contract:

To ensure equitable and orderly expansion of water service and its service area boundary, Metropolitan shall support regulatory policies and/or legislation that:

- Ensures new areas to be served by Metropolitan pay their share of the existing system cost through annexation fees and charges, applicable property taxes and charges, and rates for water service
- Requires new territory to annex to Metropolitan concurrently with annexation to its member agency and, if applicable, member subagency
- Ensures Metropolitan’s water supplies are not served outside its service area without its consent
- Ensures Metropolitan’s service area boundary is extended in an orderly, official manner

Policy

Metropolitan Water District Act, Part 7. Changes in Organization, Sections 350-406

Metropolitan Water District Administrative Code, Division III, Annexations, Sections 3100-3301

California Environmental Quality Act (CEQA)

CEQA determination for Option #1:

The proposed action is not defined as a project under CEQA because it involves continuing administrative activities, such as general policy and procedure making that do not involve any commitment to any specific project which may result in a potentially significant physical impact on the environment (CEQA Section 21605 and Section 15378(b)(2) of the State CEQA Guidelines).

The CEQA determination is: Determine that the proposed action is not defined as a project under CEQA pursuant to CEQA Section 21065 as well as Section 15378(b)(2) of the State CEQA Guidelines.

CEQA determination for Option #2:

None required

Board Options

Option #1

Adopt the CEQA determination that the proposed action is not defined as a project under CEQA, and

Adopt the Policy Principles on Annexation, Service Area Consolidation, or Extension of Water Service by Contract.

Fiscal Impact: Unknown, but adopting the policy and addressing the concerns in SB 552 and SB 1318 could reduce potentially significant losses of annexation fees and costs to extend service area boundary to incorporate disadvantaged communities

Business Analysis: Reduce or avoid potential loss of annexation fees and costs to extend service area boundary to incorporate disadvantaged communities in the event SB 552 and SB 1318 are enacted

Option #2

Do not adopt the Policy Principles on Annexation, Service Area Consolidation, or Extension of Water Service by Contract.

Fiscal Impact: Unknown, but potentially significant loss of annexation fees and costs to extend service area boundary to incorporate disadvantaged communities if SB 552 and SB 1318 are enacted

Business Analysis: Potential loss of annexation fees and costs to extend service area boundary to incorporate disadvantaged communities in the event SB 552 and SB 1318 are enacted

Staff Recommendation

Option #1



Dee Zinke
Assistant General Manager/Chief External
Affairs Officer

6/9/2016
Date



Jeffrey Kightlinger
General Manager

6/9/2016
Date

Attachment 1 – Senate Bill 552, as amended May 17, 2016

Attachment 2– Senate Bill 1318, as amended June 1, 2016

Ref# ea12644129

AMENDED IN ASSEMBLY MAY 17, 2016

AMENDED IN ASSEMBLY JULY 7, 2015

AMENDED IN SENATE APRIL 16, 2015

SENATE BILL

No. 552

Introduced by Senator Wolk

February 26, 2015

An act to amend Sections 116681 and 116682 ~~of of, and to add Section 116686 to~~, the Health and Safety Code, relating to water.

LEGISLATIVE COUNSEL'S DIGEST

SB 552, as amended, Wolk. Public water systems: disadvantaged communities: consolidation or extension of ~~service~~. *service: administrative and managerial services.*

Existing law, the California Safe Drinking Water Act, provides for the operation of public water systems, and imposes on the State Water Resources Control Board various responsibilities and duties. The act authorizes the state board to order consolidation with a receiving water system where a public water system, or a state small water system within a disadvantaged community, consistently fails to provide an adequate supply of safe drinking water. The act authorizes the state board to order the extension of service to an area that does not have access to an adequate supply of safe drinking water so long as the extension of service is an interim extension of service in preparation for consolidation. Existing law, for these purposes, defines "disadvantaged community" to mean a disadvantaged community that is in an unincorporated area or is served by a mutual water company.

This bill would ~~allow~~ *make* a community ~~to be a "disadvantaged community"~~ *disadvantaged for these purposes* if the community is in

a mobilehome park even if it is not in an unincorporated area or served by a mutual water company. The bill would limit the authority of the state board to order consolidation or extension of service *to provide that authority* only with regard to a disadvantaged community.

The act requires the state board, before ordering consolidation or extension of service, to hold at least one initial public meeting, as specified, and to obtain written consent from any domestic well owner for consolidation or extension of service. The act provides that any affected resident within the consolidation or extended service area who does not provide written consent is ineligible, until consent is provided, for any future water-related grant funding from the state, except as specified.

