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TITLE 5. LOCAL AGENCIES [50001 - 57607] (Title 5 added by Stats. 1949, Ch. 81.)

DIVISION 3. CORTESE-KNOX-HERTZBERG LOCAL GOVERNMENT REORGANIZATION ACT OF 2000 [56000 - 57550] (Heading of Division 3 amended by Stats. 2001, Ch. 388, Sec. 1.)

PART 3. COMMISSION PROCEEDINGS FOR A CHANGE OF ORGANIZATION OR REORGANIZATION [56650 - 56898] (Heading of Part 3 amended by Stats. 1985, Ch. 1599, Sec. 8.)

CHAPTER 5. Proceedings for Special Districts [56821 - 56879.5] (Heading of Chapter 5 repealed (by Sec. 127) and added by Stats. 2000, Ch. 761, Sec. 125.)

ARTICLE 2. Reorganization [56825 - 56857] (Article 2 heading added by Stats. 2000, Ch. 761, Sec. 128.)

56825. The commission shall have the powers and duties set forth in Part 2 (commencing with Section 56300) and the additional powers and duties specified in this chapter.

(Added by Stats. 1985, Ch. 541, Sec. 3. Effective September 9, 1985. Operative January 1, 1986, by Sec. 5 of Ch. 541.)

56826. A reorganization or a plan of reorganization shall provide for one or more changes of organization of any type for each of the subject districts and may provide for the formation of one or more new districts pursuant to the principal act or acts designated in the reorganization or plan of reorganization and Section 56100.

(Repealed and added by Stats. 2000, Ch. 761, Sec. 130. Effective January 1, 2001.)

56826.5. (a) A proposal for reorganization that includes the consolidation of two or more special districts not formed pursuant to the same principal act shall only be approved by the commission if both the following conditions are met:

(1) The commission is able to designate a successor or successors, or form a new district or districts, authorized by their respective principal acts to deliver all of the services provided by the consolidating districts at the time of consolidation.

(2) The commission makes the determinations specified in subdivision (b) of Section 56881.

(b) If a proposal for reorganization that includes the consolidation of two or more special districts not formed pursuant to the same principal act is initiated by the commission pursuant to subdivision (a) of Section 56375, it shall only be approved if the commission has prepared a study pursuant to Section 56378 or the written statement of determinations specified in subdivision (a) of Section 56430, and all of the following conditions are met:

(1) Each of the services provided by the districts subject to the proposal will be provided by a successor or successors, or by the formation of a new district authorized under a principal act to deliver the services. The commission may designate a successor other than the districts subject to the proposal only if the successor is currently providing the same service provided by one or more of the districts subject to the proposal. The commission shall not designate a city as a successor unless the city contains 70 percent or more of the area of land within one of the districts subject to the proposal, or the combined territory of two or more of the districts subject to the proposal, within its boundaries, and 70 percent or more of the number of registered voters of the district or the combined districts who reside within the boundaries of the city.

(2) The public services costs of the proposal that the commission is authorizing are likely to be less than or substantially similar to the costs of alternative means of providing the service.

(3) The proposal that the commission is approving promotes public access and accountability for community services needs and financial resources.

(Amended by Stats. 2007, Ch. 98, Sec. 6. Effective January 1, 2008.)

56827. (a) Except as provided in subdivision (b), upon the presentation of any petition or applications making a proposal for a reorganization, the commission may take proceedings pursuant to Part 3 (commencing with Section 56650) without referring the proposal to a reorganization committee, as provided in this part.

(b) The commission may refer to a reorganization committee any incorporation proposal that includes, or may be modified to include, any of the following changes of organization affecting an independent special district: consolidation, dissolution, formation, merger, or establishment of a subsidiary district.

(c) If the commission has initiated a change of organization or reorganization that affects more than one special district, the commission may, and is encouraged to, utilize a reorganization committee to review the proposal.

(Amended by Stats. 2012, Ch. 62, Sec. 7. (AB 2698) Effective January 1, 2013.)

56828. Before any proposal for reorganization is referred to any reorganization committee, the commission may provide for a public hearing on the question of whether the proposal should be disapproved or referred to a reorganization committee and set a time and place for that hearing.

