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GOVERNMENT CODE - GOV

TITLE 5. LOCAL AGENCIES [50001 - 57550] (Title 5 added by Stats. 1949, Ch. 81.)

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

PART 1. GENERAL [56000 - 56160] (Part 1 added by Stats. 1985, Ch. 541, Sec. 3.)

CHAPTER 3. Introductory and General Provisions [56100 - 56134] (Chapter 3 added by Stats. 1985, Ch. 541, Sec. 3.)

56100. (a) Except as otherwise provided in Section 56036.5 and subdivision (b) of Section 56036.6, this division provides the sole and exclusive authority and procedure for the initiation, conduct, and completion of changes of organization and reorganization for cities and districts. All changes of organization and reorganizations shall be initiated, conducted, and completed in accordance with, and as provided in, this division.

(b) Notwithstanding any other law, proceedings for the formation of a district shall be conducted as authorized by the principal act of the district proposed to be formed, except that the commission shall serve as the conducting authority and the procedural requirements of this division shall apply and shall prevail in the event of conflict with the procedural requirements of the principal act of the district. In the event of such a conflict, the commission shall specify the procedural requirements that apply, consistent with the requirements of this section.

(Amended by Stats. 2014, Ch. 112, Sec. 1. Effective January 1, 2015.)

56100.1. (a) Contributions and expenditures for political purposes related to a proposal or proceeding shall be disclosed and reported pursuant to Article 2.5 (commencing with Section 84250) of Chapter 4 of the Political Reform Act of 1974 (Title 9 (commencing with Section 81000)).

(b) A commission may require, through the adoption of written policies and procedures, additional disclosure of contributions in support of or opposition to a proposal, which shall be made either to the commission's executive officer, in which case it shall be posted on the commission's Internet Web site, if applicable, or to the board of supervisors of the county in which the commission is located, which may designate a county officer to receive the disclosure. Disclosure pursuant to a requirement under the authority provided in this section shall be in addition to any disclosure otherwise required by Section 56700.1, 57009, or local ordinance.

(Amended by Stats. 2009, Ch. 113, Sec. 1. Effective January 1, 2010.)

56102. For the purpose of any action to determine or contest the validity of any change of organization or reorganization, the change of organization or reorganization shall be deemed to be completed and in existence upon the date of execution of the certificate of completion.

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

56103. An action to determine the validity of any change of organization, reorganization, or sphere of influence determination completed pursuant to this division shall be brought pursuant to Chapter 9 (commencing with Section 860) of Title 10 of Part 2 of the Code of Civil Procedure.

(Amended by Stats. 2002, Ch. 548, Sec. 5. Effective January 1, 2003.)

56103.5. Any action brought in the superior court relating to this division may be subject to a mediation proceeding conducted pursuant to Chapter 9.3 (commencing with Section 66030) of Division 1 of Title 7.

(Added by Stats. 2010, Ch. 699, Sec. 18. Effective January 1, 2011.)

56104. If any provision of this division or the application of any provision of this division in any circumstance or to any person, city, county, district, the state, or any agency or subdivision of the state is held invalid, that invalidity shall not affect other provisions or applications of this division which can be given effect without the invalid provision or application of the invalid provision, and to this end the provisions of this division are severable.

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

56105. Any protest or objection pertaining to the regularity or sufficiency of any proceedings or commission proceedings shall be in writing, clearly specify the defect, error, irregularity, or omission to which protest or objection is made and shall be filed within the time and in the manner provided by this division. Any protest or objection pertaining to any of these matters which is not so made and filed is deemed voluntarily waived.

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

56106. Any provisions in this division governing the time within which an official or the commission is to act shall in all instances, except for notice requirements and the requirements of subdivision (h) of Section 56658 and subdivision (b) of Section 56895, be deemed directory, rather than mandatory.

(Amended by Stats. 2014, Ch. 112, Sec. 3. Effective January 1, 2015.)

56107. (a) This division shall be liberally construed to effectuate its purposes. No change of organization or reorganization ordered under this division and no resolution adopted by the commission making determinations upon a proposal shall be invalidated because of any defect, error, irregularity, or omission in any act, determination, or procedure which does not adversely and substantially affect the rights of any person, city, county, district, the state, or any agency or subdivision of the state.