This bill would provide that an initial public meeting is not required for a potentially subsumed area that is served only by domestic wells. The bill would ~~require any~~ *apply to the* domestic well owner, instead of *to* an affected resident, within the consolidation or extended service area ~~who does not provide the~~ written consent ~~to be ineligible for future requirement for eligibility for water-related grant funding from the state.~~ *funding.*

The act requires the state board, upon ordering the consolidation or extension of service, to adequately compensate the owners of a privately owned subsumed water system for the fair market value of the system as determined by the Public ~~Utilities~~ *Utilities* Commission for water corporations subject to the commission's jurisdiction or the state board for all other systems. The act prohibits a consolidated water system from increasing charges on existing customers of the receiving water system solely as a consequence of the consolidation or extension of service unless the customer receives a corresponding benefit.

This bill would instead authorize the Public Utilities Commission or the state board to determine the fair market ~~value,~~ *value of a subsumed water system,* without regard to whether the system is a water corporation subject to the commission's jurisdiction. The bill would prohibit fees or charges imposed on a customer of a subsumed water system from exceeding the cost of consolidating the water system or the *cost of extension of service to the area.*

The act exempts the consolidation or extension of service pursuant to these provisions from the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000, which governs the procedures for the formation and change of organization of cities and special districts.

This bill would instead exempt an action taken by the state board pursuant to these provisions from the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000.

This bill would authorize the state board, for the purpose of providing affordable, safe drinking water to disadvantaged communities and preventing fraud, waste, and abuse, to contract with an administrator to provide administrative and managerial services to a designated water system and to order the designated public water system to accept those services. The bill would define designated water system as a public water system that serves a disadvantaged community and that the state board finds consistently fails to provide an adequate and affordable supply of safe drinking water. The bill would require the state board to provide a public water system with notice, as specified, before determining that the public water system is a designated public water system. The bill would authorize the administrator of a designated public water system to expend available moneys for capital infrastructure improvements that the designated public water system needs to provide an adequate and affordable supply of safe drinking water, to set and collect user water rates and fees, and to expend available moneys for the operation and maintenance costs of the designated public water system.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

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

- 1 SECTION 1. Section 116681 of the Health and Safety Code
- 2 is amended to read:
- 3 116681. ~~The~~ *Except as provided in paragraph (2) of subdivision*
- 4 *(g) of Section 116686, the following definitions shall apply to this*
- 5 *section and Sections ~~116682 and 116684: 116682, 116684, and~~*
- 6 *116686:*
- 7 (a) "Adequate supply" means sufficient water to meet residents'
- 8 health and safety needs.
- 9 (b) "Affected residence" means a residence within a
- 10 disadvantaged community that is reliant on a water supply that is
- 11 either inadequate or unsafe.
- 12 (c) "Consistently fails" means a failure to provide an adequate
- 13 supply of safe drinking water.

1 (d) "Consolidated water system" means the public water system
2 resulting from the consolidation of a public water system with
3 another public water system, state small water system, or affected
4 residences not served by a public water system.

5 (e) "Consolidation" means joining two or more public water
6 systems, state small water systems, or affected residences not
7 served by a public water system, into a single public water system.

8 (f) "Disadvantaged community" means a disadvantaged
9 community, as defined in Section 79505.5 of the Water Code, that
10 is in an unincorporated area, *is in a* mobilehome park, or is served
11 by a mutual water company.

12 (g) "Extension of service" means the provision of service
13 through any physical or operational infrastructure arrangement
14 other than consolidation.

15 (h) "Receiving water system" means the public water system
16 that provides service to a subsumed water system through
17 consolidation or extension of service.

18 (i) "Safe drinking water" means water that meets all primary
19 and secondary drinking water standards.

20 (j) "Subsumed water system" means the public water system,
21 state small water system, or affected residences not served by a
22 public water system consolidated into or receiving service from
23 the receiving water system.

24 SEC. 2. Section 116682 of the Health and Safety Code is
25 amended to read:

26 116682. (a) Where a public water system or a state small water
27 ~~system~~ *system*, within a disadvantaged-~~community~~ *community*,
28 consistently fails to provide an adequate supply of safe drinking
29 water, the ~~State Water Resources Control Board~~ *state board* may
30 order consolidation with a receiving water system as provided in
31 this section and Section 116684. The consolidation may be physical
32 or operational. The ~~State Water Resources Control Board~~ *state*
33 *board* may also order the extension of service to an area within a
34 disadvantaged community that does not have access to an adequate
35 supply of safe drinking water so long as the extension of service
36 is an interim extension of service in preparation for consolidation.
37 The ~~State Water Resources Control Board~~ *state board* may set
38 timelines and performance measures to facilitate completion of
39 consolidation.

1 (b) Before ordering consolidation or extension of service as
2 provided in this section, the ~~State Water Resources Control Board~~
3 *state board* shall do all of the following:

4 (1) Encourage voluntary consolidation or extension of service.

5 (2) Consider other enforcement remedies specified in this article.

6 (3) Consult with, and fully consider input from, the relevant
7 local agency formation commission regarding the provision of
8 water service in the affected area, the recommendations for
9 improving service in a municipal service review, and any other
10 relevant information.

11 (4) Consult with, and fully consider input from, the Public
12 Utilities Commission when the consolidation would involve a
13 water corporation subject to the commission's jurisdiction.

