

ASSEMBLY BILL

No. 2367

Introduced by Assembly Member Fuentes

February 21, 2008

An act to amend Section 56375 of the Government Code, relating to local government.

LEGISLATIVE COUNSEL'S DIGEST

AB 2367, as introduced, Fuentes. Local government: local agency formation commissions.

Existing law authorizes the local agency formation commission to approve the annexation of unincorporated territory consistent with the planned and probable use of the property based upon the review of general plan and rezoning designations. Existing law prohibits subsequent changes to the general plan for the annexed territory or zoning that is not in conformance to the rezoning designations for a period of 2 years after the completion of the annexation, unless the legislative body of the city makes a finding that a substantial change has occurred in the circumstances that necessitate a departure from the rezoning in the application to the commission, as specified.

This bill would instead prohibit subsequent changes to the general plan for the annexed territory or zoning that is not in conformance to the rezoning designations for a period of 5 years after the completion of the annexation.

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

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

1 SECTION 1. Section 56375 of the Government Code is
2 amended to read:

3 56375. The commission shall have all of the following powers
4 and duties subject to any limitations upon its jurisdiction set forth
5 in this part:

6 (a) To review and approve or disapprove with or without
7 amendment, wholly, partially, or conditionally, proposals for
8 changes of organization or reorganization, consistent with written
9 policies, procedures, and guidelines adopted by the commission.

10 A commission shall have the authority to initiate only a (1)
11 consolidation of districts, as defined in Section 56036, (2)
12 dissolution, (3) merger, (4) establishment of a subsidiary district,
13 (5) formation of a new district or districts, or (6) a reorganization
14 that includes any of these changes of organization, if that change
15 of organization or reorganization is consistent with a
16 recommendation or conclusion of a study prepared pursuant to
17 Section 56378, 56425, or 56430 and the commission makes the
18 determinations specified in subdivision (b) of Section 56881.
19 However, a commission shall not have the power to disapprove
20 an annexation to a city, initiated by resolution, of contiguous
21 territory that the commission finds is any of the following:

22 (1) Surrounded or substantially surrounded by the city to which
23 the annexation is proposed or by that city and a county boundary
24 or the Pacific Ocean if the territory to be annexed is substantially
25 developed or developing, is not prime agricultural land as defined
26 in Section 56064, is designated for urban growth by the general
27 plan of the annexing city, and is not within the sphere of influence
28 of another city.

29 (2) Located within an urban service area that has been delineated
30 and adopted by a commission, which is not prime agricultural land,
31 as defined by Section 56064, and is designated for urban growth
32 by the general plan of the annexing city.

33 (3) An annexation or reorganization of unincorporated islands
34 meeting the requirements of Section 56375.3.

35 As a condition to the annexation of an area that is surrounded,
36 or substantially surrounded, by the city to which the annexation
37 is proposed, the commission may require, where consistent with

1 the purposes of this division, that the annexation include the entire
2 island of surrounded, or substantially surrounded, territory.

3 A commission shall not impose any conditions that would
4 directly regulate land use density or intensity, property
5 development, or subdivision requirements. When the development
6 purposes are not made known to the annexing city, the annexation
7 shall be reviewed on the basis of the adopted plans and policies
8 of the annexing city or county. A commission shall require, as a
9 condition to annexation, that a city prezone the territory to be
10 annexed or present evidence satisfactory to the commission that
11 the existing development entitlements on the territory are vested
12 or are already at buildout, and are consistent with the city's general
13 plan. However, the commission shall not specify how, or in what
14 manner, the territory shall be rezoned. The decision of the
15 commission with regard to a proposal to annex territory to a city
16 shall be based upon the general plan and rezoning of the city.

17 (b) With regard to a proposal for annexation or detachment of
18 territory to, or from, a city or district or with regard to a proposal
19 for reorganization that includes annexation or detachment, to
20 determine whether territory proposed for annexation or detachment,
21 as described in its resolution approving the annexation, detachment,
22 or reorganization, is inhabited or uninhabited.

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

26 (d) To approve the annexation of unincorporated, noncontiguous
27 territory, subject to the limitations of Section 56742, located in the
28 same county as that in which the city is located, and that is owned
29 by a city and used for municipal purposes and to authorize the
30 annexation of the territory without notice and hearing.

31 (e) To approve the annexation of unincorporated territory
32 consistent with the planned and probable use of the property based
33 upon the review of general plan and rezoning designations. No
34 subsequent change may be made to the general plan for the annexed
35 territory or zoning that is not in conformance to the rezoning
36 designations for a period of ~~two~~ *five* years after the completion of
37 the annexation, ~~unless the legislative body for the city makes a~~
38 ~~finding at a public hearing that a substantial change has occurred~~
39 ~~in circumstances that necessitate a departure from the rezoning~~
40 ~~in the application to the commission.~~

1 (f) With respect to the incorporation of a new city or the
2 formation of a new special district, to determine the number of
3 registered voters residing within the proposed city or special district
4 or, for a landowner-voter special district, the number of owners
5 of land and the assessed value of their land within the territory
6 proposed to be included in the new special district. The number
7 of registered voters shall be calculated as of the time of the last
8 report of voter registration by the county elections official to the
9 Secretary of State prior to the date the first signature was affixed
10 to the petition. The executive officer shall notify the petitioners of
11 the number of registered voters resulting from this calculation.
12 The assessed value of the land within the territory proposed to be
13 included in a new landowner-voter special district shall be
14 calculated as shown on the last equalized assessment roll.

15 (g) To adopt written procedures for the evaluation of proposals,
16 including written definitions not inconsistent with existing state
17 law. The commission may adopt standards for any of the factors
18 enumerated in Section 56668. Any standards adopted by the
19 commission shall be written.

20 (h) To adopt standards and procedures for the evaluation of
21 service plans submitted pursuant to Section 56653 and the initiation
22 of a change of organization or reorganization pursuant to
23 subdivision (a).

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

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

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

31 (l) To review the boundaries of the territory involved in any
32 proposal with respect to the definiteness and certainty of those
33 boundaries, the nonconformance of proposed boundaries with lines
34 of assessment or ownership, and other similar matters affecting
35 the proposed boundaries.

36 (m) To waive the restrictions of Section 56744 if it finds that
37 the application of the restrictions would be detrimental to the
38 orderly development of the community and that the area that would
39 be enclosed by the annexation or incorporation is so located that

1 it cannot reasonably be annexed to another city or incorporated as
2 a new city.

3 (n) To waive the application of Section 25210.90 or Section
4 22613 of the Streets and Highways Code if it finds the application
5 would deprive an area of a service needed to ensure the health,
6 safety, or welfare of the residents of the area and if it finds that
7 the waiver would not affect the ability of a city to provide any
8 service. However, within 60 days of the inclusion of the territory
9 within the city, the legislative body may adopt a resolution
10 nullifying the waiver.

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

16 (p) To authorize a city or district to provide new or extended
17 services outside its jurisdictional boundaries pursuant to Section
18 56133.

19 (q) To enter into an agreement with the commission for an
20 adjoining county for the purpose of determining procedures for
21 the consideration of proposals that may affect the adjoining county
22 or where the jurisdiction of an affected agency crosses the boundary
23 of the adjoining county.

O