(b) All determinations made by a commission under, and pursuant to, this division shall be final and conclusive in the absence of fraud or prejudicial abuse of discretion.

(c) In any action or proceeding to attack, review, set aside, void, or annul a determination by a commission on grounds of noncompliance with this division, any inquiry shall extend only to whether there was fraud or a prejudicial abuse of discretion. Prejudicial abuse of discretion is established if the court finds that the determination or decision is not supported by substantial evidence in light of the whole record.

(Amended by Stats. 2000, Ch. 761, Sec. 24. Effective January 1, 2001.)

56116. The Legislature declares that the doctrine of automatic merger of a district with a city or the merger by operation of law of a district with a city has no further force or effect. The existence of a district shall not be extinguished or terminated as a result of the entire territory of that district being heretofore or hereafter included within a city unless that district is merged with the city as a result of proceedings taken pursuant to this division.

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

56117. A district may be either merged with, or established as, a subsidiary district of a city in the manner provided in this division.

A mutual service agreement between a city and a district may provide that the city shall not, while that agreement is in effect, or during any portion of the agreement's effective duration as the city and the district may stipulate in the agreement, initiate a proposal to establish the district as a subsidiary district of the city.

(Amended by Stats. 2011, Ch. 300, Sec. 62. Effective January 1, 2012.)

56118. Except for a proposal for the merger of a then existing subsidiary district, any proposal for a merger or establishment of a subsidiary district authorized by this division shall contain a request in the alternative,

requesting either a merger or the establishment of a subsidiary district, as may be determined during the course of the proceedings. Any proposal requesting only merger shall be deemed to also include a request for the establishment of a subsidiary district and any proposal requesting only the establishment of a subsidiary district shall be deemed to also include a request for merger.

(Amended by Stats. 1986, Ch. 1019, Sec. 17.)

56119. It is not necessary for the principal act of any district to adopt or incorporate this division by reference and any change of organization or reorganization provided for by this division may be made by, or with respect to, any district. Except as otherwise provided in this division, in any change of organization or reorganization the principal act shall govern as to any provisions in the principal act pertaining to boundaries, to contiguity or noncontiguity of territory, to the incorporated or unincorporated status of territory, and to the overlapping of territory of a district with the territory of another district or city. Unless otherwise provided by the principal act, any territory annexed to a district shall be contiguous to the district and shall not be a part of another district formed under the same principal act without the consent of the other district.

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

56120. Where the principal act of any parent district provides that the boundaries of the parent district shall be automatically changed in the event of a change in the boundaries of a member district, or that the boundaries of the parent district may be concurrently changed with a change in the boundaries of a member district, the boundaries of the parent district shall be deemed to be automatically, or may be concurrently, changed as the case may be, when proceedings are in accordance with the provisions of the principal acts of any parent district, upon completion of a change of organization or a reorganization changing the boundaries of the member district. The commission of the principal county of the member district shall have exclusive jurisdiction over such a change in boundaries of the member district and also of any parent district subject to this division.

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

56121. No change of organization or reorganization, or any term or condition of a change of organization or reorganization, shall impair the rights of any bondholder or other creditor of any county, city, or district. Nor shall any change of organization or reorganization, or any term or condition of a change of organization or reorganization, impair the contract rights, or contracts entered into by a public entity created by a joint exercise of powers agreement established pursuant to Article 1 (commencing with Section 6500) of Chapter 5 of Division 7 of Title 1 of the Government Code. Notwithstanding any provision of this division, or of any change of organization or reorganization, or any term or condition of a change of organization or reorganization, each and every bondholder or other creditor may enforce all of his or her rights in the same manner, and to the same extent, as if the change of organization, reorganization, term, or condition had not been made. Those rights may also be enforced against agencies, and their respective officers, as follows:

- (a) Annexation or detachment: against the city or district to, or from, which territory is annexed or detached.
- (b) Incorporation: against the newly incorporated city.
- (c) Formation: against the newly formed district.
- (d) Disincorporation: against the successor county receiving distribution of the remaining assets of the disincorporated city.
- (e) Dissolution: against the local agency receiving distribution of all or any part of the remaining assets of a dissolved district.
- (f) Consolidation: against the consolidated successor city or district.
- (g) Reorganization: against the affected city or district, successor county or newly incorporated city or newly formed district, as the case may be, for any of the above enumerated changes of organization or city incorporations which may be included in the particular reorganization.