14 (5) Consult with, and fully consider input from, the local
15 government with land use planning authority over the affected
16 area, particularly regarding any information in the general plan
17 required by Section 65302.10 of the Government Code.

18 (6) Notify the potentially receiving water system and the
19 potentially subsumed water system, if any, and establish a
20 reasonable deadline of no less than six months, unless a shorter
21 period is justified, for the potentially receiving water system and
22 the potentially subsumed water system, if any, to negotiate
23 consolidation or another means of providing an adequate supply
24 of safe drinking water.

25 (A) During this period, the ~~State Water Resources Control Board~~
26 *state board* shall provide technical assistance and work with the
27 potentially receiving water system and the potentially subsumed
28 water system to develop a financing package that benefits both the
29 receiving water system and the subsumed water system.

30 (B) Upon a showing of good cause, the deadline may be
31 extended by the ~~State Water Resources Control Board~~ *state board*
32 at the request of the potentially receiving water system, potentially
33 subsumed water system, or the local agency formation commission
34 with jurisdiction over the potentially subsumed water system.

35 (7) Obtain written consent from any domestic well owner for
36 consolidation or extension of service. Any domestic well owner
37 within the consolidation or extended service area who does not
38 provide written consent shall be ineligible, until the consent is
39 provided, for any future water-related grant funding from the state

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1 other than funding to mitigate a well failure, disaster, or other
2 emergency.

3 (8) (A) Hold at least one public meeting at the initiation of this
4 process in a place as close as feasible to the affected areas. The
5 ~~State Water Resources Control Board~~ *state board* shall make
6 reasonable efforts to provide a 30-day notice of the meeting to the
7 ratepayers, renters, and property owners to receive water service
8 through service extension or in the area of the subsumed water
9 system and all affected local government agencies and drinking
10 water service providers. The meeting shall provide representatives
11 of the potentially subsumed water system, affected ratepayers,
12 renters, property owners, and the potentially receiving water system
13 an opportunity to present testimony. The meeting shall provide an
14 opportunity for public comment.

15 (B) An initial public meeting shall not be required for a
16 potentially subsumed area that is served only by domestic wells.

17 (c) Upon expiration of the deadline set by the ~~State Water~~
18 ~~Resources Control Board~~ *state board* pursuant to paragraph (6) of
19 subdivision (b), the ~~State Water Resources Control Board~~ *state*
20 *board* shall do the following:

21 (1) Consult with the potentially receiving water system and the
22 potentially subsumed water system, if any.

23 (2) Conduct a public hearing, in a location as close as feasible
24 to the affected communities.

25 (A) The ~~State Water Resources Control Board~~ *state board* shall
26 make reasonable efforts to provide a 30-day notice of the hearing
27 to the ratepayers, renters, and property owners to receive water
28 service through service extension or in the area of the subsumed
29 water system and to all affected local government agencies and
30 drinking water service providers.

31 (B) The hearing shall provide representatives of the potentially
32 subsumed water system, affected ratepayers, renters, property
33 owners, and the potentially receiving water system an opportunity
34 to present testimony.

35 (C) The hearing shall provide an opportunity for public
36 comment.

37 (d) Before ordering consolidation or extension of service, the
38 ~~State Water Resources Control Board~~ *state board* shall find all of
39 the following:

- 1 (1) The potentially subsumed water system has consistently
2 failed to provide an adequate supply of safe drinking water.
- 3 (2) All reasonable efforts to negotiate consolidation or extension
4 of service were made.
- 5 (3) Consolidation of the receiving water system and subsumed
6 water system or extension of service is appropriate and technically
7 and economically feasible.
- 8 (4) There is no pending local agency formation commission
9 process that is likely to resolve the problem in a reasonable amount
10 of time.
- 11 (5) Concerns regarding water rights and water contracts of the
12 subsumed and receiving water systems have been adequately
13 addressed.
- 14 (6) Consolidation or extension of service is the most effective
15 and cost-effective means to provide an adequate supply of safe
16 drinking water.
- 17 (7) The capacity of the proposed interconnection needed to
18 accomplish the consolidation is limited to serving the current
19 customers of the subsumed water system.
- 20 (e) Upon ordering consolidation or extension of service, the
21 ~~State Water Resources Control Board~~ *state board* shall do all of
22 the following:
- 23 (1) As necessary and appropriate, make funds available, upon
24 appropriation by the Legislature, to the receiving water system for
25 the costs of completing the consolidation or extension of service,
26 including, but not limited to, replacing any capacity lost as a result
27 of the consolidation or extension of service, providing additional
28 capacity needed as a result of the consolidation or extension of
29 service, and legal fees. Funding pursuant to this paragraph is
30 available for the general purpose of providing financial assistance
31 for the infrastructure needed for the consolidation or extension of
32 service and does not need to be specific to each individual
33 consolidation project. ~~The State Water Resources Control Board~~
34 *state board* shall provide appropriate financial assistance for the
35 infrastructure needed for the consolidation or extension of service.
36 ~~The State Water Resources Control Board's~~ *state board's* existing
37 financial assistance guidelines and policies shall be the basis for
38 the financial assistance.
- 39 (2) Ensure payment of standard local agency formation
40 commission fees caused by ~~State Water Resources Control~~

1 ~~Board-ordered~~ *state board-ordered* consolidation or extension of
2 service.

