

GOVERNMENT CODE

MUNICIPAL ORGANIZATION ACT

OF 1977

(Effective January 1, 1978)

Updated December 1, 1978

Part 2

Municipal Organization Act of 1977

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(Part 2 added by Stats. 1977, c. 1253)

Chapter 1. General Provisions

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35000. Legislative intent

The Legislature finds and declares that it is the policy of the state to encourage orderly growth and development which are essential to the social, fiscal, and economic well-being of the state. The Legislature recognizes that the logical formation and determination of city boundaries is an important factor in promoting the orderly development of urban areas. Therefore, the Legislature further finds and declares that this policy should be effected by the logical formation and expansion of cities.

The Legislature recognizes that urban population densities and intensive residential, commercial, and industrial development necessitate a broad spectrum and high level of community services and controls. The Legislature also recognizes that when areas become urbanized to the extent that they need the full range of community services, priorities must be established regarding the type and levels of such services that the residents of an urban community need and desire; that community service priorities be established by weighing the total community service needs against the total financial resources available for securing community

services; and that such community service priorities must reflect local circumstances, conditions, and limited financial resources. The Legislature finds and declares that a single governmental agency, rather than several limited purpose agencies, is better able to assess and be accountable for community service needs and financial resources and, therefore, is the best mechanism for establishing community service priorities.

35001. Citation

This part shall be known and may be cited as the  
Municipal Organization Act of 1977.

35002. Exclusive procedure

Except as provided in Division 1 (commencing with  
Section 56000) of Title 6, this part shall provide the  
sole and exclusive authority and procedure for the  
initiation, conduct, and completion of city incorpora-  
tions, municipal reorganizations, or changes of  
organization.

35003. Pending changes; exemptions

Notwithstanding the provisions of Section 35002, this part shall not apply to any proceedings for the incorporation of a city, or for a change of organization of a city, which shall have been accepted for filing by the executive officer pursuant to Section 54791 prior to the effective date of this part. Any such pending proceeding may be continued and completed under and in accordance with the provisions of law existing prior to this part.

35004. Action to test validity of proceedings; jurisdiction over territory until final disposition of such action

If an action or proceeding is brought attacking the regularity or validity of proceedings completed pursuant to this part, such territory shall be deemed to be within the jurisdiction of the local agency which had jurisdiction over the territory prior to the completion of proceedings pursuant to this part, and the ordinances and regulations of such local agency shall remain in effect, and such local agency shall render services to such territory in the same manner it did prior to completion of proceedings pursuant to this part, until the final disposition of such action or proceedings and thereafter if it is determined that the proceedings taken pursuant to this part were invalid.



35005. Action to test validity of proceedings; Code of Civil Procedure

An action to determine the validity of any city incorporation, municipal reorganization, or any city change of organization completed pursuant to this part shall be brought pursuant to Chapter 9 (commencing with Section 860) of Title 10 of Part 2 of the Code of Civil Procedure.

35006. Construction; harmless irregularities; fraud; prejudicial  
abuse of discretion

This part shall be liberally construed to effectuate its purposes. No city incorporation, municipal reorganization or change of organization ordered under this part shall be invalidated by any defect, error, irregularity, or omission in any act, determination or procedure which does not adversely and substantially affect the right of any person, city, county, district, the state or any agency or subdivision of the state. All determinations made by a commission or by any legislative body under and pursuant to the provisions of this part shall be final and conclusive in the absence of fraud or prejudicial abuse of discretion.

35007. Partial invalidity

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

35008. Time for action as directory rather than mandatory

In this part, provisions governing the time within which an official, a conducting authority, or the commission is to act shall in all instances, except for notice requirements, be deemed directory rather than mandatory.

35009. Tide or submerged lands; determination of offshore and other boundaries; report; applicable laws

No tidelands or submerged lands which are owned by the state or by its grantees in trust shall be incorporated into, or annexed to, a city except such lands as may be approved by the State Lands Commission.

If any such tidelands or submerged lands shall be included within the boundaries of any territory proposed to be incorporated into, or annexed to, a city, a description of such boundaries, together with a map showing such boundaries, shall be filed with the State Lands Commission by the proponents of the incorporation or annexation. Such filing shall be made prior to filing an application or taking any action pursuant to Chapter 2 (commencing with Section 35100) of this part.

