



San Diego County
Local Agency Formation Commission
 Regional Service Planning | Subdivision of the State of California

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AGENDA REPORT
 Business | Discussion

March 13, 2020

TO: Cities Advisory Committee
FROM: Robert Barry, Chief Policy Analyst
SUBJECT: Committee Review |
 Primer on Government Code Section 56133

SUMMARY

The Cities Advisory Committee (“Committee”) will receive a report on Government Code Section 56133 and its provisions requiring cities and special districts to receive written approval from Commissions before providing new or extended contractual services outside their jurisdictional boundaries. The report and the accompanying staff presentation highlights the statute’s most germane provisions. The item is being presented for discussion and as part of the Committee’s ongoing education with respect to key Commission duties.

BACKGROUND

Enabling Legislation

Government Code Section 56133 was enacted by Assembly Bill 1335 (Mike Gotch – San Diego) with an initial effective date of January 1, 1994. The statute was later reset to January 1, 2001 and requires cities and special districts to request and receive written approval from Commissions before providing contractual services outside their jurisdictional boundaries less certain and limited exceptions. Commissions exercise discretion under the statute in approving requests – including the ability to apply conditions – with two notable limitations. Commissions can only approve outside services within the affected agency’s sphere of

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influence in anticipation of a future change of organization, such as an annexation. Further, Commissions also can only approve outside services beyond the affected agency's sphere to address documented public health or safety threats.

Legislative Intent

Government Code Section 56133's enactment remedied a statutory loophole allowing cities and special districts to circumvent LAFCOs and the annexation process by directly providing contract services outside their boundaries; a practice that had become increasingly common – significantly – in response to annexation denials. The resulting remedy requiring cities and special districts to receive approval from Commissions before providing outside contractual services serves to reinforce the significance of jurisdictional boundaries and spheres of influence in controlling and guiding urban growth in California.

DISCUSSION

This item is for the Committee to receive an introductory report on Government Code Section 56133 and its provisions requiring Commission approval for cities and special districts to provide new or extended contract services outside their boundaries with limited exceptions. The report will be supplemented by a staff presentation and serves as a primer on the statute's most germane implementing provisions and as part of the Committee's ongoing education in discussing pertinent Commission responsibilities. Key topics are summarized below and will be the focus of the staff presentation.

- Key Terms
The statute is premised on several undefined terms, and as such defers to individual Commissions to determine applicability. This includes defining “service,” “new,” and “extended.”
- Health and Safety Threats
Commissions are authorized to approve agency requests to provide new or extended services beyond their spheres of influence only in response to existing or pending health and safety threats to the public and residents. The statute specifies the threats need to be documented.
- Exemptions
Subsection (e) outlines certain statutory exemptions in which cities and special districts' outside contractual services do not require Commission approval. This includes – most notably – contracts between two or more public agencies in which the services to be provided are equal substitutes for services already provided.
- Conditioning Approvals
The statute allows Commissions to condition approvals for agencies to provide new or extended outside contractual services. Examples include conditioning approvals for the landowners to file annexation proposals for future processing.

ANALYSIS

Government Code Section 56133 represents a significant expansion in Commissions' regulatory powers over cities and special districts by directly managing municipal service areas. It also – relatedly – reinforces the legislative expectation cities and special districts limit their service activities generally to lands within their jurisdictional boundaries unless special circumstances warrant otherwise. This latter comment is illustrated by the statute's restrictions on Commissions to only approve outside services in anticipation of future annexations unless addressing documented public health or safety threats. Allowable exemptions are also restricted under statute. These restrictions – while well intentioned – create challenges for Commissions in accommodating otherwise sensible outside services given local conditions, such as proximity to existing infrastructure.

RECOMMENDATION

It is recommended the Committee discuss the item and provide feedback on additional information requests as needed.

ALTERNATIVES FOR ACTION

This introductory report on Government Code Section 56133 is being presented to the Committee for information and discussion only; no action.

PROCEDURES

This item has been placed on the Committee's agenda for discussion as part of the business calendar. The following procedures apply.

- 1) Receive verbal report from staff unless waived.
- 2) Initial questions or clarifications from the Committee.
- 3) Discuss item as requested.

Respectfully,



Robert Barry
Chief Policy Analyst

Attachments: none

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