(Amended by Stats. 1988, Ch. 1172, Sec. 3.)

56122. Section 56886 and any term and condition provided by, or made pursuant to, that section shall be enforceable by, between, among, and against any public agency or agencies designated in the term and

condition, but shall not constitute, or be given effect as, a limitation upon the power of any bondholder or other creditor to enforce his or her rights, particularly any rights provided for by Part 5 (commencing with Section 57300), as if Section 56886 had not been enacted or the term and condition had not been made or provided pursuant to that section.

(Amended by Stats. 2000, Ch. 761, Sec. 42. Effective January 1, 2001.)

56123. Except as otherwise provided in Section 56124, if a proposed change of organization or a reorganization applies to two or more affected counties, for the purpose of this division, exclusive jurisdiction shall be vested in the commission of the principal county. Any notices, proceedings, orders, or any other acts authorized or required to be given, taken, or made by the commission, board of supervisors, clerk of a county, or any other county official, shall be given, taken, or made by the persons holding those offices in the principal county. The commission of the principal county shall provide notice to the legislative body and the executive officer of all affected agencies of any proceedings, actions, or reports on the proposed change of organization or reorganization. Any officer of a county other than the principal county shall cooperate with the commission of the principal county and shall furnish the commission of the principal county with any certificates, records, or certified copies of records as may be necessary to enable the commission of the principal county to comply with this division.

(Amended by Stats. 2001, Ch. 388, Sec. 3. Effective January 1, 2002.)

56124. If a proposed change of organization or a reorganization applies to two or more affected counties, for purposes of this division, exclusive jurisdiction may be vested in the commission of an affected county other than the commission of the principal county if all of the following occur:

- (a) The commission of the principal county approves of having exclusive jurisdiction vested in another affected county.
- (b) The commission of the principal county designates the affected county which shall assume exclusive jurisdiction.
- (c) The commission of the affected county so designated agrees to assume exclusive jurisdiction.

If exclusive jurisdiction is vested in the commission of an affected county other than the principal county pursuant to this section, any notices, proceedings, orders, or any other acts authorized or required to be given, taken, or made by the commission, board of supervisors, clerk of a county, or any other officer of a county, shall be given, taken, or made by the persons holding those offices in the affected county. Any officer of a county other than the affected county shall cooperate with the commission of the affected county and shall furnish the commission of the affected county with any certificates, records, or certified copies of records as may be necessary to enable the commission of the affected county to comply with this division.

(Amended by Stats. 2000, Ch. 761, Sec. 44. Effective January 1, 2001.)

56125. If any reorganization provides for the formation of any new district or districts, the district or districts shall be deemed to have been formed upon compliance with the procedure and provisions of this division relating to reorganization. If the terms and conditions of any change of organization or reorganization provide for the formation of an improvement district or for the annexation of territory to, or detachment of territory from, an existing improvement district, that formation, annexation, or detachment shall be deemed to have been completed upon compliance with the procedure and provisions of this division relating to a change of organization or a reorganization. In any proceeding for a change of organization or a reorganization providing for territory to be formed into, or annexed to, or detached from, an improvement district, the clerk of the county or of the district, as the case may be, shall give mailed notice of hearing on the proposed change of organization or reorganization to all landowners owning land within the territory. No further or separate proceedings need be taken for the formation of any improvement district or for the annexation of territory to, or detachment of territory from, the existing improvement district. To that extent only, this division shall govern and provide the exclusive procedure for the formation of any such improvement district or for the annexation of territory to, or detachment of territory from, an existing improvement district and the provisions of the principal act relating to the formation of an improvement district or for the annexation of territory to, or detachment of territory from, an existing improvement district shall have no application.