(Repealed and added by Stats. 2000, Ch. 761, Sec. 135. Effective January 1, 2001.)

56829. The executive officer shall give notice of that hearing by publication, as provided in Sections 56153 and 56154, and by posting, as provided in Sections 56158 and 56159.

(Repealed and added by Stats. 2000, Ch. 761, Sec. 138. Effective January 1, 2001.)

56830. The executive officer shall also give mailed notice of any hearing, as provided in Sections 56155 to 56157, inclusive, by mailing notice of hearing to all of the following persons and entities:

(a) Each affected city and affected district.

(b) The chief petitioners, if any.

(c) Each person who has filed a written request for special notice with the executive officer.

(Repealed and added by Stats. 2000, Ch. 761, Sec. 140. Effective January 1, 2001.)

56831. The hearing shall be held by the commission on the date and at the time and place specified in the notice. After the conclusion of the hearing, the commission shall adopt a resolution doing either of the following:

(a) Disapproving the proposal of reorganization.

(b) Ordering the proposal referred to a reorganization committee for study, report, and recommendation.

(Repealed and added by Stats. 2000, Ch. 761, Sec. 142. Effective January 1, 2001.)

56832. The commission may accept contributions from any source for the purpose of paying the expenses of a reorganization committee in the conduct of its study, report, and recommendation. Any affected county, affected city, or affected district may make contributions for that purpose. The commission and any affected county, affected city, or affected district may make any of its facilities available for the use of a reorganization committee and may authorize any of its officers and employees to furnish advice, assistance, or services to the committee.

(Repealed and added by Stats. 2000, Ch. 761, Sec. 144. Effective January 1, 2001.)

56833. Any resolution adopted by the commission ordering a proposal of reorganization referred to a reorganization committee shall do all of the following:

(a) Describe the proposed reorganization and designate the subject districts (the description and designation may be by reference to the proposal).

(b) Specify the maximum number of members, not to exceed three, to represent each subject district on the committee.

(c) Fix a time and place for the first meeting of the reorganization committee.

(d) Designate a date, not less than 60 days from the date of the first meeting of the committee, for the completion and submission to the commission of the report and recommendation of the committee.

(Repealed and added by Stats. 2000, Ch. 761, Sec. 146. Effective January 1, 2001.)

56834. From time to time during the course of study upon a proposed plan of reorganization, the commission may do any of the following:

(a) Extend the time for completion and submission of the report and recommendation of a reorganization committee.

(b) Change the scope of the study by the addition or deletion of territory or subject districts, except that the authority granted to a commission under this subdivision shall not apply to a change of organization or reorganization as described in subdivision (a) of Section 56853.

(c) Authorize the committee to develop, study, report, and make recommendations upon alternative plans of reorganization.

(Amended by Stats. 2001, Ch. 667, Sec. 14. Effective January 1, 2002.)

56835. At least 15 days before the date of the first meeting of a reorganization committee, the executive officer shall mail a copy of the resolution adopted by the commission to each subject district designated in the resolution.

(Repealed and added by Stats. 2000, Ch. 761, Sec. 153. Effective January 1, 2001.)

56836. Any person, including, but not limited to, a member of the legislative body of a subject district and an officer or employee of the district, may be appointed as a member to represent the district upon a reorganization committee.

(Repealed and added by Stats. 2000, Ch. 761, Sec. 155. Effective January 1, 2001.)

56837. (a) The legislative body of each affected district shall appoint one or more members, not to exceed the maximum number specified by the commission, to represent the district on the reorganization committee. That legislative body may remove and replace any member previously appointed by it, and may fill any vacancy in its membership upon the committee.

(b) In the case of a reorganization committee created pursuant to subdivision (b) of Section 56827, the county board of supervisors shall appoint one or more members, not to exceed the maximum number specified by the commission, to represent the county on the reorganization committee. The county board of supervisors may appoint any person, including, but not limited to, an officer or employee of the county to represent the county on the reorganization committee. The county board of supervisors may remove and replace any member previously appointed by it, and may fill any vacancy in its membership on the committee.

