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AB-851 Local government: organization: disincorporations. (2015-2016)

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Assembly Bill No. 851

CHAPTER 304

An act to amend Sections 50077, 56658, 56885.5, 56886, and 57405 of, to add Sections 56045.5, 56653.1, 56770, 56804, 56813, 56814, 56816, 57401, and 57426 to, and to repeal Sections 57402, 57404, 57409, 57410, 57416, 57423, and 57424 of, the Government Code, and to amend Section 99 of the Revenue and Taxation Code, relating to local government.

[Approved by Governor September 21, 2015. Filed with Secretary of State September 21, 2015.]

LEGISLATIVE COUNSEL'S DIGEST

AB 851, Mayes. Local government: organization: disincorporations.

(1) Existing law specifies a procedure for the legislative body of a city, county, or district to propose to the voters an ordinance or resolution to adopt a special tax pursuant to constitutional requirements. Existing law authorizes a local agency which is conducting proceedings for the incorporation of a city, formation of a district, change of organization, a reorganization, a change of organization of a city, or a municipal reorganization to propose the adoption of a special tax on behalf of the affected city or district in accordance with this procedure.

This bill would additionally authorize a local agency conducting proceedings for the disincorporation of a city to propose the adoption of a special tax on behalf of an affected city in accordance with the above-described procedure.

(2) Existing law, the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000, provides the authority and procedures for the initiation, conduct, and completion of changes of organization and reorganization of cities and districts. The act requires a local agency or school district that initiates proceedings for a change of local government organization or reorganization, by submitting a resolution of application to a local agency formation commission, to also submit a plan for providing services within the affected territory, as specified.

This bill would, in the case of a disincorporation or reorganization that includes a disincorporation, require the plan for services to include specific provisions, including, among others, an enumeration and description of the services currently provided by the city proposed for disincorporation.

(3) The act requires a petitioner or legislative body desiring to initiate proceedings to submit an application to the executive officer of the local agency formation commission, and requires the local agency formation commission, with regard to an application that includes an incorporation, to immediately notify all affected local agencies and any applicable state agency, as specified.

This bill would extend that requirement to an application that includes a disincorporation.

(4) Existing law prohibits the commission from approving or conditionally approving a proposal for an incorporation unless the commission finds, among other things, that the proposal is consistent with the intent of the act, the incorporation is consistent with

the spheres of influence of affected local agencies, and the proposed city is expected to receive revenues sufficient to provide public services and facilities and a reasonable reserve during the 3 fiscal years following incorporation.

This bill would additionally prohibit the commission from approving or conditionally approving a proposal that includes a disincorporation unless the commission finds, among other things, that the disincorporation is consistent with the intent of the act, the disincorporation will address necessary changes to spheres of influence of affected agencies, and the service responsibilities of the city proposed for disincorporation have been assigned, as specified.

(5) Existing law requires the executive officer of the commission to prepare a comprehensive fiscal analysis for any proposal that includes an incorporation, as specified.

This bill would additionally require the executive officer to prepare a comprehensive fiscal analysis for any proposal that includes a disincorporation, as specified.

(6) Existing law requires the commission to determine the amount of property tax revenue to be exchanged by the affected local agency for a proposal that includes the incorporation of a city, and sets forth the procedures to be followed in making that determination.

This bill would additionally require the commission to determine the amount of property tax revenue to be exchanged by the affected city and any successor or affected local agency for a proposal that includes a disincorporation of a city, and would set forth the procedures to be followed in making that determination.

The bill would additionally require the commission to determine, where the proposal includes the disincorporation of a city with the assignment of property tax revenues to a successor, the increase of the appropriations limit for a successor, if the successor is an existing entity, or the appropriations limit for a new special district, as specified.

The bill would state the intent of the Legislature that a proposal that includes a disincorporation of a city result in a determination that the debt or contractual obligations and responsibilities of the city being disincorporated be the responsibility of the same territory for repayment. The bill would require the city being disincorporated to provide a written statement prior to issuance of a certificate for filing for a proposal that includes a disincorporation that includes specified information relating to its debts and contractual obligations.

(7) Existing law authorizes the commission, in approving a disincorporation of a city, the dissolution of a district, or the reorganization or consolidation of agencies that result in the dissolution of one or more districts or disincorporation of one or more cities, to make the approval conditional upon the agency being dissolved not approving any increase in compensation or benefits for specified officers of the agency, or appropriating, encumbering, expending, or otherwise obligating any revenue of the agency beyond that provided in the current budget at the time the dissolution is approved by the commission, unless it first finds that an emergency exists.

This bill would modify this provision to authorize the commission to make the approval conditional upon prohibiting the district that is being dissolved or the city that is being disincorporated from approving any increase in compensation or benefits for specified officers of the agency, or appropriating, encumbering, expending, or otherwise obligating any revenue of the agency beyond that provided in the current budget at the time the dissolution is approved by the commission, unless it first finds that an emergency exists.

The act also authorizes the commission to require a single question appearing on the ballot upon issues of annexation and reorganization in any election at which the questions of annexation and district reorganization or incorporation and district reorganization are to be considered at the same time.

This bill would additionally apply these provisions to a disincorporation and district reorganization.

(8) Existing law provides that an organization or reorganization may provide for, or be made subject to, specified terms and conditions, including the levying of assessments, including certain fees, or the approval by the voters of general or special taxes. Under existing law, these terms and conditions may not directly regulate land use, property development, or subdivision requirements, and the imposition of such a fee as a condition of the issuance of a building permit does not constitute a direct regulation of land use, property development, or subdivision requirements.

This bill would expand the scope of terms and conditions that may be provided for or required as a condition of an organization or reorganization to include the levying of fees generally. The bill would also make technical, nonsubstantive changes to this provision.

(9) Existing law requires every public officer of a city being disincorporated, prior to the effective date of the disincorporation, to turn the public property in his or her possession over to the board of supervisors.