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

56126. Upon request by the executive officer or the clerk of any county or district, the assessor of any city, county, or district shall furnish estimated assessed valuations, determined by the same methods and valuations used in preparing the last equalized assessment roll, in both of the following cases:

(a) Where real property is owned by a public agency and no assessed value for that real property is shown on the roll.

(b) Where a single assessment parcel shown on the last equalized assessment roll either:

(1) Has been split into two or more parcels by reason of the sale or conveyance of any portion of the original assessment parcel.

(2) Overlaps two or more counties, cities, districts, or election precincts, or any combination of those entities or precincts.

Any of these estimates shall be conclusively presumed to be assessed values for the purpose of this division, but shall be given no force or effect for other purposes.

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

56127. If the legislative body of any of the districts, agencies, or authorities enumerated in subdivision (a) of Section 56036.6 desires a determination by the commission that the district, agency, or authority is not a district or a special district, for purposes of Part 4 (commencing with Section 57000) or Part 5 (commencing with Section 57300), the legislative body, prior to the adoption of any ordinance, resolution, or order proposing, declaring an intention, or initiating proceedings to make a change of organization, shall make application to the commission of the principal county describing the proposed change of organization and requesting that determination. If a proposal is initiated by other than the legislative body of a district or special district, the district or special district may, within 10 days of notification by the commission of the initiation of the proposal, request a determination by the commission that it is not a district or special district for purposes of Part 4 (commencing with Section 57000) or Part 5 (commencing with Section 57300). That application shall be filed with the executive officer and shall be presented to the commission not later than its next regular meeting. The executive officer shall give the legislative body filing the application mailed notice of the time and place at which the application shall be presented to the commission. No other notice is required to be given. However, the commission may, prior to making its findings and determinations, order the executive officer to give notice of the filing and presentation of the application by publication or by mailing to other affected counties, cities, and districts, or by both publication and mailing.

(Amended by Stats. 2011, Ch. 300, Sec. 63. Effective January 1, 2012.)

56128. (a) Upon presentation of any application filed pursuant to Section 56127, the commission shall determine that the applicant district, agency, or authority is not a district or special district for purposes of Part 4 (commencing with Section 57000) or Part 5 (commencing with Section 57300), if the commission finds that the applicant is not engaged in any of the following:

(1) The distribution and sale for any purpose, other than for the purpose of resale, of water or of gas or electricity for light, heat, or power.

(2) Furnishing sanitary sewer service or garbage and refuse collection service to the ultimate users, as defined in subdivision (b), of those services.

(3) Providing fire or police protection.

(4) The acquisition, construction, maintenance, lighting, or operation of streets and highways, street and highway improvements, or park and recreation facilities, except as an incident to the exercise of other lawful powers of the applicant.

(b) "Ultimate user" means any user or consumer other than the state, the United States, a city, a county, or a district, or any agency, department, or office of any of those entities or a public utility.

If the commission determines that any applicant district, agency, or authority enumerated in subdivision (a) of Section 56036.6 is not a district or special district, for purposes of Part 4 (commencing with Section 57000) or Part 5 (commencing with Section 57300), then those provisions shall not apply to the change of organization or reorganization described in the application and proceedings for the change of organization or reorganization shall be taken under and pursuant to the principal act. If no application is made to the commission, or if the commission in passing upon an application does not determine that the applicant is not a district or special

district for the purposes of Part 4 (commencing with Section 57000) or Part 5 (commencing with Section 57300), then this division shall provide the sole and exclusive authority for the initiation, conduct, and completion for a change of organization or reorganization by that district, agency, or authority and, to the extent of any inconsistency between this division and the principal act of the applicant, this division shall control.

(Amended by Stats. 2011, Ch. 300, Sec. 64. Effective January 1, 2012.)

56129. (a) If a public utility has been granted a certificate of public convenience and necessity authorizing and requiring it to furnish gas or electric service within a certain service area and, as a result of a change of organization or a reorganization, territory consisting of all, or any part, of that service area becomes a part of, or is formed into, a district authorized by its principal act to furnish gas or electric service, the district shall not furnish that service within the territory except upon approval by both of the following:

(1) The commission after receipt and consideration of the report of the Public Utilities Commission made as provided in Section 56131.