3 (3) Adequately compensate the owners of a privately owned
4 subsumed water system for the fair market value of the system as
5 determined by the Public Utilities Commission or the ~~State Water~~
6 ~~Resources Control Board~~. *state board*.

7 (4) Coordinate with the appropriate local agency formation
8 commission and other relevant local agencies to facilitate the
9 change of organization or reorganization.

10 (f) (1) For the purposes of this section, the consolidated water
11 system shall not increase charges on existing customers of the
12 receiving water system solely as a consequence of the consolidation
13 or extension of service unless the customers receive a
14 corresponding benefit.

15 (2) For purposes of this section, fees or charges imposed on a
16 customer of a subsumed water system shall not exceed the cost of
17 consolidating the water system with a receiving system or the
18 extension of service to the area.

19 (g) Division 3 (commencing with Section 56000) of Title 5 of
20 the Government Code shall not apply to ~~the consolidation or~~
21 ~~extension of service required~~ *an action taken by the state board*
22 pursuant to this section.

23 *SEC. 3. Section 116686 is added to the Health and Safety Code,*
24 *to read:*

25 *116686. (a) (1) To provide affordable, safe drinking water to*
26 *disadvantaged communities and to prevent fraud, waste, and abuse,*
27 *the state board may do both of the following:*

28 *(A) Contract with an administrator to provide administrative*
29 *and managerial services to a designated public water system to*
30 *assist the designated public water system with the provision of an*
31 *adequate and affordable supply of safe drinking water.*

32 *(i) To fulfill the requirements of this section, the state board*
33 *may contract with more than one administrator, but only one*
34 *administrator may be assigned to provide services to a given*
35 *designated public water system.*

36 *(ii) An administrator may provide administrative and*
37 *managerial services to more than one designated public water*
38 *system.*

1 (B) Order the designated public water system to accept
2 administrative and managerial services, including full management
3 and control, from an administrator selected by the state board.

4 (2) In performing its duties pursuant to paragraph (1), the state
5 board may use criteria from the policy handbook adopted pursuant
6 to Section 116760.43.

7 (b) Before the state board determines that a public water system
8 is a designated public water system, the state board shall provide
9 the public water system with notice and an opportunity to show
10 either of the following:

11 (1) That the public water system has not consistently failed to
12 provide an adequate and affordable supply of safe drinking water.

13 (2) That the public water system has taken steps to timely
14 address its failure to provide an adequate and affordable supply
15 of safe drinking water.

16 (c) The state board shall make financial assistance available
17 to an administrator for a designated public water system, as
18 appropriate and to the extent that funding is available.

19 (d) An administrator may do any of the following:

20 (1) Expend available moneys for capital infrastructure
21 improvements that the designated public water system needs to
22 provide an adequate and affordable supply of safe drinking water.

23 (2) Set and collect user water rates and fees.

24 (3) Expend available moneys for operation and maintenance
25 costs of the designated public water system.

26 (e) A designated public water system shall not be responsible
27 for any costs associated with an administrator.

28 (f) Administrative and managerial contracts pursuant to this
29 section shall be exempt from Chapter 2 (commencing with Section
30 10290) of Part 2 of Division 2 of the Public Contract Code and
31 may be awarded on a noncompetitive bid basis as necessary to
32 implement the purposes of this section.

33 (g) For purposes of this section, the following terms have the
34 following meanings:

35 (1) "Administrator" means a person that the state board has
36 determined is competent to perform the administrative and
37 managerial services of a public water system, as described in
38 subdivision (d). In determining competency, the state board may
39 consider demonstrated experience in managing and operating a
40 public water system.

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1 (2) *“Designated public water system” means a public water*
2 *system that serves a disadvantaged community, as defined in*
3 *Section 79505.5 of the Water Code, and that the state board finds*
4 *consistently fails to provide an adequate and affordable supply of*
5 *safe drinking water.*

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AMENDED IN SENATE JUNE 1, 2016
AMENDED IN SENATE APRIL 12, 2016
AMENDED IN SENATE MARCH 28, 2016

SENATE BILL

No. 1318

Introduced by Senator Wolk

February 19, 2016

An act to *add Section 56378.5 to, and to amend Sections 56375, 56425, and ~~56430~~ 56430, 56653, and 65302.10* 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 local agency formation commission to initiate proposals by resolution of application for, among other things, the consolidation of a district, a merger, and the formation of a new district or districts.

This bill would additionally authorize a local agency formation commission to initiate a proposal by resolution of application for the annexation of a disadvantaged unincorporated community, as specified.