The State Lands Commission shall approve or disapprove all portions of the boundaries located upon such tidelands or submerged lands. In making such determination it shall, where feasible and appropriate, require such extensions of land boundaries of the city or proposed city to be at right angles to the general direction of the shoreline at each point of intersection of the shoreline with the land boundaries of the city or proposed city;

provided, that in the interest of insuring an orderly and equitable pattern of offshore boundaries, it may establish such other angle and such other courses for each such offshore boundary as it may deem necessary considering any irregularity of the shoreline, other geographical features, the effect of incorporation or annexation of such offshore or submerged lands on the uplands of the city, or proposed city, and adjoining territory, and the existing and potential boundaries of other cities and of unincorporated communities.

Within 45 days after the filing of the boundary description and map with the State Lands Commission, it shall make a determination of the proper offshore or submerged lands boundaries. Such determination shall be final and conclusive. Failure to report within this time shall be deemed approval of the proposed offshore or submerged lands boundaries.

The State Lands Commission shall report its determination to the executive officer of the local agency formation commission and to such local agency or person or persons, if any, as shall have filed such boundary description and

map. Thereafter, filings and action may be taken pursuant to Chapter 2 (commencing with Section 35100) of this part.

The local agency formation commission may review and make determinations as to all portions of the boundaries, other than such offshore or submerged lands boundaries.

For the purposes of this section, submerged lands include but are not limited to, lands underlying navigable waters which are in sovereign ownership of the state irrespective of whether or not such waters are subject to tidal influences.

35010. Islands of unincorporated territory; prohibition

Unless otherwise determined by the commission pursuant to subdivision (e) of Section 35150, territory shall not be incorporated into, or annexed to, a city pursuant to this part if, as a result of such incorporation or annexation, unincorporated territory is completely surrounded by such city or by territory of such city on one or more sides and the Pacific Ocean on the remaining sides.



35011. Territory that may be annexed

Unless otherwise provided in this part, territory may not be annexed to a city unless it is located in the same county and is contiguous to the city at the time preliminary proceedings are initiated pursuant to Chapter 2 (commencing with Section 35100) of this part.

35012. Annexation of city-owned noncontiguous territory;  
restrictions

Notwithstanding the provisions of Section 35011, upon approval of the commission a city may annex noncontiguous territory not exceeding 100 acres in area, which is located in the same county as that in which the city is situated, and which is owned by the city and is being used for municipal purposes at the time preliminary proceedings are initiated pursuant to Chapter 2 (commencing with Section 35100) of this part. If, after the completion of the annexation, the city sells such territory or any part thereof, all such territory which is no longer owned by the city shall cease to be a part of the city.

If territory is annexed pursuant to this section, the annexing city may not annex any territory not owned by it and not contiguous to it although such territory is contiguous to the territory annexed pursuant to this section.

Notwithstanding any other provision of this section to the contrary, a city which annexes territory pursuant to this section may annex additional territory which is owned by the United States Government or the State of California

and which is contiguous to such first annexed territory if the total acreage of the first annexed and the subsequently annexed territory together does not exceed 100 acres in area. If after the completion of such subsequent annexation, the city sells all or any part thereof of such first annexed territory, the subsequently annexed territory shall cease to be part of the city if it is no longer contiguous to territory owned by the city.

If territory annexed to a city pursuant to this section becomes contiguous to such city, the limitations imposed by this section shall cease to apply.

35012.1 Annexation of city-owned noncontiguous territory;  
Placer County

Notwithstanding the provisions of Section 35011, upon approval of the commission a city may annex noncontiguous territory not exceeding 300 acres in area, which is located in the same county as that in which the city is situated, and which is owned by the city and is being used for municipal purposes at the time preliminary proceedings are initiated pursuant to Chapter 2 (commencing with Section 35100). If, after the completion of the annexation, the city sells such territory or any part thereof, all such territory which is no longer owned by the city shall cease to be a part of the city.

If territory is annexed pursuant to this section, the annexing city may not annex any territory not owned by it and not contiguous to it although such territory is contiguous to the territory annexed pursuant to this section.

If territory annexed to a city pursuant to this section becomes contiguous to such city, the limitations imposed by this section shall cease to apply.