This bill would instead require all public property of the city being disincorporated, in the control or possession of any public officer or employee of the city, to be transferred to the possession and control of the successor or successors designated by the commission.

(10) The act requires the commission, after ascertaining that the disincorporation has carried, to determine and certify in a written statement to the board of supervisors the indebtedness of the city, the amount of money in its treasury, and the amount of any tax levy or other obligation due the city that is unpaid or has not been collected.

This bill would repeal this provision.

(11) Existing law requires the board of supervisors to make specified determinations if the commission does not provide the board with a statement of those determinations.

This bill would repeal this provision.

(12) Existing law requires the tax collector to collect any tax that has been levied by a disincorporated city that remains uncollected when due and pay it into the county treasury.

This bill would provide that the tax collected and paid into the county treasury is on behalf of the designated successor or county to wind up affairs of the disincorporated city.

(13) Existing law requires the board of supervisors of a county to cause taxes to be levied and collected from within the territory formerly included within a disincorporated city, if there is not sufficient money in the treasury of a disincorporated city to the credit of the special fund to pay any city indebtedness as it becomes due. Existing law provides that any taxes levied pursuant to this provision are to be assessed, levied, and collected in the same manner and at the same time as other county taxes, and are additional taxes upon the property included within the territory of the disincorporated city.

This bill would repeal these provisions.

(14) Existing law requires the board of supervisors to levy a special tax upon all property within the disincorporated city if the revenues from specified public utilities are not sufficient for the administration, conduct, or improvement of the public utility.

This bill would repeal this provision.

(15) Existing law requires the board of supervisors to annually, at the time other county taxes are levied and collected, to levy and collect a special tax on the remainder of the territory of a disincorporated city sufficient to pay the balance of the debt, and pay that sum to the city treasurer. Existing law requires the city treasurer to pay the bonded indebtedness as it becomes due with the proceeds of those taxes.

This bill would repeal these provisions.

(16) Existing law provides that on and after the effective date of a disincorporation, the territory of the disincorporated city, all inhabitants within the territory, and all persons formerly entitled to vote by reason of residing within the territory cease to be subject to the jurisdiction of the disincorporated city and have none of the rights or duties of inhabitants or voters of a city.

This bill would additionally provide that as of the effective date of a disincorporation, the general plan of the disincorporated city that was in effect immediately prior to the effective date of the disincorporation constitutes the community plan of the county for the territory of the disincorporated city, the zoning ordinances of the disincorporated city that were in effect immediately prior to the effective date of the disincorporation constitute the zoning ordinances of the county for that territory, and any conditional use permit or legal nonconforming use that was in place immediately prior to the effective date of the disincorporation remains in force pursuant to the community plan and zoning ordinances. The bill would provide that any use of land that was authorized under the general plan and zoning ordinances immediately prior to the effective date of the disincorporation continues to be authorized for as long a period as may be required by the California Constitution or the United States Constitution.

(17) Existing law requires a county auditor to adjust the allocation of property tax revenues for local agencies whose service area or service responsibility may be altered by specified jurisdictional changes. Existing law establishes procedures for determining the exchange of property tax revenues between a city and a county in the case of a jurisdictional change that consists of a city's qualified annexation of unincorporated territory, defined to mean an annexation of unincorporated territory for which an application or resolution was filed on or after January 1, 1998, and on or before January 1, 2015.

This bill would include a city disincorporation and dissolved district in those jurisdictional changes. The bill would also expand the above-described definition of a qualified annexation of unincorporated territory to include an annexation for which an application or resolution was filed on or before January 1, 2021.

By increasing the duties of the county auditor, this bill would impose a state-mandated local program.

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

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

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

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

SECTION 1. Section 50077 of the Government Code is amended to read:

50077. (a) Except as provided in Section 7282 of the Revenue and Taxation Code, the legislative body of any city, county, or district may, following notice and public hearing, propose by ordinance or resolution the adoption of a special tax. The ordinance or resolution shall include the type of tax and rate of tax to be levied, the method of collection, and the date upon which an election shall be held to approve the levy of the tax. The proposition shall be submitted to the voters of the city, county, or district, or a portion thereof, and, upon the approval of two-thirds of the votes cast by voters voting upon the proposition, the city, county, or district may levy the tax.

(b) The legislative body of a city, or district, may provide for the collection of the special tax in the same manner and subject to the same penalty as, or with, other charges and taxes fixed and collected by the city, or district, or, by agreement with the county, by the county on behalf of the city, or district. If the special taxes are collected by the county on behalf of the city, or district, the county may deduct its reasonable costs incurred for the service before remittal of the balance to the city.

(c) The legislative body of a local agency which is conducting proceedings for the incorporation of a city, the formation of a district, a change of organization, a reorganization, a change of organization of a city, a municipal reorganization, or the disincorporation of a city may propose by ordinance or resolution the adoption of a special tax in accordance with the provisions of subdivision (a) on behalf of an affected city or district.

(d) As used in this section "district" means an agency of the state, formed pursuant to general law or special act, for the local performance of governmental or proprietary functions within limited boundaries.

SEC. 2. Section 56045.5 is added to the Government Code, to read:

56045.5. "Indirect cost" has the same meaning as used in paragraph (2) of subdivision (b) of Section 33338 of the Education Code.

SEC. 3. Section 56653.1 is added to the Government Code, to read:

56653.1. In the case of a disincorporation or reorganization that includes a disincorporation, the plan for services required by subdivision (a) of Section 56653 shall include the following:

(a) An enumeration and description of the services currently provided by the city proposed for disincorporation and an identification, where applicable, of the entity or entities proposed to assume responsibility for the services following completion of disincorporation.

(b) An enumeration and description of each service proposed to be discontinued or transferred, the current financing of the service or services, and any method of financing proposed by the successor.

