

AMENDED IN SENATE MAY 18, 1999

AMENDED IN SENATE APRIL 26, 1999

SENATE BILL

No. 1142

Introduced by Senator Morrow

February 26, 1999

An act to ~~add Sections~~ amend Sections 56652 and 56828 of, and to add Sections 56848, 57009, 57010, and 57011 to, the Government Code, relating to local agency reorganization, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

SB 1142, as amended, Morrow. Local agency reorganization.

~~Under~~

(1) Under existing law, the Cortese-Knox Local Government Reorganization Act of 1985, *an application for a change of organization or reorganization submitted to a local agency formation commission is required to contain specified information.*

This bill would require that the application contain information concerning whether the proposal would impose, extend, or increase taxes, assessments, or property-related fees and charges in the affected territory.

(2) *Under the act, the executive officer of the commission is required to issue a certificate of filing to the applicant upon accepting the application for filing.*

This bill would require that the certificate state whether the affected territory is inhabited.

(3) *Under the act*, after the local agency formation commission has completed its proceedings for a change of organization or reorganization by approval of the proposal, further proceedings, including a hearing and an election if required, are conducted by the conducting authority. The California Constitution prohibits the imposition, extension, or increase of any local general or special tax unless and until the tax is submitted to the electorate and approved as specified, and provides certain requirements for the imposition, extension, or increase of property related assessments, fees, and charges.

This bill would *require the commission to impose any terms and conditions necessary to comply with those constitutional requirements. The bill would specify that if a proposal would impose a new tax, assessment, or fee or charge as an incident of property ownership on the affected territory, or if a proposal would extend an existing tax, assessment, or fee or charge as an incident of property ownership to the affected territory, the conducting authority shall comply with specified constitutional and statutory requirements concerning voter and landowner approval of new taxes, fees, charges, and assessments. The bill would also specify that in any change of organization or reorganization involving the annexation, formation, or consolidation of uninhabited territory, as defined, the conducting authority may conduct a landowner-voter election among the property owners concerning the approval or rejection of the extension of a general tax or a special tax in that territory.*

This bill would declare that it is to take effect immediately as an urgency statute.

Vote: $\frac{2}{3}$. 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 56652 of the Government Code*
2 *is amended to read:*



1 56652. Each application shall be in the form as the
2 commission may prescribe and shall contain all of the
3 following information:

4 (a) A petition or resolution of application initiating the
5 proposal.

6 (b) A statement of the nature of each proposal.

7 (c) A map and description, acceptable to the
8 executive officer, of the boundaries of the subject
9 territory for each proposed change of organization or
10 reorganization.

11 (d) Any data and information as may be required by
12 any regulation of the commission.

13 (e) Any additional data and information, as may be
14 required by the executive officer, pertaining to any of the
15 matters or factors which may be considered by the
16 commission.

17 (f) The names of the officers or persons, not to exceed
18 three in number, who are to be furnished with copies of
19 the report by the executive officer and who are to be
20 given mailed notice of the hearing.

21 (g) *Whether the proposal would impose, extend, or*
22 *increase taxes, assessments, or property-related fees and*
23 *charges in the affected territory.*

24 *SEC. 2. Section 56828 of the Government Code is*
25 *amended to read:*

26 56828. (a) Any petitioner or legislative body desiring
27 to initiate proceedings shall submit an application to the
28 executive officer of the principal county.

29 (b) Immediately after receiving an application and
30 before issuing a certificate of filing, the executive officer
31 shall give mailed notice that the application has been
32 received to each interested agency and each subject
33 agency. The notice shall generally describe the proposal
34 and the affected territory. The executive officer shall not
35 be required to give notice pursuant to this subdivision if
36 a local agency has already given notice pursuant to
37 subdivision (b) of Section 56800.

38 (c) If a special district is, or as a result of a proposal will
39 be, located in more than one county, the executive officer
40 of the principal county shall immediately give the



1 executive officer of each other affected county mailed
2 notice that the application has been received. The notice
3 shall generally describe the proposal and the affected
4 territory.

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

11 (e) The executive officer shall not accept an
12 application for filing and issue a certificate of filing for at
13 least 20 days after giving the mailed notice required by
14 subdivision (b). The executive officer shall not be
15 required to comply with this subdivision in the case of an
16 application which meets the requirements of Section
17 56837 or in the case of an application for which a local
18 agency has already given notice pursuant to subdivision
19 (b) of Section 56800.

