



Local Agency Formation Commission of Napa County
Subdivision of the State of California

1030 Seminary Street, Suite B
Napa, California 94559
Phone: (707) 259-8645
Fax: (707) 251-1053
www.napa.lafco.ca.gov

We Manage Local Government Boundaries, Evaluate Municipal Services, and Protect Agriculture

Agenda Item 7b

TO: Local Agency Formation Commission

PREPARED BY: Brendon Freeman, Executive Officer

MEETING DATE: April 4, 2016

SUBJECT: Proposed Amendment to Policy on Outside Service Agreements

RECOMMENDATION

Staff recommends the Commission approve the proposed amendment to the *Policy on Outside Service Agreements* (Attachment One) regarding services outside an agency's jurisdictional boundary and sphere of influence pursuant to Government Code Section 56133.5.

BACKGROUND

Assembly Bill (AB) 402 was authored by former Napa LAFCO Commissioner and current Assembly Member Bill Dodd. AB 402 was signed by Governor Brown on October 2, 2015 and became effective January 1, 2016. The bill introduces a five-year pilot program for Napa and San Bernardino Counties that establishes a mechanism for both Commissions to authorize service provision outside a local agency's jurisdictional boundary and sphere of influence under special circumstances. The bill has been codified under Government Code Section 56133.5, which expands upon the existing circumstances for which the Commission may authorize outside service provision. The statute requires the Commission to submit a report to the Legislature by January 1, 2020 on its pilot program including how many requests it approves, approves with conditions, and denies pursuant to this section.

SUMMARY

Under Government Code Section 56133.5 (included as part of Attachment Three), the Commission is granted additional authority to approve a request by a city or special district to provide new or extended services outside the agency's jurisdictional boundary and sphere of influence. Previously, this type of outside service request would first require the agency to demonstrate an existing or impending threat to public health or safety. Government Code Section 56133.5 allows the Commission, in the absence of a

Juliana Inman, Chair
Councilmember, City of Napa

Greg Pitts, Commissioner
Councilmember, City of St. Helena

Joan Bennett, Alternate Commissioner
Councilmember, City of American Canyon

Diane Dillon, Vice Chair
County of Napa Supervisor, 3rd District

Brad Wagenknecht, Commissioner
County of Napa Supervisor, 1st District

Keith Caldwell, Alternate Commissioner
County of Napa Supervisor, 5th District

Brian J. Kelly, Commissioner
Representative of the General Public

Gregory Rodeno, Alternate Commissioner
Representative of the General Public

Brendon Freeman
Executive Officer

health or safety threat finding, to approve this type of request to support existing or planned uses involving public or private properties if the Commission first makes certain determinations and if the request is consistent with locally adopted policy.¹ In addition to the requirement for local policy consistency, the Commission would be required to make the following determinations at a noticed public hearing prior to outside service approval:

- 1) The proposed service extension or services deficiency was identified and evaluated in a municipal service review;
- 2) The proposed service extension will not result in either: (1) growth inducing impacts; or (2) adverse impacts on open space or agricultural lands; and
- 3) Inclusion of the area to be served in the agency's sphere of influence is not feasible or desirable based on the Commission's adopted policies.

The proposed policy amendment would allow for the application of Government Code Section 56133.5 in Napa County. Absent approval of the amendment, the existing policy Section IV(A)(2) would preclude the Commission from approving the aforementioned type of outside service request in the absence of an existing or impending threat to public health or safety. Government Code Section 56133.5 and the proposed amendment help to recognize the existing municipal service infrastructure belonging to certain local cities where the infrastructure is located outside the cities' boundaries and spheres of influence. In most instances, outside service approval is preferable to a sphere of influence amendment and subsequent annexation due to the County of Napa's agricultural General Plan land use designation for the majority of unincorporated territory. This reduces growth pressure and potential for urban sprawl in areas where land use intensification is discouraged, but where certain municipal services may be needed. As previously mentioned, the Commission would be required to address the service extension in a municipal service review prior to outside service approval.

Other minor changes to the policy are also being proposed to address recently updated language for Government Code Section 56133 that allows LAFCOs to authorize a city or special district to provide new or extended services outside its jurisdictional boundary and sphere of influence to respond to an existing or impending threat to the health or safety of the public. Previous language only allowed LAFCOs to authorize a city or special district to provide new or extended services outside its jurisdictional boundary and sphere of influence to respond to an existing or impending threat to the health or safety of the residents of the affected territory. The proposed changes to the policy would reconcile this expanded outside service approval authority for the Commission.

ATTACHMENTS

- 1) Proposed Amended Policy on Outside Service Agreements (clean version)
- 2) Proposed Amended Policy on Outside Service Agreements (tracked changes)
- 3) Assembly Bill 402 (Dodd) Local Agency Services: Contracts

¹ "Planned use" means any project that is included in an approved specific plan as of July 1, 2015.