(c) A delineation of any existing financing of services currently provided to include, but not be limited to, bonds, assessments, community facility district governance, general taxes, special taxes, other charges, and joint powers authorities or agreements.

(d) An indication of any current bankruptcy proceeding, including, but not limited to, status and exit plan.

(e) An indication of any current order relating to services provided by the city proposed for disincorporation by any agency, department, office, or other division of the state, including, but not limited to, a cease and desist order or water prohibition order.

(f) A written statement from each entity identified pursuant to subdivision (a) that it has received a copy of the plan for services submitted pursuant to this section.

(g) Any other information that the executive officer may deem necessary to evaluate the plan for services submitted.

SEC. 4. Section 56658 of the Government Code is amended to read:

56658. (a) Any petitioner or legislative body desiring to initiate proceedings shall submit an application to the executive officer of the principal county.

(b) (1) Immediately after receiving an application and before issuing a certificate of filing, the executive officer shall give mailed notice that the application has been received to each affected agency, the county committee on school district organization, and each school superintendent whose school district overlies the affected territory. The notice shall generally describe the proposal and the affected territory. The executive officer shall not be required to give notice pursuant to this subdivision if a local agency has already given notice pursuant to subdivision (c) of Section 56654.

(2) It is the intent of the Legislature that a proposal for incorporation or disincorporation shall be processed in a timely manner. With regard to an application that includes an incorporation or disincorporation, the executive officer shall immediately notify all affected local agencies and any applicable state agencies by mail and request the affected agencies to submit the required data to the commission within a reasonable timeframe established by the executive officer. Each affected agency shall respond to the executive officer within 15 days acknowledging receipt of the request. Each affected local agency and the officers and departments thereof shall submit the required data to the executive officer within the timelines established by the executive officer. Each affected state agency and the officers and departments thereof shall submit the required data to the executive officer within the timelines agreed upon by the executive officer and the affected state departments.

(3) If a special district is, or as a result of a proposal will be, located in more than one county, the executive officer of the principal county shall immediately give the executive officer of each other affected county mailed notice that the application has been received. The notice shall generally describe the proposal and the affected territory.

(c) Except when a commission is the lead agency pursuant to Section 21067 of the Public Resources Code, the executive officer shall determine within 30 days of receiving an application whether the application is complete and acceptable for filing or whether the application is incomplete.

(d) The executive officer shall not accept an application for filing and issue a certificate of filing for at least 20 days after giving the mailed notice required by subdivision (b). The executive officer shall not be required to comply with this subdivision in the case of an application which meets the requirements of Section 56662 or in the case of an application for which a local agency has already given notice pursuant to subdivision (c) of Section 56654.

(e) If the appropriate fees have been paid, an application shall be deemed accepted for filing if no determination has been made by the executive officer within the 30-day period. An executive officer shall accept for filing, and file, any application submitted in the form prescribed by the commission and containing all of the information and data required pursuant to Section 56652.

(f) When an application is accepted for filing, the executive officer shall immediately issue a certificate of filing to the applicant. A certificate of filing shall be in the form prescribed by the executive officer and shall specify the date upon which the proposal shall be heard by the commission. From the date of issuance of a certificate of filing, or the date upon which an application is deemed to have been accepted, whichever is earlier, an application shall be deemed filed pursuant to this division.

(g) If an application is determined not to be complete, the executive officer shall immediately transmit that determination to the applicant specifying those parts of the application which are incomplete and the manner in which they can be made complete.

(h) Following the issuance of the certificate of filing, the executive officer shall proceed to set the proposal for hearing and give published notice thereof as provided in this part. The date of the hearing shall be not more than 90 days after issuance of the certificate of filing or after the application is deemed to have been accepted, whichever is earlier. Notwithstanding Section 56106, the date for conducting the hearing, as determined pursuant to this subdivision, is mandatory.

SEC. 5. Section 56770 is added to the Government Code, to read:

56770. The commission shall not approve or conditionally approve any proposal that includes a disincorporation, unless, based on the entire record, the commission makes all of the following determinations:

(a) The proposed disincorporation is consistent with the intent of this division to provide for a sustainable system for the delivery of services.

(b) The commission has considered the service reviews of municipal services and spheres of influence of the affected local agencies, and the disincorporation will address the necessary changes to those spheres of influence, if any.

(c) It has reviewed the comprehensive fiscal analysis prepared pursuant to Section 56804.

(d) It has reviewed the executive officer's report and recommendation prepared pursuant to Section 56665, and the oral or written testimony presented at its public hearing.

(e) The service responsibilities of the city proposed for disincorporation have been assigned through terms and conditions authorized by Sections 56885.5, 56886, and 57302, and Chapter 5 (commencing with Section 57400) of Part 5.

SEC. 6. Section 56804 is added to the Government Code, to read:

56804. For any proposal that includes a disincorporation, the executive officer shall prepare, or cause to be prepared by contract, a comprehensive fiscal analysis. This analysis shall become part of the report required pursuant to Section 56665. Data used for the analysis shall be from the most recent fiscal year for which data is available, preceding the issuances of the certificate of filing. When data requested by the executive officer in the notice to affected agencies, pursuant to paragraph (2) of subdivision (b) of Section 56658, is unavailable, the analysis shall document the source and methodology of the data used. The analysis shall review and document each of the following:

(a) The direct and indirect costs incurred by the city proposed for disincorporation for providing public services during the three fiscal years immediately preceding the submittal of the proposal for disincorporation.

(b) The direct and indirect costs incurred by the city proposed for disincorporation for current and proposed capital improvements, facilities, assets, and infrastructure.

(c) The sources of funding, if any, available to the entities proposed to assume the obligations of the city proposed for disincorporation.

(d) The anticipated costs, including all direct and indirect costs, to the entities proposed to assume the obligations of the city proposed for disincorporation in the provision of services to the area proposed for disincorporation.

