AMENDED IN ASSEMBLY MAY 7, 2007

CALIFORNIA LEGISLATURE—2007–08 REGULAR SESSION

ASSEMBLY BILL No. 1744

Introduced by Committee on Local Government (Caballero (Chair), Houston (Vice Chair), De La Torre, Lieber, Saldana, Smyth, and Soto)

March 22, 2007

An act to amend ~~Section~~ *Sections 56011, 56036, 56064, 56381,* 56663*, 56755, and 56811* of the Government Code, relating to local government reorganization.

LEGISLATIVE COUNSEL'S DIGEST

AB 1744, as amended, Committee on Local Government. Local government reorganization.

(1) Existing law, the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000, defines "prime agricultural land" to mean an area of land that has not been developed for a use other than an agricultural use, and that, among other qualifications, supports livestock used for the production of food and fiber, and that has an annual carrying capacity equivalent to at least one animal unit per acre, as defined in the United States Department of Agriculture in the National Handbook on Range and Related Grazing Lands, July 1967.

This bill would instead use the National Range and Pasture Handbook, Revision 1, December 2003, to provide at least one animal unit per acre, as specified. It would also make various technical, nonsubstantive changes to the act.

(2) Existing law requires a local agency formation commission to annually adopt, following noticed public hearings, a proposed budget by May 1 and a final budget by June 15, and requires the commission

to transmit its proposed and final budgets to the board of supervisors, each city, the clerk and chair of the city selection committee, if any, each independent special district, and to the clerk and chair of the independent special district selection committee, if any.

This bill would instead require the local agency formation commission to transmit its proposed and final budgets to the board of supervisors, each city, and each independent special district.

(3) Existing law requires a legislative body adopting a resolution of application for the annexation of territory, as specified, to conduct a public hearing on the resolution prior to submission of the resolution to the local agency formation commission, and requires notice of the hearing on the resolution to be published, as specified.

This bill would also require mailed notice to be provided to landowners in accordance with certain criteria.

(4) Existing law, until December 31, 2007, prohibits the local agency formation commission in Ventura County from imposing a condition that requires the City of Simi Valley to initiate proceedings on a proposal for a change of organization or reorganization unless the territory that would be affected is contiguous and physically related to the affected territory.

This bill would extend the operation of this prohibition to December 31, 2014, and would make legislative findings regarding the necessity for a special statute.

~~The Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 governs the procedures for the formation and change of organization of cities and special districts. In the case of a petition for an annexation, a detachment, or a reorganization consisting solely of annexations or detachments, or both, signed by all of the landowners in the territory affected by the proposal, the local agency formation commission may approve or disapprove the proposal without notice or hearing, if prescribed conditions are met.~~

~~This bill would make a technical, nonsubstantive change to this provision.~~

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 56011 of the Government Code is*
2 *amended to read:*

56011. "Affected city" means any city ~~which satifies~~ *that satisfies* either of the following conditions:

(a) It contains, or its sphere of influence contains, territory for which a change of organization is proposed or ordered either singularly or as part of a reorganization.

(b) It would contain the territory described in subdivision (a) as a result of proceedings for a change of organization or reorganization taken pursuant to this division.

SEC. 2. Section 56036 of the Government Code is amended to read:

56036. (a) "District" or "special 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. "District" or "special district" includes a county service area, but excludes all of the following:

(1) The state.

(2) A county.

(3) A city.

(4) A school district or a community college district.

(5) A special assessment district.

(6) An improvement district.

(7) A community facilities district formed pursuant to the Mello-Roos Community Facilities Act of 1982, Chapter 2.5 (commencing with Section 53311) of Part 1 of Division 2 of Title 5.

(8) A permanent road division formed pursuant to Article 3 (commencing with Section 1160) of Chapter 4 of Division 2 of the Streets and Highways Code.

(9) An air pollution control district or an air quality maintenance district.

(10) A zone of any special district, including but not limited to the following:

(A) A fire protection district.

(B) A mosquito abatement and vector control district.

(C) A public cemetery district.

(D) A recreation and park district.

(E) A community services district.

(b) Except as otherwise provided in paragraph (1), each of the entities listed in paragraph (1) is a "district" or a "special district" for the purposes of this division.

(1) For the purposes of Chapter 1 (commencing with Section 57000) to Chapter 7 (commencing with Section ~~57175)~~ *57176)*, inclusive, of Part 4 or Part 5 (commencing with Section 57300), none of the following entities is a "district" or a "special district":

(A) A unified or union high school library district.

(B) A bridge and highway district.

(C) A joint highway district.

(D) A transit or rapid transit district.

(E) A metropolitan water district.

(F) A separation of grade district.