(c) In the case of a reorganization committee created pursuant to subdivision (b) of Section 56827, the commission shall appoint one or more members to represent the general public on the reorganization committee. The number of members appointed to represent the general public shall not exceed the maximum number specified by the commission to represent the county or each subject district. A member appointed pursuant to this subdivision shall not be an officer or employee of any local agency. The commission may remove and replace any member previously appointed by it, and may fill any vacancy in its membership on the committee.

(Repealed and added by Stats. 2000, Ch. 761, Sec. 157. Effective January 1, 2001.)

56838. The clerk of a subject district shall give immediate notice to the executive officer of all appointments and removals made by the legislative body to a reorganization committee.

(Repealed and added by Stats. 2000, Ch. 761, Sec. 159. Effective January 1, 2001.)

56839. At any time after the date fixed for the first meeting of a reorganization committee or during the course of the study by the committee, if the legislative body of any subject district, after written request by the executive officer, does not appoint any members to the committee, those members may be appointed by the commission.

(Repealed and added by Stats. 2000, Ch. 761, Sec. 161. Effective January 1, 2001.)

56840. If, during the course of study upon a proposed plan of reorganization, the commission authorizes a change in the scope of the study, the membership of the reorganization committee shall be immediately changed to exclude representatives of each district or city for which a change of organization is no longer proposed and to include representatives of each district or city for which a new change of organization is proposed.

(Repealed and added by Stats. 2000, Ch. 761, Sec. 164. Effective January 1, 2001.)

56841. Subject to any standards and procedures adopted by regulation by the commission, a reorganization committee shall provide for the selection of a presiding officer and secretary either of whom may but are not required to be members of the committee, adopt the standards and procedures which it deems advisable, fix the time and place for meetings of the committee, and determine the manner and method to be followed by the committee in its study, report, and recommendation.

(Repealed and added by Stats. 2000, Ch. 761, Sec. 167. Effective January 1, 2001.)

56842. A quorum shall be deemed to be present at a meeting of a reorganization committee if members representing one-half or more of the subject districts are present. Each subject district shall be entitled to one vote at any reorganization committee meeting, which vote shall be determined by a majority of the members of the district present at the meeting.

(Repealed and added by Stats. 2000, Ch. 761, Sec. 169. Effective January 1, 2001.)

56843. If a reorganization committee does not complete and submit its report and recommendation before the date specified by the commission or, prior to that date, if members of the committee representing one-half or more of the subject districts report to the commission that the committee is unable to agree upon the report and recommendation, the commission may either order the discharge of the committee, or appoint additional members to the committee, not to exceed the maximum number authorized for a single subject district, to represent the public and order the committee, as so enlarged, to continue its study.

(Repealed and added by Stats. 2000, Ch. 761, Sec. 175. Effective January 1, 2001.)

56844. If the commission orders the discharge of a reorganization committee, the commission may make a study, report, and recommendation upon a plan of reorganization in the place of the reorganization committee.

(Repealed and added by Stats. 2000, Ch. 761, Sec. 177. Effective January 1, 2001.)

56845. If the commission appoints additional members to the reorganization committee to represent the public and orders the reorganization committee, as so enlarged, to continue its study, the additional members shall have all of the rights and powers of members representing a single subject district, including participation in all studies, reports, and recommendations, attendance at all meetings, and the casting of a single vote on behalf of all of the additional members on any matter before the committee.

(Repealed and added by Stats. 2000, Ch. 761, Sec. 182. Effective January 1, 2001.)

56846. Every officer of any affected county, affected city, or affected district shall make available to a reorganization committee any records, reports, maps, data, or other documents which in any way affect or pertain to the committee's study, report, and recommendation and shall confer with the committee concerning the problems and affairs of that county, city, or district.

(Repealed and added by Stats. 2000, Ch. 761, Sec. 184. Effective January 1, 2001.)