(e) When determining costs, the executive officer shall also include all direct and indirect costs of any public services that are proposed to be transferred to state agencies for delivery.

(f) The revenues of the city proposed for disincorporation during the three fiscal years immediately preceding the initiation of the disincorporation proposal.

(g) Any other information and analysis needed to make the findings required by Section 56770.

SEC. 7. Section 56813 is added to the Government Code, to read:

56813. (a) If the proposal includes the disincorporation of a city, as defined in Section 56034, the commission shall determine the amount of property tax revenue to be exchanged by the affected city and any successor or affected local agency pursuant to this section.

(b) The commission shall notify the county auditor of the proposal, the affected local agencies to be extinguished, and the services proposed to be transferred to new jurisdictions, and identify for the auditor the changes to occur.

(c) If the proposal would not transfer all of the service responsibilities of the disincorporating city to the affected county or to a single affected agency, the commission and the county auditor shall do all of the following:

(1) The county auditor shall determine the proportion that the amount of property tax revenue derived by the city being disincorporated pursuant to subdivision (b) of Section 93 of the Revenue and Taxation Code bears to the total amount of revenue from all sources, available for general purposes, received by the city being disincorporated in the prior fiscal year and provide his or her response within 15 days of receiving notification from the commission pursuant to subdivision (b). For purposes of making this determination and the determination required by paragraph (3), "total amount of revenue from all sources available for general purposes" means the total amount of revenue which the city being disincorporated may use on a discretionary basis for any purpose and does not include any of the following:

(A) Revenue that, by statute or ordinance, is required to be used for a specific purpose.

(B) Revenue from fees, charges, or assessments that are levied to specifically offset the cost of particular services and that do not exceed the cost reasonably borne in providing these services.

(C) Revenue received from the federal government that is required to be used for a specific purpose.

(2) The commission shall determine, based on information submitted by the city being disincorporated, an amount equal to the total net cost to that city during the prior fiscal year of providing those services that an affected agency will assume within the area subject to the proposal. For purposes of this paragraph, "total net cost" means the total direct and indirect costs that were funded by general purpose revenues of the city being disincorporated and excludes any portion of the total cost that was funded by any revenues of that agency that are specified in subparagraphs (A), (B), and (C) of paragraph (1).

(3) For the services to be transferred to each affected local agency, the commission shall multiply the amount determined pursuant to paragraph (2) by the proportion determined pursuant to paragraph (1) to derive the amount of property tax revenue used to provide services by the city being disincorporated during the prior fiscal year within the area subject to the proposal. The county auditor shall adjust the amount so determined by the annual tax increment pursuant to the procedures set forth in Chapter 6 (commencing with Section 95) of Part 0.5 of Division 1 of the Revenue and Taxation Code, to the fiscal year in which the affected agency receives its next allocation of property taxes.

(d) If the proposal for disincorporation would transfer all of the service responsibilities of the city proposed for disincorporation, other than those that are proposed to be discontinued, to a single successor, the commission shall request the auditor to determine the property tax revenue allocated to the city being disincorporated by tax rate area, or portion thereof, and transmit that information to the commission.

(e) The executive officer shall notify the auditor of the amount determined pursuant to subdivision (c) or (d), as the case may be, and, where applicable, the period of time within which and the procedure by which the transfer of property tax revenues will be effected pursuant to this section, at the time the executive officer records a certificate of completion pursuant to Section 57203 for any proposal described in subdivision (a), and the auditor shall transfer that amount to the affected agency or agencies that will assume the services as determined by the commission. Any property tax not transferred to an affected agency pursuant to subdivision (c) shall be transferred to the affected county.

(f) For purposes of this section, "prior fiscal year" means the most recent fiscal year preceding the issuance of the certificate of filing for which data is available on actual direct and indirect costs and revenues needed to perform the calculations required by this section.

(g) Any action brought by a city, county, or district to contest any of the determinations of the county auditor or the commission with regard to the amount of property tax revenue to be exchanged by the affected local agencies pursuant to this section shall be commenced within three years of the effective date of the disincorporation.

SEC. 8. Section 56814 is added to the Government Code, to read:

56814. If the proposal includes the disincorporation of a city, as defined in Section 56034, with the assignment of property tax revenues to a successor the commission shall make the following determinations, as appropriate:

(a) The increase of the appropriations limit for the successor if the successor is an existing entity.

(b) The appropriations limit for a new special district through a formation process as defined by Section 56810.

SEC. 9. Section 56816 is added to the Government Code, to read:

56816. (a) It is the intent of the Legislature that any proposal that includes the disincorporation of a city result in a determination that the debt or contractual obligations and responsibilities of the city being disincorporated shall be the responsibility of that same territory for repayment. To ascertain this information, the city shall provide a written statement that determines and certifies all of the following to the commission prior to the issuance of a certificate of filing for a disincorporation proposal, pursuant to Sections 56651 and 56658:

(1) The indebtedness of the city.

(2) The amount of money in the city's treasury.

(3) The amount of any tax levy or other obligation due the city that is unpaid or has not been collected.

(4) The amount of current and future liabilities, both internal debt owed to other special or restricted funds or enterprise funds within the agency and external debt owed to other public agencies or outside lenders or that results from contractual obligations, which may include contracts for goods or services, retirement obligations, actuarially determined unfunded pension liability of all classes in a public retirement system, including any documentation related to the termination of public retirement contract provisions, and the liability for other postemployment benefits. The information required by this paragraph shall include any associated revenue stream for financing that may be or has been committed to that liability, including employee contributions.

(b) The city shall provide a written statement identifying the successor agency to the city's former redevelopment agency, if any, pursuant to Section 34173 of the Health and Safety Code.