(2) Any proceedings pursuant to Part 4 (commencing with Section 57000) for a change of organization involving an entity described in paragraph (1) shall be conducted pursuant to the principal act authorizing the establishment of that entity.

(c) Except as otherwise provided in paragraph (1), each of the entities listed in paragraph (1) is a "district" or "special district" for purposes of this division.

(1) For the purposes of Chapter 1 (commencing with Section 57000) to Chapter 7 (commencing with Section ~~57175)~~ *57176)*, inclusive, of Part 4 or Part 5 (commencing with Section 57300), none of the following entities is a "district" or "special district" if the commission of the principal county determines, in accordance with Sections 56127 and 56128, that the entity is not a "district" or "special district":

(A) A flood control district.

(B) A flood control and floodwater conservation district.

(C) A flood control and water conservation district.

(D) A conservation district.

(E) A water conservation district.

(F) A water replenishment district.

(G) The Orange County Water District.

(H) A California water storage district.

(I) A water agency.

(J) A county water authority or a water authority.

(2) If the commission determines that an entity described in paragraph (1) is not a "district" or "special district," any proceedings pursuant to Part 4 (commencing with Section 57000) for a change of organization involving the entity shall be conducted pursuant to the principal act authorizing the establishment of that entity.

SEC. 3. Section 56064 of the Government Code is amended to read:

56064. "Prime agricultural land" means an area of land, whether a single parcel or contiguous parcels, that has not been developed for a use other than an agricultural use and that meets any of the following qualifications:

(a) Land that qualifies, if irrigated, for rating as class I or class II in the USDA Natural Resources Conservation Service land use capability classification, whether or not land is actually irrigated, provided that irrigation is feasible.

(b) Land that qualifies for rating 80 through 100 Storie Index Rating.

(c) Land that supports livestock used for the production of food and fiber and that has an annual carrying capacity equivalent to at least one animal unit per acre as defined by the United States Department of Agriculture in the ~~National Handbook on Range and Related Grazing Lands, July, 1967,~~ *National Range and Pasture Handbook, Revision 1, December 2003,* developed pursuant to Public Law 46, December 1935.

(d) Land planted with fruit or nut-bearing trees, vines, bushes, or crops that have a nonbearing period of less than five years and that will return during the commercial bearing period on an annual basis from the production of unprocessed agricultural plant production not less than four hundred dollars ($400) per acre.

(e) Land that has returned from the production of unprocessed agricultural plant products an annual gross value of not less than four hundred dollars ($400) per acre for three of the previous five calendar years.

SEC. 4. Section 56381 of the Government Code is amended to read:

56381. (a) The commission shall adopt annually, following noticed public hearings, a proposed budget by May 1 and final budget by June 15. At a minimum, the proposed and final budget shall be equal to the budget adopted for the previous fiscal year unless the commission finds that reduced staffing or program costs will nevertheless allow the commission to fulfill the purposes and programs of this chapter. The commission shall transmit its proposed and final budgets to the board of ~~supervisors;~~ *supervisors,* to each city~~; to the clerk and chair of the city selection committee, if any, established in each county pursuant to Article 11~~

~~(commencing with Section 50270) of Chapter 1 of Part 1 of Division 1;~~, *and* to each independent special district~~; and to the clerk and chair of the independent special district selection committee, if any, established pursuant to Section 56332~~.

(b) After public hearings, consideration of comments, and adoption of a final budget by the commission pursuant to subdivision (a), the auditor shall apportion the net operating expenses of a commission in the following manner:

(1) (A) In counties in which there is city and independent special district representation on the commission, the county, cities, and independent special districts shall each provide a one-third share of the commission's operational costs.

(B) The cities' share shall be apportioned in proportion to each city's total revenues, as reported in the most recent edition of the Cities Annual Report published by the Controller, as a percentage of the combined city revenues within a county, or by an alternative method approved by a majority of cities representing the majority of the combined cities' populations.

(C) The independent special districts' share shall be apportioned in proportion to each district's total revenues as a percentage of the combined total district revenues within a county. Except as provided in subparagraph (D), an independent special district's total revenue shall be calculated for nonenterprise activities as total revenues for general purpose transactions less revenue category aid from other governmental agencies and for enterprise activities as total operating and nonoperating revenues less revenue category other governmental agencies, as reported in the most recent edition of the "Special Districts Annual Report" published by the Controller, or by an alternative method approved by a majority of the agencies, representing a majority of their combined populations. For the purposes of fulfilling the requirement of this section, a multicounty independent special district shall be required to pay its apportionment in its principal county. It is the intent of the Legislature that no single district or class or type of district shall bear a disproportionate amount of the district share of costs.