20 (f) If the appropriate fees have been paid, an
21 application shall be deemed accepted for filing if no
22 determination has been made by the executive officer
23 within the 30-day period. An executive officer shall
24 accept for filing, and file, any application submitted in the
25 form prescribed by the commission and containing all of
26 the information and data required pursuant to Section
27 56652.

28 (g) When an application is accepted for filing, the
29 executive officer shall immediately issue a certificate of
30 filing to the applicant. A certificate of filing shall be in the
31 form prescribed by the executive officer and shall specify
32 the date upon which the proposal shall be heard by the
33 commission. *A certificate of filing shall state whether the*
34 *affected territory is inhabited, as determined by the*
35 *executive officer.* From the date of issuance of a
36 certificate of filing, or the date upon which an application
37 is deemed to have been accepted, whichever is earlier, an
38 application shall be deemed filed pursuant to this
39 division.



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

6 (i) Following the issuance of the certificate of filing,
7 the executive officer shall proceed to set the proposal for
8 hearing and give published notice thereof as provided in
9 this part. The date of the hearing shall be not more than
10 90 days after issuance of the certificate of filing or after the
11 application is deemed to have been accepted, whichever
12 is earlier. Notwithstanding Section 56106, the date for
13 conducting the hearing, as determined pursuant to this
14 subdivision, is mandatory.

15 *SEC. 3. Section 56848 is added to the Government*
16 *Code, to read:*

17 *56848. (a) If any change of organization or*
18 *reorganization would impose, extend, or increase taxes,*
19 *assessments, or property-related fees and charges in the*
20 *affected territory, the commission shall impose any terms*
21 *and conditions that are necessary to comply with Article*
22 *XIII C and Article XIII D of the California Constitution,*
23 *and Article 4.6 (commencing with Section 53750) of*
24 *Chapter 4 of Division 2, including, but not limited to, the*
25 *date on which and the territory within which the*
26 *conducting authority shall conduct any election.*

27 *(b) (1) In the case of affected territory that the*
28 *executive officer has determined to be inhabited*
29 *pursuant to Section 56828, if all of the registered voters*
30 *within that affected territory have given their written*
31 *consent to the proposal, that written consent shall be*
32 *sufficient for purposes of complying with the election*
33 *requirements of Article XIII C or Article XIII D of the*
34 *California Constitution, and no other election shall be*
35 *required.*

36 *(2) In the case of affected territory that the executive*
37 *officer has determined to be uninhabited pursuant to*
38 *Section 56828, if all of the owners of land within that*
39 *affected territory have given their written consent to the*
40 *proposal, that written consent shall be sufficient for*



1 *purposes of complying with the election requirements of*
 2 *Article XIII C or Article XIII D of the California*
 3 *Constitution, and no other election shall be required.*

4 (c) *Notwithstanding any other provision of law to the*
 5 *contrary, an exchange of property tax revenue pursuant*
 6 *to Section 56842 or pursuant to Section 99 of the Revenue*
 7 *and Taxation Code does not impose, extend, or increase*
 8 *a tax for the purposes of Article XIII C of the California*
 9 *Constitution or Article 4.6 (commencing with Section*
 10 *53750) of Chapter 4 of Division 2.*

11 SEC. 4. Section 57009 is added to the Government
 12 Code, to read:

13 57009. If a proposal would impose a new tax,
 14 assessment, or fee or charge as an incident of property
 15 ownership on the affected territory, or if a proposal would
 16 extend an existing tax, assessment, or fee or charge as an
 17 incident of property ownership to the affected territory,
 18 the conducting authority shall comply with the
 19 requirements of Article XIII C and Article XIII D of the
 20 California Constitution, and shall comply with the
 21 statutes that implement those constitutional
 22 requirements.

23 ~~SEC. 2.—~~

24 SEC. 5. Section 57010 is added to the Government
 25 Code, to read:

26 57010. (a) In any ~~change of organization or~~
 27 ~~reorganization~~ *proposal* involving the annexation,
 28 formation, or consolidation of territory ~~deemed~~
 29 *determined* to be uninhabited ~~within the meaning of this~~
 30 ~~division~~ *by the executive officer pursuant to Section*
 31 *56828, it shall be sufficient for purposes of complying with*
 32 *the election requirements of subdivision (b) of Section 2*
 33 *of Article XIII C of the California Constitution for the*
 34 *conducting authority to conduct a landowner-voter*
 35 *election among the property owners within the territory*
 36 *affected by the extension of a general tax of any* ~~city,~~
 37 ~~county, district, or local agency included in the change of~~
 38 ~~organization or reorganization.~~ *subject agency.* In any
 39 landowner-voter election, approval by at least a ~~majority~~
 40 ~~of the owners of all property within the territory affected~~

