



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

6/14/2016 Board Meeting

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**8-7**

**Subject**

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

**Executive Summary**

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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**

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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

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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)

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### 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

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### 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.

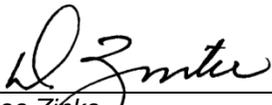
**Fiscal Impact:** Unknown, but potentially significant loss of annexation fees and costs to extend service area boundary to incorporate disadvantaged communities if SB 552 and SB 1318 are enacted

**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**

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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**

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**Introduced by Senator Wolk**

February 26, 2015

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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

## 6

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

## 3

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~~

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.

## 20

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.

O