(2) The voters within the territory, given at an election as provided in Section 56130.

(b) If both of those approvals are given, upon assumption of service by the district the public utility may at any time thereafter withdraw service within the territory, unless otherwise ordered by the Public Utilities Commission.

(c) "Gas or electric service," as used in this section and in Sections 56130, 56131, and 56875, means the distribution and sale for any purpose, other than for the purpose of resale, of gas or electricity for light, heat, or power.

(Amended by Stats. 2000, Ch. 761, Sec. 45. Effective January 1, 2001.)

56130. Voter approval within the territory, as required by Section 56129, shall be given at an election. The question submitted at the election shall identify the district, designate the kind of service to be furnished, identify the territory within which the service is proposed to be furnished, and state the name of the public utility presently authorized to furnish the gas or electric service within the territory.

The district shall not furnish the gas or electric service, as defined in subdivision (c) of Section 56129, within the territory unless the question of furnishing the gas or electric service has been submitted to the voters at an election called, held, and conducted within the territory and a majority of the votes cast upon the question are in favor of the service. The board of supervisors or the legislative body of the conducting district may submit the question at the election called upon the question of confirmation of an order of change of organization or reorganization, or the board of directors of the district may submit the question of the gas or electric service at a special election called after completion of the proceedings for a change of organization or a reorganization. The question of the service shall be submitted as a separate proposition at any election within the territory and shall be voted upon only by qualified voters within the territory. If the question is defeated at the election, for one year thereafter no petition requesting the gas or electric service may be filed and no new election called upon the question.

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

56131. The executive officer shall file with the Public Utilities Commission a certified copy of any proposal for a change of organization or a reorganization which provides, as a part of the change of organization or reorganization, that gas or electric service, as defined in subdivision (c) of Section 56129, be furnished by a district within any of the territory affected by the change of organization or reorganization. The certified copy need not contain any signatures if the proposal is by petition. After that change of organization or reorganization has been ordered, the clerk of the district shall file with the Public Utilities Commission a certified copy of any ordinance, resolution, or order made by the board of directors of a district proposing to furnish gas or electric service, as defined in subdivision (c) of Section 56129, within the territory.

After that filing, the Public Utilities Commission shall cause an investigation to be made and may conduct any hearings in connection with the proposal. Upon completion of the investigation and not later than 90 days after the date of the filing, the Public Utilities Commission shall make a report to the commission stating whether, in the opinion of the Public Utilities Commission, the proposed service by the district within the territory will

substantially impair the ability of the public utility to provide adequate service at reasonable rates within the remainder of the service area of the public utility.

The secretary of the Public Utilities Commission shall immediately file a certified copy of that report with the executive officer.

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

56131.5. (a) Upon the filing of an application for the formation of, annexation to, 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.

(Amended by Stats. 2015, Ch. 114, Sec. 1. Effective January 1, 2016.)

56131.7. Upon the filing of an application for the formation of, consolidation of, or dissolution of a recreation and park district formed pursuant to the Recreation and Park District Law, Chapter 4 (commencing with Section 5780) of Division 5 of the Public Resources Code, or of an application for a reorganization that includes any of those changes of organization, or the initiation by the commission of any of those changes of organization or any reorganization that includes any of those changes of organization, the executive officer shall notify the Director of the State Department of Parks and Recreation. The director shall have 60 days from the date of receipt of notification by the executive officer to comment on the proposal. The commission shall consider all comments received from the director in making its decision.

(Added by Stats. 2001, Ch. 15, Sec. 1. Effective January 1, 2002.)

56133. (a) A city or district may provide new or extended services by contract or agreement outside its jurisdictional boundary only if it first requests and receives written approval from the commission.

(b) The commission may authorize a city or district to provide new or extended services outside its jurisdictional boundary but within its sphere of influence in anticipation of a later change of organization.

(c) If consistent with adopted policy, the commission may authorize a city or district to provide new or extended services outside its jurisdictional boundary and outside its sphere of influence to respond to an existing or impending threat to the health or safety of the public or the residents of the affected territory, if both of the following requirements are met:

(1) The entity applying for approval has provided the commission with documentation of a threat to the health and safety of the public or the affected residents.