Existing law requires an applicant for a change of organization or reorganization to include a plan for providing services within the affected territory that includes, among other things, an enumeration and description of the services to be extended to the affected territory

and an indication of when those services can feasibly be extended to the affected territory.

This bill would additionally require an applicant to include an enumeration and description of the services currently provided, and would require an indication of when services can feasibly be extended to the affected territory if new services are proposed.

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 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.

This bill would additionally require a local agency formation commission to enact policies designed to promote the logical and orderly development of areas adjacent to the sphere of influence of each city and special district.

~~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

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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 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.~~

This bill would, on or before January 1, 2018, and every 5 years thereafter, additionally require a local agency formation commission to identify and determine the location of any disadvantaged unincorporated community, as defined, that is within or adjacent to the sphere of influence of a city or a special district and review the adequacy and need for water and wastewater services within the identified disadvantaged unincorporated communities, as specified. The bill would, on or before January 1, 2020, and every 5 years thereafter, require the commission to adopt a written accessibility plan that addresses any existing service inefficiencies or needs within any identified disadvantaged unincorporated community, and would require a local agency formation commission to take certain steps to implement the plan and address service needs. The bill would, on or before January, 1, 2018, additionally require a local agency formation commission to file a map of the county that identified any disadvantaged unincorporated community that lacks safe drinking water or adequate wastewater and a copy of the accessibility plan.

Existing law requires each city or county, on or before the due date for the next adoption of its housing element, to review and update the land use element of its general plan based on available data, including, but not limited to, the data an analysis prepared by a local agency formation commission in a service review of the municipal services of unincorporated island, fringe, or legacy communities inside or near its boundaries, as specified. Existing law also requires each city and county

to, on or before the due date for each subsequent revision of its housing element, review and if necessary amend its general plan to update specified analysis.

This bill would require each city or county, on or before the next adoption of its housing element and on or before the due date for each subsequent revision of its housing element, to additionally incorporate any adopted accessibility plan into the general plan and any update of the land use element of its general 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.
State-mandated local program: yes.

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

1 SECTION 1. Section 56375 of the Government Code is
2 amended to read:
3 56375. The commission shall have all of the following powers
4 and duties subject to any limitations upon its jurisdiction set forth
5 in this part:
6 (a) (1) To review and approve with or without amendment,
7 wholly, partially, or conditionally, or disapprove proposals for
8 changes of organization or reorganization, consistent with written
9 policies, procedures, and guidelines adopted by the commission.
10 (2) The commission may initiate proposals by resolution of
11 application for any of the following:
12 (A) The consolidation of a district, as defined in Section 56036.
13 (B) The dissolution of a district.
14 (C) A merger.
15 (D) The establishment of a subsidiary district.
16 (E) The formation of a new district or districts.
17 (F) *The annexation of a disadvantaged unincorporated*
18 *community as defined by Section 56378.5.*

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

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

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

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

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

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

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

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

35 (7) The decision of the commission with regard to a proposal
36 to annex territory to a city shall be based upon the general plan
37 and rezoning of the city. When the development purposes are not
38 made known to the annexing city, the annexation shall be reviewed
39 on the basis of the adopted plans and policies of the annexing city
40 or county. A commission shall require, as a condition to

6

1 annexation, that a city prezone the territory to be annexed or present
2 evidence satisfactory to the commission that the existing
3 development entitlements on the territory are vested or are already
4 at build-out, and are consistent with the city's general plan.
5 However, the commission shall not specify how, or in what
6 manner, the territory shall be prezoned.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

8

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

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

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

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

24 (p) To authorize a city or district to provide new or extended
25 services outside its jurisdictional boundaries pursuant to Section
26 56133.

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

32 (r) To approve with or without amendment, wholly, partially,
33 or conditionally, or disapprove pursuant to this section the
34 annexation of territory served by a mutual water company formed
35 pursuant to Part 7 (commencing with Section 14300) of Division
36 3 of Title 1 of the Corporations Code that operates a public water
37 system to a city or special district. Any annexation approved in
38 accordance with this subdivision shall be subject to the state and
39 federal constitutional prohibitions against the taking of private
40 property without the payment of just compensation. This

1 subdivision shall not impair the authority of a public agency or
2 public utility to exercise eminent domain authority.