(D) (i) For purposes of apportioning costs to a health care district formed pursuant to Division 23 (commencing with Section 32000) of the Health and Safety Code that operates a hospital, a health care district's share, except as provided in clauses (ii) and (iii), shall be apportioned in proportion to each district's net from

operations as reported in the most recent edition of the hospital financial disclosure report form published by the Office of Statewide Health Planning and Development, as a percentage of the combined independent special districts' net operating revenues within a county.

(ii) A health care district for which net from operations is a negative number may not be apportioned any share of the commission's operational costs until the fiscal year following positive net from operations, as reported in the most recent edition of the hospital financial disclosure report form published by the Office of Statewide Health Planning and Development.

(iii) A health care district that has filed and is operating under public entity bankruptcy pursuant to federal bankruptcy law, shall not be apportioned any share of the commission's operational costs until the fiscal year following its discharge from bankruptcy.

(iv) As used in this subparagraph "net from operations" means total operating revenue less total operating expenses.

(E) Notwithstanding the requirements of subparagraph (C), the independent special districts' share may be apportioned by an alternative method approved by a majority of the districts, representing a majority of the combined populations. However, in no event shall an individual district's apportionment exceed the amount that would be calculated pursuant to subparagraphs (C) and (D), or in excess of 50 percent of the total independent special districts' share, without the consent of that district.

(F) Notwithstanding the requirements of subparagraph (C), no independent special district shall be apportioned a share of more than 50 percent of the total independent special districts' share of the commission's operational costs, without the consent of the district as otherwise provided in this section. In those counties in which a district's share is limited to 50 percent of the total independent special districts' share of the commission's operational costs, the share of the remaining districts shall be increased on a proportional basis so that the total amount for all districts equals the share apportioned by the auditor to independent special districts.

(2) In counties in which there is no independent special district representation on the commission, the county and its cities shall each provide a one-half share of the commission's operational costs. The cities' share shall be apportioned in the manner described in paragraph (1).

(3) In counties in which there are no cities, the county and its special districts shall each provide a one-half share of the commission's operational costs. The independent special districts' share shall be apportioned in the manner described for cities' apportionment in paragraph (1). If there is no independent special district representation on the commission, the county shall pay all of the commission's operational costs.

(4) Instead of determining apportionment pursuant to paragraph (1), (2), or (3), any alternative method of apportionment of the net operating expenses of the commission may be used if approved by a majority vote of each of the following: the board of supervisors; a majority of the cities representing a majority of the total population of cities in the county; and the independent special districts representing a majority of the combined total population of independent special districts in the county. However, in no event shall an individual district's apportionment exceed the amount that would be calculated pursuant to subparagraphs (C) and (D) of paragraph (1), or in excess of 50 percent of the total independent special districts' share, without the consent of that district.

(c) After apportioning the costs as required in subdivision (b), the auditor shall request payment from the board of supervisors and from each city and each independent special district no later than July 1 of each year for the amount that entity owes and the actual administrative costs incurred by the auditor in apportioning costs and requesting payment from each entity. If the county, a city, or an independent special district does not remit its required payment within 60 days, the commission may determine an appropriate method of collecting the required payment, including a request to the auditor to collect an equivalent amount from the property tax, or any fee or eligible revenue owed to the county, city, or district. The auditor shall provide written notice to the county, city, or district prior to appropriating a share of the property tax or other revenue to the commission for the payment due the commission pursuant to this section. Any expenses incurred by the commission or the auditor in collecting late payments or successfully challenging nonpayment shall be added to the payment owed to the commission. Between the beginning of the fiscal year and the time the auditor receives payment from each affected city and district, the board of supervisors shall transmit funds to the commission sufficient to cover the first two months of the

commission's operating expenses as specified by the commission. When the city and district payments are received by the commission, the county's portion of the commission's annual operating expenses shall be credited with funds already received from the county. If, at the end of the fiscal year, the commission has funds in excess of what it needs, the commission may retain those funds and calculate them into the following fiscal year's budget. If, during the fiscal year, the commission is without adequate funds to operate, the board of supervisors may loan the commission funds. The commission shall appropriate sufficient funds in its budget for the subsequent fiscal year to repay the loan.

~~SECTION 1.~~

SEC. 5. Section 56663 of the Government Code is amended to read:

56663. (a) If a petition for an annexation, a detachment, or a reorganization consisting solely of annexations or detachments, or both, or the formation of a county service area is signed by all of the owners of land within the affected territory of the proposed change of organization or reorganization, or if a resolution of application by a legislative body of an affected district, affected county, or affected city making a proposal for an annexation or detachment, or for a reorganization consisting solely of annexations or detachments, or both, or the formation of a county service area is accompanied by proof, satisfactory to the commission, that all the owners of land within the affected territory have given their written consent to that change of organization or reorganization, the commission may approve or disapprove the change of organization or reorganization, without notice and hearing by the commission. In those cases, the commission may also approve and conduct proceedings for the change of organization or reorganization under any of the following conditions:

(1) Without notice and hearing.