LOCAL AGENCY FORMATION COMMISSION OF NAPA COUNTY

Policy on Outside Service Agreements

Adopted: November 3, 2008

Amended: April 4, 2016

I. Background

The Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 includes provisions requiring cities and special districts to request and receive written approval from the Commission before providing new or extended services by agreements outside their jurisdictional boundaries with limited exemptions (Government Code Sections 56133 and 56133.5). The Commission may authorize a city or special district to provide new or extended service outside its jurisdictional boundary, but within its sphere of influence, in anticipation of a subsequent change of organization, such as an annexation. The Commission may also authorize a city or special district to provide new or extended service outside its jurisdictional boundary *and* sphere of influence (a) to address an existing or future threat to the public health or safety or (b) if the Commission makes the determinations set forth in Section IV(A)(4) of this policy at a noticed public hearing.

II. Purpose

The purpose of these policies is to guide the Commission in reviewing city and special district requests to provide new or extended services by agreement outside their jurisdictional boundaries. This includes making policy statements and establishing consistent procedures with respect to the form, review, and consideration of requests.

III. Objective

The objective of the Commission in implementing these policies is to ensure the extension of services by cities and special districts outside their jurisdictional boundaries is logical and consistent with supporting orderly growth and development in Napa County. The Commission recognizes the importance of considering local conditions and circumstances in implementing these policies.

IV. Outside Service Agreement Policies

A. General Statements

- 1) Annexations to cities and special districts involving territory located within the affected agency's sphere of influence is generally preferred to outside service agreements. The Commission recognizes, however, there may be instances when outside service agreements involving territory within the affected agency's sphere of influence is appropriate given local circumstances.

- 2) The Commission may authorize a city or special district's request to provide new or extended services outside its jurisdictional boundary and sphere of influence in response to either an (a) existing or (b) impending threat to public health or safety, if the requirements of Government Code Section 56133, subsection (c) are met.
- 3) The Commission recognizes the importance of proactively addressing impending threats to public health and safety in considering requests for outside water and sewer services pursuant to Government Code Section 56133, subsection (c), in support of existing and planned public or residential uses with reasonable access to existing infrastructure. Accordingly, the Commission will consider outside water and sewer service requests for purposes of addressing an impending public health or safety threat if all of the following criteria is applicable:
 - (a) The subject property is zoned for public or residential use by the affected land use authority.
 - (b) The subject property comprises a legal lot of record as of January 1, 2001.
 - (c) The subject property is adjacent to a public right-of-way in which the affected service line is located.
 - (d) The proposed service extension can be accommodated by an appropriate connection for public or single-family residential use.
- 4) Until December 31, 2020, the Commission may authorize a city or special district to provide new or extended services outside its jurisdictional boundary and sphere of influence in accordance with Government Code Section 56133.5 if all of the following determinations are made at a noticed public hearing:
 - (a) The proposed service extension or services deficiency was identified and evaluated in a municipal service review.
 - (b) The proposed service extension will not result in either: (1) growth inducing impacts; or (2) adverse impacts on open space or agricultural lands.
 - (c) Inclusion of the area to be served in the agency's sphere of influence is not feasible or desirable based on the Commission's adopted policies.
- 5) The Commission authorizes the Chair to approve a city or special district's request for an outside service agreement if there is an existing or impending public health or safety emergency. The Commission shall ratify the Chair's determination at the next regular scheduled meeting.

- 6) All requests for outside service agreements are subject to the applicable provisions of the California Environmental Quality Act.
- 7) Commission approval is not required for cities or special districts to provide new or extended services outside their jurisdictional boundaries if any of the following conditions apply in accordance with Government Code Section 56133(e):
 - (a) The agreement involves two or more public agencies where the contracted service is an alternative or substitute for public services already 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.
 - (b) The agreement involves the transfer of non-potable or non-treated water.
 - (c) The agreement involves the provision of surplus water to agricultural lands and facilities for conservation projects or to directly support agricultural industries, unless the surplus water will be provided to a project that will support or induce development.
 - (d) The agreement involves an extended service that a city or special district was providing on or before January 1, 2001.
 - (e) The agreement involves a local publicly owned electric utility (as defined by Public Utilities Code Section 9604, providing electric services that do not involve the acquisition, construction, or installation of electric distribution facilities by the local publicly owned electric utility outside the utility's jurisdictional boundary.
 - (f) The agreement involves a fire contract as defined in subdivision (a) of Government Code Section 56134.

The Commission encourages cities and special districts to work with the Executive Officer in determining when the above exemptions may apply.