(2) The commission has notified any alternate service provider, including any water corporation as defined in Section 241 of the Public Utilities Code, that has filed a map and a statement of its service capabilities with the commission.

(d) The executive officer, within 30 days of receipt of a request for approval by a city or district to extend services outside its jurisdictional boundary, shall determine whether the request is complete and acceptable for

filing or whether the request is incomplete. If a request is determined not to be complete, the executive officer shall immediately transmit that determination to the requester, specifying those parts of the request that are incomplete and the manner in which they can be made complete. When the request is deemed complete, the executive officer shall place the request on the agenda of the next commission meeting for which adequate notice can be given but not more than 90 days from the date that the request is deemed complete, unless the commission has delegated approval of requests made pursuant to this section to the executive officer. The commission or executive officer shall approve, disapprove, or approve with conditions the extended services. If the new or extended services are disapproved or approved with conditions, the applicant may request reconsideration, citing the reasons for reconsideration.

(e) This section does not apply to any of the following:

(1) Two or more public agencies where the public service to be provided is an alternative to, or substitute for, public services already being provided by an existing public service provider and where the level of service to be provided is consistent with the level of service contemplated by the existing service provider.

(2) The transfer of nonpotable or nontreated water.

(3) The provision of surplus water to agricultural lands and facilities, including, but not limited to, incidental residential structures, for projects that serve conservation purposes or that directly support agricultural industries. However, prior to extending surplus water service to any project that will support or induce development, the city or district shall first request and receive written approval from the commission in the affected county.

(4) An extended service that a city or district was providing on or before January 1, 2001.

(5) A local publicly owned electric utility, as defined by Section 9604 of the Public Utilities Code, providing electric services that do not involve the acquisition, construction, or installation of electric distribution facilities by the local publicly owned electric utility, outside of the utility's jurisdictional boundary.

(6) A fire protection contract, as defined in subdivision (a) of Section 56134.

(f) This section applies only to the commission of the county in which the extension of service is proposed.

(Amended by Stats. 2015, Ch. 763, Sec. 2.5. Effective January 1, 2016.)

56133.5. (a) A pilot program is hereby established for the Napa and San Bernardino commissions. If consistent with adopted policy, the Napa and San Bernardino commissions may authorize a city or district to provide new or extended services outside its jurisdictional boundary and outside its sphere of influence to support existing or planned uses involving public or private properties, subject to approval at a noticed public hearing in which the commission makes all of the following determinations:

(1) The extension of service or services deficiency was identified and evaluated in a review of municipal services prepared pursuant to Section 56430.

(2) The extension of service will not result in either (1) adverse impacts on open space or agricultural lands or (2) growth inducing impacts.

(3) A sphere of influence change involving the subject territory and its affected agency is not feasible under this division or desirable based on the adopted policies of the commission.

(b) Subdivision (d) of Section 56133 shall apply to any request for new or extended services pursuant to this section.

(c) For purposes of this section, "planned use" means any project that is included in an approved specific plan as of July 1, 2015.

(d) The Napa and San Bernardino commissions shall submit a report before January 1, 2020, to the Legislature on their participation in the pilot program, including how many requests for extension of services were received pursuant to this section and the action by the commission to approve, disapprove, or approve with conditions. The report required to be submitted pursuant to this subdivision shall be submitted in compliance with Section 9795 of the Government Code.

(e) The pilot program established pursuant to this section shall be consistent with Chapter 8.5 (commencing with Section 1501) of the Public Utilities Code.

(f) This section shall remain in effect only until January 1, 2021, and as of that date is repealed.

56134. (a) (1) For the purposes of this section, "fire protection contract" means a contract or agreement for the exercise of new or extended fire protection services outside a public agency's jurisdictional boundaries, as authorized by Chapter 4 (commencing with Section 55600) of Part 2 of Division 2 of Title 5 of this code or by Article 4 (commencing with Section 4141) of Chapter 1 of Part 2 of Division 4 of the Public Resources Code, except those contracts entered into pursuant to Sections 4143 and 4144 of the Public Resources Code, that does either of the following:

(A) Transfers responsibility for providing services in more than 25 percent of the area within the jurisdictional boundaries of any public agency affected by the contract or agreement.