3 *SEC. 2. Section 56378.5 is added to the Government Code, to*
4 *read:*

5 *56378.5. (a) For purposes of this section, the following terms*
6 *have the following meanings:*

7 *(1) "Adequate wastewater services" means services sufficient*
8 *to meet residents' health and safety needs.*

9 *(2) "Disadvantaged unincorporated community" means an*
10 *unincorporated area that is a disadvantaged community as defined*
11 *by Section 65302.10, or as determined by commission policy, that*
12 *constitutes all or a portion of a disadvantaged community as*
13 *defined by Section 79505.5 of the Water Code and that lacks safe*
14 *drinking water, as defined by subdivision (i) of Section 116681 of*
15 *the Health and Safety Code, or adequate wastewater services.*

16 *(b) (1) On or before January 1, 2018, and every five years*
17 *thereafter, the commission shall identify and determine the location*
18 *of any disadvantaged unincorporated community that is within or*
19 *adjacent to the sphere of influence of a city or special district by*
20 *using, at a minimum, data at the census block group level.*

21 *(2) On or before January 1, 2018 and every five years thereafter,*
22 *the commission shall review the adequacy and need for water and*
23 *wastewater services within disadvantaged unincorporated*
24 *communities identified pursuant to paragraph (1) in accordance*
25 *with the study prepared pursuant to Section 56378 or the service*
26 *review conducted pursuant to Section 56430. The analysis shall*
27 *consider, but is not limited to, the analysis prepared by a city or*
28 *county pursuant to paragraphs (2) and (3) of subdivision (b) of*
29 *Section 65302.10.*

30 *(c) On or before January 1, 2020, and every five years*
31 *thereafter, the commission shall adopt a written accessibility plan*
32 *after a noticed hearing. The written accessibility shall identify*
33 *opportunities and strategies to address any existing service*
34 *inefficiencies or needs within the any community identified*
35 *pursuant to paragraph (1) of subdivision (b). The accessibility*
36 *plan may include information and actions identified by a city or*
37 *county pursuant to paragraphs (2) and (3) of subdivision (b) of*
38 *Section 65302.10. The accessibility plan shall contain, but is not*
39 *limited to, statements that address all of the following factors:*

10

- 1 (1) *The local agency best positioned to provide the subject water*
2 *and or wastewater services to the affected territory.*
- 3 (2) *Any actions and alternatives necessary to be taken by the*
4 *commission, if any, to enable the local agency identified in*
5 *paragraph (1) to provide services to the affected territory.*
- 6 (3) *The actions to be taken by any local agency that the*
7 *commission believes is necessary to establish services to the*
8 *disadvantaged unincorporated community.*
- 9 (4) *Any related consideration, as deemed relevant by the*
10 *commission, required to establish public water or wastewater*
11 *services to the affected disadvantaged unincorporated community*
12 *with respect to the commission's regional growth management*
13 *responsibilities pursuant to Section 56301.*
- 14 (5) *An analysis of costs and benefits for residents in each*
15 *affected territory.*
- 16 (6) *A written analysis demonstrating that a majority of residents*
17 *do not oppose the reorganization, service extension or other action*
18 *anticipated in the accessibility plan.*
- 19 (7) *An analysis of local, state, and federal funding sources*
20 *available to implement the accessibility plan*
- 21 (8) *An identification, based on substantial evidence, of any*
22 *disadvantaged unincorporated community for which there is no*
23 *technically or economically feasible way of connecting to an*
24 *existing system through annexation or service extension. These*
25 *findings shall not interfere with or inform other programs or*
26 *policies designed to expand basic services to disadvantaged*
27 *unincorporated communities, including, but not limited to, Article*
28 *9 (commencing with Sections 116680) of Chapter 4 of Part 12 of*
29 *Division 104 of the Health and Safety Code.*
- 30 (d) *Costs and fees for services provided to the affected territory*
31 *through implementation of the accessibility plan shall not exceed*
32 *costs and fees charged to existing water and wastewater system*
33 *customers of the applicable service provider.*
- 34 (e) *On or before January 1, 2018, the commission shall file a*
35 *map of the county that identifies disadvantaged unincorporated*
36 *communities that lack safe drinking water or adequate wastewater*
37 *along with the adopted accessibility plan prepared pursuant to*
38 *subdivision (c) in electronic format with the Office of Planning*
39 *and Research. Maps and adopted accessibility plans addressing*
40 *disadvantaged unincorporated communities that lack safe drinking*

11

1 *water shall also be provided to the State Water Resources Control*
2 *Board, and those lacking adequate wastewater shall be provided*
3 *to the State Water Resources Control Board and any affected*
4 *regional water quality control board. All maps shall be made*
5 *available on the Office of Planning and Research's and State Water*
6 *Resources Control Board's Internet Web sites.*

7 *(f) Within two years of the adoption of an accessibility plan*
8 *pursuant to subdivision (c), the commission shall hold a noticed*
9 *public hearing and review the status of every disadvantaged*
10 *unincorporated community that is subject to the accessibility plan.*
11 *If the commission determines that the service needs remain*
12 *unaddressed, the commission shall initiate a change of*
13 *organization or reorganization pursuant to this chapter.*

14 *(g) The commission shall hold the public hearing required*
15 *pursuant to subdivisions (c) and (f) in a place as close as feasible*
16 *to the affected areas. The commission shall provide a 30 day notice*
17 *of each hearing to the residents of any identified disadvantaged*
18 *unincorporated community and any other stakeholder including,*
19 *but not limited to, the State Water Resources Control Board, cities,*
20 *counties, and special districts. The hearing shall provide residents*
21 *of the disadvantaged unincorporated communities an opportunity*
22 *for public comment.*