56847. Upon completion of the study of a reorganization committee, the committee shall prepare and submit to the commission a report and recommendation containing all of the following:

- (a) A brief summary of the nature and extent of the study of the committee.
- (b) A full and complete description of the plan of reorganization and any alternative plans of reorganization which were studied by the committee.
- (c) The recommendation of the committee for the approval or disapproval of all or any part of the plan of reorganization and of any alternative plans of reorganization.

(Repealed and added by Stats. 2000, Ch. 761, Sec. 186. Effective January 1, 2001.)

56848. Approval by a reorganization committee of the report and recommendation shall require the affirmative vote of more than one-half of the subject districts represented on the reorganization committee.

(Added by Stats. 2000, Ch. 761, Sec. 187. Effective January 1, 2001.)

56849. The reorganization committee shall file the original of its report and recommendation with the executive officer and a copy of the report and recommendation with the clerk of each subject district. Upon filing that report and recommendation with the executive officer, the reorganization committee shall be terminated. However, the commission may cause the committee to be reconvened at any time for the sole purpose of correcting or clarifying any error, omission, or uncertainty appearing in the report and recommendation, as determined by the commission.

(Repealed and added by Stats. 2000, Ch. 761, Sec. 191. Effective January 1, 2001.)

56853. (a) If a majority of the members of each of the legislative bodies of two or more local agencies adopt substantially similar resolutions of application making proposals either for the consolidation of districts or for the reorganization of all or any part of the districts into a single local agency, the commission shall approve, or conditionally approve, the proposal.

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

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

(Amended by Stats. 2012, Ch. 62, Sec. 8. (AB 2698) Effective January 1, 2013.)

56855. (a) This section shall apply to any proposal which contains the annexation of territory to a fire protection district which is organized pursuant to the Fire Protection District Law of 1987, Part 3 (commencing with Section 13800) of Division 12 of the Health and Safety Code, and the affected territory is or is proposed to be all or part of a city which is within the fire protection district.

(b) Prior to the adoption by the local agency formation commission of a resolution making determinations, the district may request and the commission shall impose, as a term and condition, a requirement that the legislative body of the city shall enter into a contract with the district. The contract shall require:

(1) That the affected territory shall remain part of the district for a period of at least 10 years.

(2) That the city shall pay the cost of services provided by the district. This payment shall be in amounts and on terms specified in the contract.

(3) Any other conditions to which the city and the district mutually agree.

(Repealed and added by Stats. 2000, Ch. 761, Sec. 202. Effective January 1, 2001.)

56856. (a) The commission shall not approve or conditionally approve a change of organization or reorganization that would result in the annexation to a special district of territory that is within a farmland security zone created pursuant to Article 7 (commencing with Section 51296) of Chapter 7 of Division 1 if that special district provides or would provide facilities or services related to sewers, nonagricultural water, or streets and roads, unless the facilities or services benefit land uses that are allowed under the farmland security zone contract and the landowner consents to the change of organization or reorganization.

(b) This section shall not apply during the three-year period preceding the termination of a farmland security zone contract under Article 7 (commencing with Section 51296) of Chapter 7 of Division 1.

(Repealed and added by Stats. 2000, Ch. 761, Sec. 204. Effective January 1, 2001.)

56856.5. (a) The commission shall not approve or conditionally approve a change of organization or reorganization that would result in the annexation to a city or special district of territory that is subject to a contract entered into pursuant to the California Land Conservation Act of 1965 (Chapter 7 (commencing with Section 51200) of Part 1 of Division 1), other than a contract entered into pursuant to Article 7 (commencing with Section 51296) of Chapter 7 of Part 1 of Division 1, if that city or special district provides or would provide facilities or services related to sewers, nonagricultural water, or streets and roads to the territory, unless these facilities or services benefit land uses that are allowed under the contract.

(b) This section shall not be construed to preclude the annexation of territory for the purpose of using other facilities or services provided by the agency that benefit land uses allowable under the contract.

(c) Notwithstanding subdivision (a), the commission may nevertheless approve a change of organization or reorganization if it finds any of the following:

(1) The city or county that would administer the contract after annexation has adopted policies and feasible implementation measures applicable to the affected territory ensuring the continuation of agricultural use and other uses allowable under the contract on a long-term basis.

