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AB-1725 Local agency formation. (2017-2018)

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Assembly Bill No. 1725

CHAPTER 353

An act to amend Sections 56031, 56131.5, 56383, and 56658 of the Government Code, relating to local government.

[Approved by Governor September 28, 2017. Filed with Secretary of State September 28, 2017.]

LEGISLATIVE COUNSEL'S DIGEST

AB 1725, Committee on Local Government. Local agency formation.

(1) The Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 provides the exclusive authority and procedure for the initiation, conduct, and completion of changes of organization and reorganization for cities and districts, as specified. The act defines various terms for these purposes, including the term "contiguous," which the act defines as territory adjacent to territory within the local agency.

This bill would instead define "contiguous" as territory that abuts or shares a common boundary with territory within a local agency.

(2) The act, upon filing of an application for, or initiation by a local agency formation commission of, specified changes in organization or reorganization of a local health care district formed pursuant to specified law, including formation, annexation, consolidation, or dissolution, requires the local agency formation commission to notify all state agencies that have oversight or regulatory responsibility over, or a contractual relationship with, that local health care district of its receipt of the application or the initiation by the local agency formation commission of the proposed change of organization or reorganization and the proposal.

This bill would additionally require the local agency formation commission to notify these state agencies of the receipt of an application for, or the initiation by the local agency formation commission of, a proposed change of organization or reorganization that includes a detachment from a local health care district.

By requiring a local agency formation commission to provide specified notification to certain state agencies about detachments from a local health care district, this bill would impose a state-mandated local program.

(3) The act authorizes a local agency formation commission to establish a schedule of fees and a schedule of service charges for proceedings taken pursuant to the act, as specified.

This bill would revise that provision to authorize a local agency formation commission to establish a schedule of fees and a schedule of service charges pursuant to the act.

(4) The act requires a petitioner or a legislative body desiring to initiate proceedings to submit an application to the executive officer of the principal county. Immediately after receiving an application and before issuing a certificate of filing, the act requires the executive officer to give mailed notice that the application has been received to specified entities, including each affected agency.

This bill would instead require that the mailed notice be given to, among other entities, each affected local agency.

(5) 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 no reimbursement is required by this act for a specified reason.

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

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

SECTION 1. Section 56031 of the Government Code is amended to read:

56031. (a) "Contiguous" means territory that abuts or shares a common boundary with territory within a local agency.

(b) Territory is not contiguous if the only contiguity is based upon a strip of land more than 300 feet long and less than 200 feet wide at its narrowest width, that width to be exclusive of highways.

SEC. 2. Section 56131.5 of the Government Code is amended to read:

56131.5. (a) Upon the filing of an application for the formation of, annexation to, detachment from, consolidation of, or dissolution of a local health care district created pursuant to Division 23 (commencing with Section 32000) of the Health and Safety Code or of an application for a reorganization including any of those changes of organization or the initiation by the commission of any of those changes of organization or any reorganization including any of those changes of organization, the commission shall notify all state agencies that have oversight or regulatory responsibility over, or a contractual relationship with, the local health care district that is the subject of the proposed change of organization or reorganization, of its receipt of the application or the initiation by the commission of the proposed change of organization or reorganization and the proposal, including, but not limited to, the following:

(1) The State Department of Health Care Services, including, but not limited to, the Medi-Cal Division.

(2) The Office of Statewide Health Planning and Development, including, but not limited to, the Cal-Mortgage Loan Insurance Division.

(3) The California Health Facilities Financing Authority.

(4) The State Department of Public Health, including, but not limited to, the Licensing and Certification Division.

(b) A state agency shall have 60 days from the date of receipt of notification by the commission to comment on the proposal. The commission shall consider all comments received from any state agency in making its decision.

SEC. 3. Section 56383 of the Government Code is amended to read:

56383. (a) The commission may establish a schedule of fees and a schedule of service charges pursuant to this division, including, but not limited to, all of the following:

(1) Filing and processing applications filed with the commission.

(2) Proceedings undertaken by the commission and any reorganization committee.

(3) Amending or updating a sphere of influence.

(4) Reconsidering a resolution making determinations.

(b) The fees shall not exceed the estimated reasonable cost of providing the service for which the fee is charged and shall be imposed pursuant to Section 66016. The service charges shall not exceed the cost of providing the service for which the service charge is charged and shall be imposed pursuant to Section 66016.

(c) The commission may require that an applicant deposit some or all of the required amount that will be owed with the executive officer before any further action is taken. The deposit shall be made within the time period specified by the commission. No application shall be deemed filed until the applicant deposits the required amount with the executive officer. The executive officer shall provide the applicant with an accounting of all costs charged against the deposited amount. If the costs are less than the deposited amount, the executive officer shall refund the balance to the applicant after the executive officer verifies the completion of all proceedings. If the costs exceed the deposited amount, the applicant shall pay the difference prior to the completion of all proceedings.

(d) The commission may reduce or waive a fee, service charge, or deposit if it finds that payment would be detrimental to the public interest. The reduction or waiver of any fee, service charge, or deposit is limited to the costs incurred by the commission in the proceedings of an application.

(e) Any mandatory time limits for commission action may be deferred until the applicant pays the required fee, service charge, or deposit.

(f) The signatures on a petition submitted to the commission by registered voters shall be verified by the elections official of the county and the costs of verification shall be provided for in the same manner and by the same agencies which bear the costs of verifying signatures for an initiative petition in the same county.

(g) For incorporation proceedings that have been initiated by the filing of a sufficient number of voter signatures on petitions that have been verified by the county registrar of voters, the commission may, upon the receipt of a certification by the proponents that they are unable to raise sufficient funds to reimburse fees, service charges, or deposits for the proceedings, take no action on the proposal and request a loan from the General Fund of an amount sufficient to cover those expenses subject to availability of an appropriation for those purposes and in accordance with any provisions of the appropriation. Repayment of the loan shall be made a condition of approval of the incorporation, if successful, and shall become an obligation of the newly formed city. Repayment shall be made within two years of the effective date of incorporation. If the proposal is denied by the commission or defeated at an election, the loan shall be forgiven.

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 local 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. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because a local agency or school district has the authority to levy service charges, fees, or assessments sufficient to pay for the program or level of service mandated by this act, within the meaning of Section 17556 of the Government Code.