SEC. 10. Section 56885.5 of the Government Code is amended to read:

56885.5. (a) In any commission order giving approval to any change of organization or reorganization, the commission may make that approval conditional upon any of the following factors:

(1) Any of the conditions set forth in Section 56886.

(2) The initiation, conduct, or completion of proceedings for another change of organization or a reorganization.

(3) The approval or disapproval, with or without election, as may be provided by this division, of any resolution or ordinance ordering that change of organization or reorganization.

(4) With respect to any commission determination to approve the disincorporation of a city, the dissolution of a district, or the reorganization or consolidation of agencies that results in the dissolution of one or more districts or the disincorporation of one or more cities, a condition that prohibits a district that is being dissolved or a city that is being disincorporated from taking any of the following actions, unless it first finds that either an emergency situation exists as defined in Section 54956.5, or the legislative body of the successor, as designated by the commission has taken action approving one or more of the following actions:

(A) Approving any increase in compensation or benefits for members of the governing board, its officers, or the executive officer of the agency.

(B) Appropriating, encumbering, expending, or otherwise obligating, any revenue of the agency beyond that provided in the current budget at the time the commission approves the dissolution or disincorporation.

(b) If the commission so conditions its approval, the commission may order that any further action pursuant to this division be continued and held in abeyance for the period of time designated by the commission, not to exceed six months from the date of that conditional approval.

(c) The commission order may also provide that any election called upon any change of organization or reorganization shall be called, held, and conducted before, upon the same date as, or after the date of any election to be called, held, and conducted upon any other change of organization or reorganization.

(d) The commission order may also provide that in any election at which the questions of annexation and district reorganization or, incorporation and district reorganization, or disincorporation and district reorganization are to be considered at the same time, there shall be a single question appearing on the ballot upon the issues of annexation and district reorganization or incorporation and district reorganization.

SEC. 11. Section 56886 of the Government Code is amended to read:

56886. Any change of organization or reorganization may provide for, or be made subject to one or more of, the following terms and conditions. If a change of organization or reorganization is made subject to one or more of the following terms and conditions in the commission's resolution making determinations, the terms and conditions imposed shall prevail in the event of a conflict between a specific term and condition authorized pursuant to this section and any of the general provisions of Part 5 (commencing with Section 57300). However, none of the following terms and conditions shall directly regulate land use, property development, or subdivision requirements:

(a) The payment of a fixed or determinable amount of money, either as a lump sum or in installments, for the acquisition, transfer, use, or right of use of all or any part of the existing property, real or personal, of any city, county, or district.

(b) The levying or fixing and the collection of any of the following, for the purpose of providing for any payment required pursuant to subdivision (a):

(1) Special, extraordinary, or additional taxes or assessments.

(2) Special, extraordinary, or additional service charges, rentals, or rates.

(3) Both taxes or assessments and service charges, rentals, or rates.

(c) The imposition, exemption, transfer, division, or apportionment, as among any affected cities, affected counties, affected districts, and affected territory of liability for payment of all or any part of principal, interest, and any other amounts which shall become due on account of all or any part of any outstanding or then authorized but thereafter issued bonds, including revenue bonds, or other contracts or obligations of any city, county, district, or any improvement district within a local agency, and the levying or fixing and the collection of any (1) taxes or assessments, or (2) service charges, rentals, or rates, or (3) both taxes or assessments and service charges, rentals, or rates, in the same manner as provided in the original authorization of the bonds and in the amount necessary to provide for that payment.

(d) If, as a result of any term or condition made pursuant to subdivision (c), the liability of any affected city, affected county, or affected district for payment of the principal of any bonded indebtedness is increased or decreased, the term and condition may specify the amount, if any, of that increase or decrease which shall be included in, or excluded from, the outstanding bonded indebtedness of that entity for the purpose of the application of any statute or charter provision imposing a limitation upon the principal amount of outstanding bonded indebtedness of the entity.

(e) The formation of a new improvement district or districts or the annexation or detachment of territory to, or from, any existing improvement district or districts.

(f) The incurring of new indebtedness or liability by, or on behalf of, all or any part of any local agency, including territory being annexed to any local agency, or of any existing or proposed new improvement district within that local agency. The new indebtedness may be the obligation solely of territory to be annexed if the local agency has the authority to establish zones for incurring indebtedness. The indebtedness or liability shall be incurred substantially in accordance with the laws otherwise applicable to the local agency.

(g) The issuance and sale of any bonds, including authorized but unissued bonds of a local agency, either by that local agency or by a local agency designated as the successor to any local agency which is extinguished as a result of any change of organization or reorganization.

(h) The acquisition, improvement, disposition, sale, transfer, or division of any property, real or personal.

(i) The disposition, transfer, or division of any moneys or funds, including cash on hand and moneys due but uncollected, and any other obligations.

(j) The fixing and establishment of priorities of use, or right of use, of water, or capacity rights in any public improvements or facilities or any other property, real or personal. However, none of the terms and conditions ordered pursuant to this subdivision shall modify priorities of use, or right of use, to water, or capacity rights in any public improvements or facilities that have been fixed and established by a court or an order of the State Water Resources Control Board.

(k) The establishment, continuation, or termination of any office, department, or board, or the transfer, combining, consolidation, or separation of any offices, departments, or boards, or any of the functions of those offices, departments, or boards, if, and to the extent that, any of those matters is authorized by the principal act.

(l) The employment, transfer, or discharge of employees, the continuation, modification, or termination of existing employment contracts, civil service rights, seniority rights, retirement rights, and other employee benefits and rights.

(m) The designation of a city, county, or district, as the successor to any local agency that is extinguished as a result of any change of organization or reorganization, for the purpose of succeeding to all of the rights, duties, and obligations of the extinguished local agency with respect to enforcement, performance, or payment of any outstanding bonds, including revenue bonds, or other contracts and obligations of the extinguished local agency.