(2) The change of organization or reorganization encourages and provides planned, well-ordered, and efficient urban development patterns that include appropriate consideration of the preservation of open-space lands within those urban development patterns.

(3) The change of organization or reorganization is necessary to provide services to planned, well-ordered, and efficient urban development patterns that include appropriate consideration of the preservation of open-space lands within those urban development patterns.

(d) This section shall not apply to territory subject to a contract for which either of the following applies:

(1) A notice of nonrenewal has been served pursuant to Section 51245, if the annexing agency agrees that no services will actually be provided by it for use during the remaining life of the contract for land uses or activities not allowed under the contract.

(2) A tentative cancellation has been approved pursuant to Section 51282.

56857. (a) Upon receipt by the commission of a proposed change of organization or reorganization that includes the annexation of territory to any district, if the proposal is not filed by the district to which annexation of territory is proposed, the executive officer shall place the proposal on the agenda for the next commission meeting for information purposes only and shall transmit a copy of the proposal to any district to which an annexation of territory is requested.

(b) No later than 60 days after the date that the proposal is on the commission's meeting agenda in accordance with subdivision (a), any district to which annexation of territory is proposed may adopt and transmit to the commission a resolution requesting termination of the proceedings. The resolution requesting termination of the proceedings shall be based upon written findings supported by substantial evidence in the record that the request is justified by a financial or service related concern or because the territory is already receiving electrical service under a service area agreement approved by the Public Utilities Commission pursuant to Section 9608 of the Public Utilities Code. Prior to the commission's termination of proceedings pursuant to subdivision (c), the resolution is subject to judicial review.

(c) If any district to which annexation of territory is proposed has adopted and transmitted to the commission a resolution requesting termination of proceedings within the time period prescribed by, and in accordance with, subdivision (b), and if the commission has not been served with notice that judicial review of that resolution is being sought pursuant to subdivision (b), then the commission shall terminate the proceedings no sooner than 30 days from receipt of the resolution from the district.

(d) For purposes of an annexation to a district pursuant to this section or Section 56668.3:

(1) "Financial concerns" means that the proposed uses within the territory proposed to be annexed do not have the capacity to provide sufficient taxes, fees, and charges, including connection fees, if any, to pay for the full cost of providing services, including capital costs. Cost allocation shall be based on generally accepted accounting principles and shall be subject to all constitutional and statutory limitations on the amount of the tax, fee, or charge.

(2) "Service concerns" means that a district will not have the ability to provide the services that are the subject of the application to the territory proposed to be annexed without imposing level of service reductions on existing and planned future uses in the district's current service area. "Service concerns" does not include a situation when a district has the ability to provide the services or the services will be available prior to the time that services will be required.

(3) "Territory already receiving electrical service under a service area agreement approved by the Public Utilities Commission pursuant to Section 9608 of the Public Utilities Code" means territory that is outside the boundaries of an irrigation district but is currently receiving electrical services from the irrigation district pursuant to a service area agreement between the district and a public utility approved by the Public Utilities Commission as authorized by Sections 8101 to 8108, inclusive, and 9608 of the Public Utilities Code.

(4) A district may make findings regarding financial or service concerns based on information provided in the application and any additional information provided to the district by the commission or the applicant that is relevant to determining the adequacy of existing and planned future services to meet the probable future needs of the territory. Findings related to service or financial concerns may be based on an urban water management plan, capital improvement plan, financial statement, comprehensive annual financial report, integrated resource management plan, or other information related to the ability of a district to provide services. Findings related to existing provision of electrical service by an irrigation district pursuant to a service area agreement approved under Section 9608 of the Public Utilities Code shall be based on the records of the district and the Public Utilities Commission evidencing approval of such a service area agreement by the Public Utilities Commission.

(5) Nothing in this section shall be construed to create a right or entitlement to water service or any specific level of water service.

(6) Nothing in this section is intended to change existing law concerning a district's obligation to provide water service to its existing customers or to any potential future customers.

(e) This section shall not apply if all districts to which annexation of territory is proposed have adopted and transmitted to the commission a resolution supporting the proposed change of organization or reorganization.