23 *(h) Any actions taken to implement an adopted accessibility*
24 *plan pursuant to this section shall not be subject to an election*
25 *or any protest proceedings, as defined in section 56069.5. The*
26 *commission shall not take action to implement an adopted*
27 *accessibility plan if the commission finds, based upon written*
28 *evidence, that a majority of the residents within the affected*
29 *territory are opposed to the recommended action.*

30 *(i) Any action taken by the commission pursuant to this section*
31 *shall include a condition requiring the sufficient completion, as*
32 *determined by the commission, of an engineering, funding, and*
33 *other related planning activity by the local agency necessary to*
34 *establish services to the affected territory.*

35 *(j) The commission shall be eligible for reimbursement by the*
36 *state for the initiation and implementation of an accessibility*
37 *plan pursuant to this section.*

38 ~~SEC. 2.~~

39 *SEC. 3.* Section 56425 of the Government Code is amended
40 to read:

12

1 56425. (a) In order to carry out its purposes and responsibilities
2 for planning and shaping the logical and orderly development and
3 coordination of local governmental agencies subject to the
4 jurisdiction of the commission to advantageously provide for the
5 present and future needs of the county and its communities, the
6 commission shall develop and determine the sphere of influence
7 of each city and each special district, as defined by Section 56036,
8 within the county and enact policies designed to promote the logical
9 and orderly development of areas within or adjacent to the sphere.

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

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

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

13

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

4 (1) The present and planned land uses in the area, including
5 agricultural and open-space lands.

6 (2) The present and probable need for public facilities and
7 services in the area.

8 (3) The present capacity of public facilities and adequacy of
9 public services that the agency provides or is authorized to provide.

10 (4) The existence of any social or economic communities of
11 interest in the area if the commission determines that they are
12 relevant to the agency.

13 (5) For an update of a sphere of influence of a city or special
14 district that provides public facilities or services related to sewers,
15 municipal and industrial water, or structural fire protection, that
16 occurs pursuant to subdivision (g) on or after July 1, 2012, the
17 present and probable need for those public facilities and services
18 of any disadvantaged unincorporated communities within or
19 adjacent to the existing sphere of influence.

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

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

25 (h) In determining a sphere of influence, the commission may
26 assess the feasibility of governmental reorganization of particular
27 agencies and recommend reorganization of those agencies when
28 reorganization is found to be feasible and if reorganization will
29 further the goals of orderly development and efficient and
30 affordable service delivery. The commission shall make all
31 reasonable efforts to ensure wide public dissemination of the
32 recommendations.

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

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

14

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

6 ~~SEC. 3.~~

7 *SEC. 4.* Section 56430 of the Government Code is amended
8 to read:

9 56430. (a) In order to prepare and to update spheres of
10 influence in accordance with Section 56425, the commission shall
11 conduct a service review of the municipal services provided in the
12 county or other appropriate area designated by the commission.
13 The commission shall include in the area designated for service
14 review the county, the region, the subregion, or any other
15 geographic area as is appropriate for an analysis of the service or
16 services to be reviewed, and shall prepare a written statement of
17 its determinations with respect to each of the following:

18 (1) Growth and population projections for the affected area.

19 (2) The location and characteristics of any disadvantaged
20 unincorporated communities within or contiguous to the sphere
21 of influence.

22 (3) Present and planned capacity of public facilities, adequacy
23 of public services, and infrastructure needs or deficiencies including
24 needs or deficiencies related to sewers, municipal and industrial
25 water, and structural fire protection in any disadvantaged,
26 unincorporated communities within or contiguous to the sphere
27 of influence.

28 (4) Financial ability of agencies to provide services.

29 (5) Status of, and opportunities for, shared facilities.

30 (6) Accountability for community service needs, including
31 governmental structure and operational efficiencies.

32 (7) Any other matter related to effective or efficient service
33 delivery, as required by commission policy.

34 (b) In conducting a service review, the commission shall
35 comprehensively review all of the agencies that provide the
36 identified service or services within the designated geographic
37 area. Where there exists a disadvantaged unincorporated
38 community that lacks adequate drinking water and wastewater
39 services and infrastructure within or contiguous with the subject
40 sphere, the commission shall assess various alternatives for

15

1 improving efficiency and affordability of drinking water or
2 wastewater infrastructure and service delivery within and
3 contiguous to the sphere of influence, including, but not limited
4 to, the consolidation of governmental agencies or the extension of
5 services, or both.