(n) The designation of (1) the method for the selection of members of the legislative body of a district or (2) the number of those members, or (3) both, where the proceedings are for a consolidation, or a reorganization providing for a consolidation or formation of a new district and the principal act provides for alternative methods of that selection or for varying numbers of those members, or both.

(o) The initiation, conduct, or completion of proceedings on a proposal made under, and pursuant to, this division.

(p) The fixing of the effective date or dates of any change of organization, subject to the limitations of Section 57202.

(q) Any terms and conditions authorized or required by the principal act with respect to any change of organization.

(r) The continuation or provision of any service provided at that time, or previously authorized to be provided by an official act of the local agency.

(s) The levying of either of the following:

(1) Assessments or fees, including the imposition of a fee pursuant to Section 50029 or 66484.3. For the purposes of this section, imposition of a fee as a condition of the issuance of a building permit does not constitute direct regulation of land use, property development, or subdivision requirements.

(2) General or special taxes subject to approval by the voters.

(t) The extension or continuation of any previously authorized charge, fee, assessment, or tax by the local agency or a successor local agency in the affected territory.

(u) The transfer of authority and responsibility among any affected cities, affected counties, and affected districts for the administration of special tax and special assessment districts, including, but not limited to, the levying and collecting of special taxes and special assessments, including the determination of the annual special tax rate within authorized limits; the management of redemption, reserve, special reserve, and construction funds; the issuance of bonds which are authorized but not yet issued at the time of the transfer, including not yet issued portions or phases of bonds which are authorized; supervision of construction paid for with bond or special tax or assessment proceeds; administration of agreements to acquire public facilities and reimburse advances made to the district; and all other rights and responsibilities with respect to the levies, bonds, funds, and use of proceeds that would have applied to the local agency that created the special tax or special assessment district.

(v) Any other matters necessary or incidental to any of the terms and conditions specified in this section. If a change of organization, reorganization, or special reorganization provides for, or is made subject to one or more of, the terms and conditions specified in this section, those terms and conditions shall be deemed to be the exclusive terms and conditions for the change of organization, reorganization, or special reorganization, and shall control over any general provisions of Part 5 (commencing with Section 57300).

SEC. 12. Section 57401 of the Government Code is amended to read:

57401. Prior to the effective date of the disincorporation, all public property of the disincorporating city under the control of, or in the possession of, any public officer or employee of the city shall be transferred to the possession and control of the successor or successors designated by the commission.

SEC. 13. Section 57402 of the Government Code is repealed.

SEC. 14. Section 57404 of the Government Code is repealed.

SEC. 15. Section 57405 of the Government Code is amended to read:

57405. If a tax has been levied by the disincorporated city and remains uncollected, the county tax collector shall collect it when due and pay it into the county treasury on behalf of the designated successor agency or county to wind up the affairs of the disincorporated city.

SEC. 16. Section 57409 of the Government Code is repealed.

SEC. 17. Section 57410 of the Government Code is repealed.

SEC. 18. Section 57416 of the Government Code is repealed.

SEC. 19. Section 57423 of the Government Code is repealed.

SEC. 20. Section 57424 of the Government Code is repealed.

SEC. 21. Section 57426 is added to the Government Code, to read:

57426. As of the effective date of the disincorporation, all of the following apply:

(a) The general plan of the disincorporated city that was in effect immediately prior to the effective date of the disincorporation shall constitute the community plan of the county for the territory of the disincorporated city until the county updates the community plan, adopts a specific plan, or amends its county general plan for the unincorporated territory.

(b) The zoning ordinances of the disincorporated city that were in effect immediately prior to the effective date of the disincorporation shall constitute the zoning ordinances of the county for that territory, and shall be so identified in any community plan, specific plan, or general plan amendment adopted by the county, until the county updates the zoning ordinances applicable to that territory.

(c) Any conditional use permit or legal nonconforming use that was in place immediately prior to the effective date of the disincorporation shall remain in force pursuant to the community plan and zoning ordinances.

(d) Any use of land that was authorized under the general plan and zoning ordinances immediately prior to the effective date of the disincorporation shall continue to be authorized, for as long a period as may be required by the California Constitution or United States Constitution.

SEC. 22. Section 99 of the Revenue and Taxation Code is amended to read:

99. (a) For the purposes of the computations required by this chapter:

(1) In the case of a jurisdictional change, other than a city incorporation, city disincorporation, or a formation of a district as defined in Section 2215, the auditor shall adjust the allocation of property tax revenue determined pursuant to Section 96 or 96.1, or the annual tax increment determined pursuant to Section 96.5, for local agencies whose service area or service responsibility would be altered by the jurisdictional change, as determined pursuant to subdivision (b) or (c).

(2) In the case of a city incorporation or disincorporation, the auditor shall assign the allocation of property tax revenues determined pursuant to Section 56810 of the Government Code and the adjustments in tax revenues that may occur pursuant to Section 56815 of the Government Code to the newly formed city or district and shall make the adjustment as determined by Section 56810 or 56813 in the allocation of property tax revenue determined pursuant to Section 96 or 96.1 for each local agency whose service area or service responsibilities would be altered by the incorporation.

(3) In the case of a formation of a district as defined in Section 2215, the auditor shall assign the allocation of property tax revenues determined pursuant to Section 56810 of the Government Code to the district and shall make the adjustment as determined by Section 56810, or for the disincorporated city or dissolved district as determined by Section 56813, in the allocation of property tax revenue determined pursuant to Section 96 or 96.1 for each local agency whose service area or service responsibilities would be altered by the change of organization.

(b) Upon the filing of an application or a resolution pursuant to the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 (Division 3 (commencing with Section 56000) of Title 5 of the Government Code), but prior to the issuance of a certificate of filing, the executive officer shall give notice of the filing to the assessor and auditor of each county within which the territory subject to the jurisdictional change is located. This notice shall specify each local agency whose service area or responsibility will be altered by the jurisdictional change.