1 ~~by the extension of the general tax shall be required for~~
 2 ~~extension of the general tax. If two or more coowners of~~
 3 ~~any individual parcel vote in the election, the vote of each~~
 4 ~~coowner voting shall be proportional to that owner's~~
 5 ~~interest in the parcel.~~

6 *SEC. 3.—majority of the votes cast shall be required for*
 7 *the extension of the general tax. Each landowner who is*
 8 *the owner of record at the time that the conducting*
 9 *authority calls the election, or the authorized*
 10 *representative thereof, shall have one vote for each acre*
 11 *or portion of an acre that the landowner owns within the*
 12 *affected territory. The number of votes to be voted by a*
 13 *particular landowner shall be specified on the ballot*
 14 *provided to that landowner.*

15 *(b) The conducting authority may conduct the*
 16 *election required by this section wholly by mail pursuant*
 17 *to Division 4 (commencing with Section 4000) of the*
 18 *Elections Code.*

19 *SEC. 6. Section 57011 is added to the Government*
 20 *Code, to read:*

21 *57011. (a) In any ~~change of organization or~~*
 22 *~~reorganization~~ proposal involving the annexation,*
 23 *formation, or consolidation of territory deemed*
 24 *determined to be uninhabited ~~within the meaning of this~~*
 25 *~~division~~ by the executive officer pursuant to Section*
 26 *56828, it shall be sufficient for purposes of complying with*
 27 *the election requirements of subdivision (d) of Section 2*
 28 *of Article XIII C of the California Constitution for the*
 29 *conducting authority to conduct a landowner-voter*
 30 *election among all property owners within the territory*
 31 *affected by the extension of a special tax of any ~~city,~~*
 32 *~~county, district, or local agency included in the change of~~*
 33 *~~organization or reorganization.~~ subject agency. In any*
 34 *election, approval by at least a two-thirds majority ~~of all~~*
 35 *~~property owners within the territory affected by the~~*
 36 *~~extension of the special tax shall be required for extension~~*
 37 *~~of the special tax. If two or more coowners of any~~*
 38 *~~individual parcel vote in the election, the vote of each~~*
 39 *~~coowner voting shall be proportional to that owner's~~*
 40 *~~interest in the parcel.~~*



1 ~~SEC. 4.~~ *of the votes cast shall be required for the*
2 *extension of the special tax. Each landowner who is the*
3 *owner of record at the time that the conducting authority*
4 *calls the election, or the authorized representative*
5 *thereof, shall have one vote for each acre or portion of an*
6 *acre that the landowner owns within the affected*
7 *territory. The number of votes to be voted by a particular*
8 *landowner shall be specified on the ballot provided to*
9 *that landowner.*

10 *(b) The conducting authority may conduct the*
11 *election required by this section wholly by mail pursuant*
12 *to Division 4 (commencing with Section 4000) of the*
13 *Elections Code.*

14 *SEC. 7.* This act is an urgency statute necessary for
15 the immediate preservation of the public peace, health,
16 or safety within the meaning of Article IV of the
17 Constitution and shall go into immediate effect. The facts
18 constituting the necessity are:

19 The voters of California recently adopted Proposition
20 218, the "Right to Vote on Taxes Act," which added
21 Articles XIII C and XIII D to the California Constitution.
22 Proposition 218 became effective on November 6, 1996.
23 Article XIII C prohibits local agencies from imposing,
24 extending, or increasing general or special taxes unless
25 the general or special tax is submitted to an election and
26 approved by voters. This requirement is inconsistent with
27 existing law where, pursuant to the Cortese-Knox Act,
28 one or more local agencies are authorized to conduct an
29 annexation, formation, or consolidation proceeding
30 affecting territory that is deemed to be uninhabited. This
31 act provides a procedure for local agencies to satisfy the
32 requirements of Article XIII C by conducting an election
33 proceeding among landowner-voters where a local
34 agency seeks to extend general or special taxes within
35 uninhabited territory. In order that local agencies shall
36 have a means to provide for essential services, including
37 law enforcement and fire services, within the areas
38 affected by annexation, formation, or consolidation of



1 uninhabited territory, it is necessary that this act take
2 effect immediately.

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