B. Form of Request

Requests to authorize an outside service agreement shall be filed with the Executive Officer by the affected city or special district. Requests shall be made in writing with a cover letter accompanying a completed application using the form provided in Attachment A. Requests shall also include a check in the amount prescribed under the Commission's adopted fee schedule along with a copy of the proposed service agreement. The application shall be signed by an authorized representative of the city or special district.

C. Review of Request

The Executive Officer shall review and determine within 30 days of receipt whether the request to authorize an outside service agreement is complete. If a request is deemed incomplete, the Executive Officer shall immediately notify the applicant and identify the information needed to accept the request for filing.

D. Consideration of Request

Once a request is deemed complete, the Executive Officer will prepare a written report with a recommendation. The Executive Officer will present his or her report and recommendation at a public hearing for Commission consideration. The public hearing will be scheduled for the next regular meeting of the Commission for which adequate notice can be given but no later than 90 days from the date the request is deemed complete. The Executive Officer's written report will be made available to the public for review prior to the scheduled hearing and include an evaluation of the following three factors:

- 1) The ability of the applicant to extend the subject service to the affected land.
- 2) The application's consistency with the policies and general plans of all affected local agencies.
- 3) The application's effect on growth and development within and adjacent to the affected land.

The Commission may approve the request with or without conditions. If denied, the affected city or special district can ask for reconsideration within 30 days.



LOCAL AGENCY FORMATION COMMISSION OF NAPA COUNTY

Policy on Outside Service Agreements

Adopted: November 3, 2008

Amended: ~~June 6, 2011~~ April 4, 2016

I. Background

The Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 includes provisions requiring cities and special districts to request and receive written approval from the Commission before providing new or extended services by agreements outside their jurisdictional boundaries with limited exemptions (Government Code Sections 56133 and 56133.5). The Commission may authorize a city or special district to provide new or extended service outside ~~their~~its jurisdictional boundary, but within its sphere of influence, in anticipation of a subsequent change of organization, such as an annexation. The Commission may also authorize a city or special district to provide new or extended service outside ~~their~~its jurisdictional boundary *and* sphere of influence (a) to address an existing or future threat to the public health or safety or (b) if the Commission makes the determinations set forth in ~~contained within~~ Section IV(A)(4) of this policy at a noticed public hearing.

II. Purpose

The purpose of these policies is to guide the Commission in reviewing city and special district requests to provide new or extended services by agreement outside their jurisdictional boundaries. This includes making policy statements and establishing consistent procedures with respect to the form, review, and consideration of requests.

III. Objective

The objective of the Commission in implementing these policies is to ensure the extension of services by cities and special districts outside their jurisdictional boundaries is logical and consistent with supporting orderly growth and development in Napa County. The Commission recognizes the importance of considering local conditions and circumstances in implementing these policies.

IV. Outside Service Agreement Policies

A. General Statements

- 1) Annexations to cities and special districts involving territory located within the affected agency's sphere of influence is generally preferred to outside service agreements. The Commission recognizes, however, there may be instances when outside service agreements involving territory within the affected agency's sphere of influence is appropriate given local circumstances.
- 2) The Commission ~~shall~~may authorize a city or special district's request to provide new or extended services outside ~~their~~its jurisdictional boundary and

sphere of influence ~~only~~ in response to either an (a) existing or (b) impending threat to public health or safety, ~~if the requirements of in accordance with Government Code Section 56133, subsection (c) are met.~~

3) The Commission recognizes the importance of proactively addressing impending threats to public health and safety in considering requests for outside water and sewer services pursuant to Government Code Section 56133, subsection (c), in support of existing and planned public or residential uses with reasonable access to existing infrastructure. Accordingly, the Commission will consider outside water and sewer service requests for purposes of addressing an impending public health or safety threat if all of the following criteria is applicable:

- (a) The subject property is zoned for public-serving or residential ~~type~~ uses by the affected land use authority.
- (b) The subject property comprises a legal lot of record as of January 1, 2001.
- (c) The subject property is adjacent to a public right-of-way in which the affected service line is located.
- (d) The proposed service extension can be accommodated by an appropriate connection for public-serving or single-family residential uses.

4) Until December 31, 2020, The Commission may authorize a city or special district's request to provide new or extended services outside their jurisdictional boundary and sphere of influence in accordance with Government Code Section 56133.5 if all of the following determinations are made at a noticed public hearing:

- (a) The proposed service extension or services deficiency was identified and evaluated ~~addressed~~ in a municipal service review.
- (b) The proposed service extension ~~is~~ will not result in either: (1) growth inducing impacts; or (2) ~~and will not have an~~ adverse impacts on open space or agricultural lands.
- (c) Inclusion of the area to be served ~~into~~ the agency's sphere of influence is not feasible or desirable based on the Commission's adopted policies.

4)5) _____ The Commission authorizes the Chair to approve a city or special district's request for an outside service agreement if there is an existing or impending public health or safety emergency. The Commission shall ratify the Chair's determination at the next regular scheduled meeting.