(B) Changes the employment status of more than 25 percent of the employees of any public agency affected by the contract or agreement.

(2) A contract or agreement for the exercise of new or extended fire protection services outside a public agency's jurisdictional boundaries, as authorized by Chapter 4 (commencing with Section 55600) of Part 2 of Division 2 of Title 5 of this code or Article 4 (commencing with Section 4141) of Chapter 1 of Part 2 of Division 4 of the Public Resources Code, except those contracts entered into pursuant to Sections 4143 and 4144 of the Public Resources Code, that, in combination with other contracts or agreements, would produce the results described in subparagraph (A) or (B) of paragraph (1) shall be deemed a fire protection contract for the purposes of this section.

(3) For the purposes of this section, "jurisdictional boundaries" shall include the territory or lands protected pursuant to a fire protection contract entered into on or before December 31, 2015. An extension of a fire protection contract entered into on or before December 31, 2015, that would produce the results described in subparagraph (A) or (B) of paragraph (1) shall be deemed a fire protection contract for the purposes of this section.

(b) Notwithstanding Section 56133, a public agency may provide new or extended services pursuant to a fire protection contract only if it first requests and receives written approval from the commission in the affected county pursuant to the requirements of this section.

(c) A request by a public agency for commission approval of new or extended services provided pursuant to a fire protection contract shall be made by the adoption of a resolution of application as follows:

(1) In the case of a public agency that is not a state agency, the application shall be initiated by the adoption of a resolution of application by the legislative body of the public agency proposing to provide new or extended services outside the public agency's current service area.

(2) In the case of a public agency that is a state agency, the application shall be initiated by the director of the state agency proposing to provide new or extended services outside the agency's current service area and be approved by the Director of Finance.

(3) In the case of a public agency that is a local agency currently under contract with a state agency for the provision of fire protection services and proposing to provide new or extended services by the expansion of the existing contract or agreement, the application shall be initiated by the public agency that is a local agency and be approved by the Director of Finance.

(d) The legislative body of a public agency or the director of a state agency shall not submit a resolution of application pursuant to this section unless both of the following occur:

(1) The public agency does either of the following:

(A) Obtains and submits with the resolution a written agreement validated and executed by each affected public agency and recognized employee organization that represents firefighters of the existing and proposed service providers consenting to the proposed fire protection contract.

(B) Provides, at least 30 days prior to the hearing held pursuant to paragraph (2), written notice to each affected public agency and recognized employee organization that represents firefighters of the existing and proposed service providers of the proposed fire protection contract and submits a copy of each written notice with the resolution of application. The notice shall, at minimum, include a full copy of the proposed contract.

(2) The public agency conducts an open and public hearing on the resolution, conducted pursuant to the Ralph M. Brown Act (Chapter 9 (commencing with Section 54950) of Part 1 of Division 2 of Title 5) or the Bagley-

Keene Open Meeting Act (Article 9 (commencing with Section 11120) of Chapter 1 of Part 1 of Division 3 of Title 2), as applicable.

(e) A resolution of application submitted pursuant to this section shall be submitted with a plan which shall include all of the following information:

- (1) The total estimated cost to provide the new or extended fire protection services in the affected territory.
- (2) The estimated cost of the new or extended fire protection services to customers in the affected territory.
- (3) An identification of existing service providers, if any, of the new or extended services proposed to be provided and the potential fiscal impact to the customers of those existing providers.
- (4) A plan for financing the exercise of the new or extended fire protection services in the affected territory.
- (5) Alternatives for the exercise of the new or extended fire protection services in the affected territory.
- (6) An enumeration and description of the new or extended fire protection services proposed to be extended to the affected territory.
- (7) The level and range of new or extended fire protection services.
- (8) An indication of when the new or extended fire protection services can feasibly be extended to the affected territory.
- (9) An indication of any improvements or upgrades to structures, roads, sewer or water facilities, or other conditions the public agency would impose or require within the affected territory if the fire protection contract is completed.
- (10) A determination, supported by documentation, that the proposed fire protection contract meets the criteria established pursuant to subparagraph (A) or (B) of paragraph (1) or paragraph (2), as applicable, of subdivision (a).