(2) Without an election.

(3) Without notice, hearing, or an election.

(b) The executive officer shall give any affected agency mailed notice of the filing of the petition or resolution of application initiating proceedings by the commission. The commission shall not, without the written consent of the subject agency, take any further action on the petition or resolution of application for 10 days following that mailing. Upon written demand by an affected

local agency, filed with the executive officer during that 10-day period, the commission shall make determinations upon the petition or resolution of application only after notice and hearing on the petition or resolution of application. If no written demand is filed, the commission may make those determinations without notice and hearing. By written consent, which may be filed with the executive officer at any time, a subject agency may do any of the following:

(1) Waive the requirement of mailed notice.

(2) Consent to the commission making determinations without notice and hearing.

(3) Waive the requirement of mailed notice and consent to the commission making determinations without notice and hearing.

(c) In the case of uninhabited territory, the commission may waive protest proceedings pursuant to Part 4 (commencing with Section 57000) entirely if both of the following apply:

(1) All the owners of land within the affected territory have given their written consent to the change of organization or reorganization.

(2) No subject agency has submitted written opposition to a waiver of protest proceedings.

(d) In the case of inhabited city and district annexations or detachments, or both, the commission may waive protest proceedings pursuant to Part 4 (commencing with Section 57000) entirely if both of the following conditions apply:

(1) The commission has provided written notice of commission proceedings to all registered voters and landowners within the affected territory and no written opposition from registered voters or landowners within the affected territory is received prior to the conclusion of the commission hearing. The written notice shall disclose to the registered voters and landowners that unless written opposition is received regarding the proposal or the commission's intention to waive protest proceedings, that there will be no subsequent protest and election proceedings.

(2) No subject agency has submitted written opposition to a waiver of protest proceedings.

SEC. 6. Section 56755 of the Government Code is amended to read:

56755. Prior to submitting a resolution of application for the annexation of territory described in Section 56375.3 to the

commission, the legislative body adopting the resolution shall conduct a public hearing on the resolution. Notice of the hearing shall be *provided to landowners pursuant to Section 56157 and* published pursuant to Sections 56153 and 56154. At the hearing, any landowner shall be given an opportunity to present his or her views on the resolution.

SEC. 7. Section 56811 of the Government Code is amended to read:

56811. (a) If a proposal includes the formation of a new special district, the commission shall determine the appropriations limit of the district in accordance with Section 7902.7 and Article XIII B of the California Constitution. The commission shall determine the provisional appropriations limit of the district in the following manner:

(1) Estimate the amount of revenue anticipated to be received by the district from the proceeds of taxes for the first full fiscal year of operation.

(2) Adjust the amount determined in paragraph (1) for the estimated change in the cost of living and population in the next full fiscal year of operation and any other changes that may be required or permitted by Article XIII B of the California Constitution.

(b) The governing body of the district shall determine the proposed permanent appropriations limit of the district to be submitted to the voters in the following manner:

(1) Determine the amount of revenue actually received by the district from the proceeds of taxes for the first full fiscal year of operation.

(2) Adjust the amount determined in paragraph (1) for the estimated change in the cost of living and population in the next full fiscal year of operation and any other changes that may be required or permitted by Article XIII B of the California Constitution.

(c) The permanent appropriations limit of the district shall be set at the first district election that is held following the first full fiscal year of operation and shall not be considered to be a change in the appropriations limit of the ~~city~~ *district* pursuant to Section 4 of Article XIII B of the California Constitution.

SEC. 8. Section 1 of Chapter 805 of the Statutes of 2004 is amended to read:

SECTION 1. Notwithstanding any other provision of law, on or before ~~December 31, 2007~~ *December 31, 2014,* the local agency formation commission in the County of Ventura shall not impose a condition that requires the City of Simi Valley to initiate proceedings on a proposal for a change of organization or reorganization pursuant to paragraph (3) of subdivision (a) of Section 56375 of the Government Code or pursuant to Section 56375.3 of the Government Code unless the territory that would be affected is contiguous and physically related to the affected territory.

SEC. 9. Section 2 of Chapter 805 of the Statutes of 2004 is amended to read:

SEC. 2. The Legislature finds and declares that a special law is necessary and that a general law cannot be made applicable within the meaning of Section 16 of Article IV of the California Constitution because of the unique circumstances of the City of Simi Valley. The facts constituting the special circumstances are:

There are seven areas of unincorporated territory that are surrounded or substantially surrounded by the City of Simi Valley. The city intends to explore the possibility of annexing those unincorporated territories ~~over the next two years~~. The Legislature wants to allow city officials, property owners, and residents to discuss those possible annexations without undue influence.

O