5)6) _____ All requests for outside service agreements are subject to the applicable provisions of the California Environmental Quality Act.

67) _____ Commission approval is not required for cities or special districts to provide new or extended services outside their jurisdictional boundaries if any of the following conditions apply in accordance with Government Code Section 56133(e):

- (a) The agreement involves two or more public agencies where the contracted service is an alternative or substitute for public services already 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.
- (b) The agreement involves the transfer of non-potable or non-treated water.
- (c) The agreement involves the provision of surplus water to agricultural lands and facilities for conservation projects or to directly support agricultural industries, unless the surplus water will be provided to a project that will support or induce development.
- (d) The agreement involves an extended service that a city or special district was providing on or before January 1, 2001.
- (e) The agreement involves a local publicly owned electric utility (as defined by Public Utilities Code Section 9604, providing electric services that do not involve the acquisition, construction, or installation of electric distribution facilities by the local publicly owned electric utility outside the utility's jurisdictional boundary.
- (f) The agreement involves a fire contract as defined in subdivision (a) of Government Code Section 56134.

The Commission encourages cities and special districts to work with the Executive Officer in determining when the above exemptions may apply.

B. Form of Request

Requests to authorize an outside service agreement shall be filed with the Executive Officer by the affected city or special district. Requests shall be made in writing with a cover letter accompanying a completed application using the form provided in Attachment A. Requests shall also include a check in the amount prescribed under the Commission's adopted fee schedule along with a copy of the proposed service agreement. The application shall be signed by an authorized representative of the city or special district.

C. Review of Request

The Executive Officer shall review and determine within 30 days of receipt whether the request to authorize an outside service agreement is complete. If a request is

deemed incomplete, the Executive Officer shall immediately notify the applicant and identify the information needed to accept the request for filing.

D. Consideration of Request

Once a request is deemed complete, the Executive Officer will prepare a written report with a recommendation. The Executive Officer will present his or her report and recommendation at a public hearing for Commission consideration. The public hearing will be scheduled for the next regular meeting of the Commission for which adequate notice can be given but no later than 90 days from the date the request is deemed complete. The Executive Officer's written report will be made available to the public for review prior to the scheduled hearing and include an evaluation of the following three factors:

- 1) The ability of the applicant to extend the subject service to the affected land.
- 2) The application's consistency with the policies and general plans of all affected local agencies.
- 3) The application's effect on growth and development within and adjacent to the affected land.

The Commission may approve the request with or without conditions. If denied, the affected city or special district can ask for reconsideration within 30 days.



Assembly Bill No. 402

CHAPTER 431

An act to amend Section 56133 of, and to add and repeal Section 56133.5 of, the Government Code, relating to local agency formation.

[Approved by Governor October 2, 2015. Filed with Secretary of State October 2, 2015.]

LEGISLATIVE COUNSEL'S DIGEST

AB 402, Dodd. Local agency services: contracts.

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. Existing law permits a city or district to provide extended services, as defined, outside its jurisdictional boundaries only if it first requests and receives written approval from the local agency formation commission in the affected county. Under existing law, the commission may authorize a city or district to provide new or extended services outside both its jurisdictional boundaries and its sphere of influence under specified circumstances, including when responding to an impending threat to the public health or safety of the residents in the affected territory where specified requirements are met.

This bill would revise the circumstances under which the commission may authorize a city or district to provide new or extended services. This bill would additionally establish a pilot program, until January 1, 2021, for the Napa and San Bernardino commissions that would permit those commissions to authorize a city or district to provide new or extended services outside both its jurisdictional boundaries and its sphere of influence under specified circumstances.

This bill would make legislative findings and declarations as to the necessity of a special statute for the Napa and San Bernardino commissions.

This bill would incorporate additional changes to Section 56133 of the Government Code proposed by SB 239 that would become operative if this bill and SB 239 are both enacted and this bill is enacted last.

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

SECTION 1. Section 56133 of the Government Code is amended to read:

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 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.

(f) This section does not apply to the transfer of nonpotable or nontreated water.

(g) This section does not apply to 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.

(h) This section does not apply to an extended service that a city or district was providing on or before January 1, 2001.

(i) This section does not apply to 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.

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

SEC. 1.5. Section 56133 of the Government Code is amended to read:

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.

SEC. 2. Section 56133.5 is added to the Government Code, to read:

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.

SEC. 3. 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 in Napa and San Bernardino.

SEC. 4. Section 1.5 of this bill incorporates amendments to Section 56133 of the Government Code proposed by both this bill and Senate Bill 239. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 2016, (2) each bill amends Section 56133 of the Government Code, and (3) this bill is enacted after Senate Bill 239, in which case Section 1 of this bill shall not become operative.