(f) The applicant shall cause to be prepared by contract an independent comprehensive fiscal analysis to be submitted with the application pursuant to this section. The analysis shall review and document all of the following:

- (1) A thorough review of the plan for services submitted by the public agency pursuant to subdivision (e).
- (2) How the costs of the existing service provider compare to the costs of services provided in service areas with similar populations and of similar geographic size that provide a similar level and range of services and make a reasonable determination of the costs expected to be borne by the public agency providing new or extended fire protection services.
- (3) Any other information and analysis needed to support the findings required by subdivision (j).

(g) The clerk of the legislative body of a public agency or the director of a state agency adopting a resolution of application pursuant to this section shall file a certified copy of the resolution with the executive officer.

(h) (1) The executive officer, within 30 days of receipt of a public agency's request for approval of a fire protection contract, shall determine whether the request is complete and acceptable for filing or whether the request is incomplete. If a request does not comply with the requirements of subdivision (d), the executive officer shall determine that the request is incomplete. If a request is determined incomplete, the executive officer shall immediately transmit that determination to the requester, specifying those parts of the request that are incomplete and the manner in which they can be made complete. When the request is deemed complete, the executive officer shall place the request on the agenda of the next commission meeting for which adequate notice can be given but not more than 90 days from the date that the request is deemed complete.

(2) The commission shall approve, disapprove, or approve with conditions the contract for new or extended services following the hearing at the commission meeting, as provided in paragraph (1). If the contract is disapproved or approved with conditions, the applicant may request reconsideration, citing the reasons for reconsideration.

(i) (1) The commission shall not approve an application for approval of a fire protection contract unless the commission determines that the public agency will have sufficient revenues to carry out the exercise of the new or extended fire protection services outside its current area, except as specified in paragraph (2).

(2) The commission may approve an application for approval of a fire protection contract where the commission has determined that the public agency will not have sufficient revenue to provide the proposed new or different functions or class of services, if the commission conditions its approval on the concurrent approval of sufficient

revenue sources pursuant to Section 56886. In approving a proposal, the commission shall provide that, if the revenue sources pursuant to Section 56886 are not approved, the authority of the public agency to provide new or extended fire protection services shall not be exercised.

(j) The commission shall not approve an application for approval of a fire protection contract unless the commission determines, based on the entire record, all of the following:

(1) The proposed exercise of new or extended fire protection services outside a public agency's current service area is consistent with the intent of this division, including, but not limited to, the policies of Sections 56001 and 56300.

(2) The commission has reviewed the comprehensive fiscal analysis prepared pursuant to subdivision (f).

(3) The commission has reviewed any testimony presented at the public hearing.

(4) The proposed affected territory is expected to receive revenues sufficient to provide public services and facilities and a reasonable reserve during the three fiscal years following the effective date of the contract or agreement between the public agencies to provide the new or extended fire protection services.

(k) At least 21 days prior to the date of the hearing, the executive officer shall give mailed notice of that hearing to each affected local agency or affected county, and to any interested party who has filed a written request for notice with the executive officer. In addition, at least 21 days prior to the date of that hearing, the executive officer shall cause notice of the hearing to be published in accordance with Section 56153 in a newspaper of general circulation that is circulated within the territory affected by the proposal proposed to be adopted and shall post the notice of the hearing on the commission's Internet Web site.

(l) The commission may continue from time to time any hearing called pursuant to this section. The commission shall hear and consider oral or written testimony presented by any affected local agency, affected county, or any interested person who appears at any hearing called and held pursuant to this section.

(m) This section shall not be construed to abrogate a public agency's obligations under the Meyers-Milias-Brown Act (Chapter 10 (commencing with Section 3500) of Division 4 of Title 1).

(Added by Stats. 2015, Ch. 763, Sec. 3. Effective January 1, 2016.)