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

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

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

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

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

38 (g) ~~(1) Within two years of identification of a disadvantaged~~
39 ~~unincorporated community that lacks safe drinking water or~~
40 ~~adequate wastewater services pursuant to this section, the~~

16

1 ~~commission shall recommend a plan based on the alternatives~~
2 ~~analyzed and shall adopt any actions necessary to implement the~~
3 ~~plan, including sphere of influence updates, extensions of service,~~
4 ~~or changes of organization.~~

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

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

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

25 ~~(A) Conducted the analysis required by this section.~~

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

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

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

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

3 ~~(B) An extension of service authorized pursuant to subdivision~~
4 ~~(e) of Section 56133.~~

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

8 *SEC. 5. Section 56653 of the Government Code, as amended*
9 *by Section 2 of Chapter 784 of the Statutes of 2014, is amended*
10 *to read:*

11 56653. (a) If a proposal for a change of organization or
12 reorganization is submitted pursuant to this part, the applicant shall
13 submit a plan for providing services within the affected territory.

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

17 (1) An enumeration and description of the services *currently*
18 *provided or to be extended to the affected territory.*

19 (2) The level and range of those services.

20 (3) An indication of when those services can feasibly be
21 extended to the affected ~~territory.~~ *territory, if new services are*
22 *proposed.*

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

27 (5) Information with respect to how those services will be
28 financed.

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

18

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

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

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

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

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

27 (4) Pursuant to Section 56881, the commission shall include in
28 its resolution making determinations a description of the annexation
29 development plan, including, but not limited to, an explanation of
30 the proposed financing mechanism adopted pursuant to Section
31 99.3 of the Revenue and Taxation Code, including, but not limited
32 to, any planned debt issuance associated with that annexation
33 development plan.

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

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

1 *SEC. 6. Section 56653 of the Government Code, as added by*
2 *Section 3 of Chapter 784 of the Statutes of 2014, is amended to*
3 *read:*

4 56653. (a) If a proposal for a change of organization or
5 reorganization is submitted pursuant to this part, the applicant shall
6 submit a plan for providing services within the affected territory.

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

10 (1) An enumeration and description of the services *currently*
11 *provided or* to be extended to the affected territory.

12 (2) The level and range of those services.

13 (3) An indication of when those services can feasibly be
14 extended to the affected ~~territory.~~ *territory, if new services are*
15 *proposed.*

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

20 (5) Information with respect to how those services will be
21 financed.

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

23 *SEC. 7. Section 65302.10 of the Government Code is amended*
24 *to read:*

25 65302.10. (a) As used in this section, the following terms shall
26 have the following meanings:

27 (1) "Community" means an inhabited area within a city or
28 county that is comprised of no less than 10 dwellings adjacent or
29 in close proximity to one another.

30 (2) "Disadvantaged unincorporated community" means a fringe,
31 island, or legacy community in which the median household
32 income is 80 percent or less than the statewide median household
33 income.

34 (3) "Fringe community" means any inhabited and
35 unincorporated territory that is within a city's sphere of influence.

36 (4) "Island community" means any inhabited and unincorporated
37 territory that is surrounded or substantially surrounded by one or
38 more cities or by one or more cities and a county boundary or the
39 Pacific Ocean.

1 (5) "Legacy community" means a geographically isolated
2 community that is inhabited and has existed for at least 50 years.

3 (b) On or before the due date for the next adoption of its housing
4 element pursuant to Section 65588, each city or county shall review
5 and update the land use element of its general plan, based on
6 available data, including, but not limited to, the data and analysis
7 developed pursuant to ~~Section~~ *Sections 56378.5 and 56430*, of
8 unincorporated island, fringe, or legacy communities inside or
9 near its boundaries. The updated land use element shall include
10 all of the following:

11 (1) In the case of a city, an identification of each island or fringe
12 community within the city's sphere of influence that is a
13 disadvantaged unincorporated community. In the case of a county,
14 an identification of each legacy community within the boundaries
15 of the county that is a disadvantaged unincorporated community,
16 but not including any area within the sphere of influence of any
17 city. This identification shall include a description of the
18 community and a map designating its location.

19 (2) For each identified community, an analysis of water,
20 wastewater, stormwater drainage, and structural fire protection
21 needs or deficiencies.

22 (3) An analysis, based on then existing available data, of benefit
23 assessment districts or other financing alternatives that could make
24 the extension of services to identified communities financially
25 feasible.

26 (c) On or before the due date for each subsequent revision of
27 its housing element pursuant to Section 65588, each city and county
28 shall review, and if necessary amend, its general plan to update
29 the analysis required by this section *and by Sections 56378.5 and*
30 *56430*.

31 (d) *On or before the due date for the each subsequent revision*
32 *of its housing element pursuant to Section 65588. each city and*
33 *county shall incorporate relevant components of the accessibility*
34 *plan developed pursuant to Section 56378.5 and the analysis*
35 *required by Section 56430 into its land use element.*

36 ~~SEC. 4.~~

37 *SEC. 8.* If the Commission on State Mandates determines that
38 this act contains costs mandated by the state, reimbursement to
39 local agencies and school districts for those costs shall be made

21

- 1 pursuant to Part 7 (commencing with Section 17500) of Division
- 2 4 of Title 2 of the Government Code.

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