(1) (A) The county assessor shall provide to the county auditor, within 30 days of the notice of filing, a report which identifies the assessed valuations for the territory subject to the jurisdictional change and the tax rate area or areas in which the territory exists.

(B) The auditor shall estimate the amount of property tax revenue generated within the territory that is the subject of the jurisdictional change during the current fiscal year.

(2) The auditor shall estimate what proportion of the property tax revenue determined pursuant to paragraph (1) is attributable to each local agency pursuant to Sections 96.1 and 96.5.

(3) Within 45 days of notice of the filing of an application or resolution, the auditor shall notify the governing body of each local agency whose service area or service responsibility will be altered by the jurisdictional change of the amount of, and allocation factors with respect to, property tax revenue estimated pursuant to paragraph (2) that is subject to a negotiated exchange.

(4) Upon receipt of the estimates pursuant to paragraph (3), the local agencies shall commence negotiations to determine the amount of property tax revenues to be exchanged between and among the local agencies. Except as otherwise provided, this negotiation period shall not exceed 60 days. If a local agency involved in these negotiations notifies the other local agencies, the county auditor, and the local agency formation commission in writing of its desire to extend the negotiating period, the negotiating period shall be 90 days.

The exchange may be limited to an exchange of property tax revenues from the annual tax increment generated in the area subject to the jurisdictional change and attributable to the local agencies whose service area or service responsibilities will be altered by the proposed jurisdictional change. The final exchange resolution shall specify how the annual tax increment shall be allocated in future years.

(5) In the event that a jurisdictional change would affect the service area or service responsibility of one or more special districts, the board of supervisors of the county or counties in which the districts are located shall, on behalf of the district or districts, negotiate any exchange of property tax revenues. Prior to entering into negotiation on behalf of a district for the exchange of property tax revenue, the board shall consult with the affected district. The consultation shall include, at a minimum, notification to each member and executive officer of the district board of the pending consultation and provision of adequate opportunity to comment on the negotiation.

(6) Notwithstanding any other provision of law, the executive officer shall not issue a certificate of filing pursuant to Section 56658 of the Government Code until the local agencies included in the property tax revenue exchange negotiation, within the negotiation period, present resolutions adopted by each such county and city whereby each county and city agrees to accept the exchange of property tax revenues.

(7) In the event that the commission modifies the proposal or its resolution of determination, any local agency whose service area or service responsibility would be altered by the proposed jurisdictional change may request, and the executive officer shall grant, 30 days for the affected agencies, pursuant to paragraph (4), to renegotiate an exchange of property tax revenues.

Notwithstanding the time period specified in paragraph (4), if the resolutions required pursuant to paragraph (6) are not presented to the executive officer within the 30-day period, all proceedings of the jurisdictional change shall automatically be terminated.

(8) In the case of a jurisdictional change that consists of a city's qualified annexation of unincorporated territory, an exchange of property tax revenues between the city and the county shall be determined in accordance with subdivision (e) if that exchange of revenues is not otherwise determined pursuant to either of the following:

(A) Negotiations completed within the applicable period or periods as prescribed by this subdivision.

(B) A master property tax exchange agreement among those local agencies, as described in subdivision (d).

For purposes of this paragraph, a qualified annexation of unincorporated territory means an annexation, as so described, for which an application or a resolution was filed on or after January 1, 1998, and on or before January 1, 2021.

(9) No later than the date on which the certificate of completion of the jurisdictional change is recorded with the county recorder, the executive officer shall notify the auditor or auditors of the exchange of property tax revenues and the auditor or auditors shall make the appropriate adjustments as provided in subdivision (a).

(c) Whenever a jurisdictional change is not required to be reviewed and approved by a local agency formation commission, the local agencies whose service area or service responsibilities would be altered by the proposed change, shall give notice to the State Board of Equalization and the assessor and auditor of each county within which the territory subject to the jurisdictional change is located. This notice shall specify each local agency whose service area or responsibility will be altered by the jurisdictional change and request the auditor and assessor to make the determinations required pursuant to paragraphs (1) and (2) of subdivision (b). Upon notification by the auditor of the amount of, and allocation factors with respect to, property tax subject to exchange, the local agencies, pursuant to the provisions of paragraphs (4) and (6) of subdivision (b), shall determine the amount of property tax revenues to be exchanged between and among the local agencies. Notwithstanding any other provision of law, no such jurisdictional change shall become effective until each county and city included in these negotiations agrees, by resolution, to accept the negotiated exchange of property tax revenues. The exchange may be limited to an exchange of property tax revenue from the annual tax increment generated in the area subject to the jurisdictional change and attributable to the local agencies whose service area or service responsibilities will be altered by the proposed jurisdictional change. The final exchange resolution shall specify how the annual tax increment shall be allocated in future years. Upon the adoption of the resolutions required pursuant to this section, the adopting agencies shall notify the auditor who shall make the appropriate adjustments as provided in subdivision (a). Adjustments in property tax allocations made as the result of a city or library district withdrawing from a county free library system pursuant to Section 19116 of the Education Code shall be made pursuant to Section 19116 of the Education Code, and this subdivision shall not apply.

(d) With respect to adjustments in the allocation of property taxes pursuant to this section, a county and any local agency or agencies within the county may develop and adopt a master property tax transfer agreement. The agreement may be revised from time to time by the parties subject to the agreement.

(e) (1) An exchange of property tax revenues that is required by paragraph (8) of subdivision (b) to be determined pursuant to this subdivision shall be determined in accordance with all of the following:

(A) The city and the county shall mutually select a third-party consultant to perform a comprehensive, independent fiscal analysis, funded in equal portions by the city and the county, that specifies estimates of all tax revenues that will be derived from the annexed territory and the costs of city and county services with respect to the annexed territory. The analysis shall be completed within a period not to exceed 30 days, and shall be based upon the general plan or adopted plans and policies of the annexing city and the intended uses for the annexed territory. If, upon the completion of the analysis period, no exchange of property tax revenues is agreed upon by the city and the county, subparagraph (B) shall apply.

(B) The city and the county shall mutually select a mediator, funded in equal portions by those agencies, to perform mediation for a period not to exceed 30 days. If, upon the completion of the mediation period, no exchange of property tax revenues is agreed upon by the city and the county, subparagraph (C) shall apply.

(C) The city and the county shall mutually select an arbitrator, funded in equal portions by those agencies, to conduct an advisory arbitration with the city and the county for a period not to exceed 30 days. At the conclusion of this arbitration period, the city and the county shall each present to the arbitrator its last and best offer with respect to the exchange of property tax revenues. The arbitrator shall select one of the offers and recommend that offer to the governing bodies of the city and the county. If the governing body of the city or the county rejects the recommended offer, it shall do so during a public hearing, and shall, at the conclusion of that hearing, make written findings of fact as to why the recommended offer was not accepted.

(2) Proceedings under this subdivision shall be concluded no more than 150 days after the auditor provides the notification pursuant to paragraph (3) of subdivision (b), unless one of the periods specified in this subdivision is extended by the mutual agreement of the city and the county. Notwithstanding any other provision of law, except for those conditions that are necessary to implement an exchange of property tax revenues determined pursuant to this subdivision, the local agency formation commission shall not impose any fiscal conditions upon a city's qualified annexation of unincorporated territory that is subject to this subdivision.

(f) Except as otherwise provided in subdivision (g), for the purpose of determining the amount of property tax to be allocated in the 1979–80 fiscal year and each fiscal year thereafter for those local agencies that were affected by a jurisdictional change which was filed with the State Board of Equalization after January 1, 1978, but on or before January 1, 1979. The local agencies shall determine by resolution the amount of property tax revenues to be exchanged between and among the affected agencies and notify the auditor of the determination.

(g) For the purpose of determining the amount of property tax to be allocated in the 1979–80 fiscal year and each fiscal year thereafter, for a city incorporation that was filed pursuant to Sections 54900 to 54904, inclusive, of the Government Code after January 1, 1978, but on or before January 1, 1979, the amount of property tax revenue considered to have been received by the jurisdiction for the 1978–79 fiscal year shall be equal to two-thirds of the amount of property tax revenue projected in the final local agency formation commission staff report pertaining to the incorporation multiplied by the proportion that the total amount of property tax revenue received by all jurisdictions within the county for the 1978–79 fiscal year bears to the total amount of property tax revenue received by all jurisdictions within the county for the 1977–78 fiscal year. Except, however, in the event that the final commission report did not specify the amount of property tax revenue projected for that incorporation, the commission shall by October 10 determine pursuant to Section 54790.3 of the Government Code the amount of property tax to be transferred to the city.

The provisions of this subdivision shall also apply to the allocation of property taxes for the 1980–81 fiscal year and each fiscal year thereafter for incorporations approved by the voters in June 1979.

(h) For the purpose of the computations made pursuant to this section, in the case of a district formation that was filed pursuant to Sections 54900 to 54904, inclusive, of the Government Code after January 1, 1978, but before January 1, 1979, the amount of property tax to be allocated to the district for the 1979–80 fiscal year and each fiscal year thereafter shall be determined pursuant to Section 54790.3 of the Government Code.

(i) For the purposes of the computations required by this chapter, in the case of a jurisdictional change, other than a change requiring an adjustment by the auditor pursuant to subdivision (a), the auditor shall adjust the allocation of property tax revenue determined pursuant to Section 96 or 96.1 or its predecessor section, or the annual tax increment determined pursuant to Section 96.5 or its predecessor section, for each local school district, community college district, or county superintendent of schools whose service area or service responsibility would be altered by the jurisdictional change, as determined as follows:

(1) The governing body of each district, county superintendent of schools, or county whose service areas or service responsibilities would be altered by the change shall determine the amount of property tax revenues to be exchanged between and among the affected jurisdictions. This determination shall be adopted by each affected jurisdiction by resolution. For the purpose of negotiation, the county auditor shall furnish the parties and the county board of education with an estimate of the property tax revenue subject to negotiation.

(2) In the event that the affected jurisdictions are unable to agree, within 60 days after the effective date of the jurisdictional change, and if all the jurisdictions are wholly within one county, the county board of education shall, by resolution, determine the amount of property tax revenue to be exchanged. If the jurisdictions are in more than one county, the State Board of Education shall, by resolution, within 60 days after the effective date of the jurisdictional change, determine the amount of property tax to be exchanged.

(3) Upon adoption of any resolution pursuant to this subdivision, the adopting jurisdictions or State Board of Education shall notify the county auditor who shall make the appropriate adjustments as provided in subdivision (a).

(j) For purposes of subdivision (i), the annexation by a community college district of territory within a county not previously served by a community college district is an alteration of service area. The community college district and the county shall negotiate the amount, if any, of property tax revenues to be exchanged. In these negotiations, there shall be taken into consideration the amount of revenue received from the timber yield tax and forest reserve receipts by the community college district in the area not previously served. In no event shall the property tax revenue to be exchanged exceed the amount of property tax revenue collected prior to the annexation for the purposes of paying tuition expenses of residents enrolled in the community college district, adjusted each year by the percentage change in population and the percentage change in the cost of living, or per capita personal income, whichever is lower, less the amount of revenue received by the community college district in the annexed area from the timber yield tax and forest reserve receipts.

(k) At any time after a jurisdictional change is effective, any of the local agencies party to the agreement to exchange property tax revenue may renegotiate the agreement with respect to the current fiscal year or subsequent fiscal years, subject to approval by all local agencies affected by the renegotiation.

SEC. 23. If the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code.