This section shall apply only to an incorporated city within the County of Placer.

*(Added by Stats. 1981, c. 53)*

35012.5 Road strip annexation; applicable only to  
City of Cupertino

(a) Notwithstanding the provisions of Section 35033, unincorporated territory consisting of property abutting on a street, highway, or road, and such street, highway, or road, to the extent that it abuts such property, together with the road strip may be annexed to a city pursuant to this part under the following conditions:

- (1) Such annexation may be made only if the property to be annexed is within the sphere of influence of the annexing city, as adopted by the local agency formation commission, and lies within an unincorporated area wholly surrounded by the annexing city or the annexing city and the county line or the annexing city and the Pacific Ocean or the annexing city and a boundary of another city.
- (2) The property to be annexed shall not be annexed if the distance between the boundary of the annexing city and the point closest to the annexing city at

which the road strip connects with the abutting property, as measured by the road strip, is more than one-half mile.

(b) Subsequent annexations to the road strip and abutting territory shall not be made unless both of conditions are met:

(1) The distance between the point at which the original road strip abuts the boundary of the annexing city and the point closest to the city at which the road strip connects with the abutting property to be annexed, as measured by the road strip, is one-half mile or less.

(2) The annexation is contiguous to the road strip.

(c) As used in this section:

(1) "Road strip" means the street, highway, or road which connects the territory of the property to be annexed to the annexing city.

(2) "Property to be annexed" means the property abutting on a street, highway, or road to the extent it abuts such property.

(d) The provisions of this section shall apply only to the City of Cupertino.

*Added by Stats. 1980, c. 13, urgency, effective February 19, 1980.*



35013.

Island annexation; order without election; termination

If authorized by the commission pursuant to subdivision (f) of Section 35150, the conducting authority, unless it terminates the proceedings as provided in Section 35224.5, shall order annexation of the territory without an election.

(Amended by Stats.1978, c. 339)

*NOTE: Authority to initiate, conduct, and complete any proceeding pursuant to this Section expired January 1, 1981.  
(See Section 35014)*

35014. Island annexation; exception; expiration of authority;  
effect of pending court injunction

The authority to initiate, conduct, and complete any proceeding pursuant to Section 35013 shall not apply to any territory which, after the effective date of this part, became surrounded or substantially surrounded by the city to which annexation is proposed. The authority to initiate, conduct, and complete any proceeding pursuant to Section 35013 shall expire three years after January 1, 1978. The three-year time limit specified in this section shall not include any period of time during which, in an action pending in any court, a local agency is enjoined from conducting proceedings pursuant to Section 35013. Upon final disposition of such case, the previously enjoined local agency shall be authorized to initiate, conduct and complete proceedings pursuant to Section 35013 for the same period of time as was remaining under the three-year limit at the time the injunction commenced. However, if the remaining time is less than six months, such authority shall continue for six months following final disposition of the action.

(Amended by Stats. 1978, c. 339)

## Chapter 1

### Article 2. Definitions

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\*\*Amended by Stats. 1982

35020. Application of definitions

Unless the provision or context otherwise requires, the definitions contained in this article govern the construction of this part. The definition of a word applies to any of such word's variants.

35021. Affected city

"Affected city" means each city:

- (a) Which contains territory for which a change of organization is proposed or ordered either singularly or as part of a municipal reorganization; or
- (b) Which would contain such territory as a result of proceedings for a change of organization or municipal reorganization taken pursuant to this part.

35022. Affected county

"Affected county" means the county which contains any territory for which an incorporation, a change of organization, or a municipal reorganization is proposed or ordered.

35023. Affected district

"Affected district" means a special district, within the meaning of Section 56039, which contains any territory for which an incorporation, municipal reorganization or a change of organization is proposed or ordered.



35024. Affected territory

"Affected territory" means the territory described and contained in a proposal for incorporation, municipal reorganization or change of organization.

35025. Annexation

"Annexation" means the annexation, inclusion, attachment, or addition of territory to a city.

35026.

Board of supervisors

"Board of supervisors" or "board" means the board of supervisors or legislative body of a county.

35027. Change of organization of a city

"Change of organization of a city" means an annexation or detachment of territory to, or from, a city, the disincorporation or consolidation of any city or cities.

35028. City council

"City council" or "council" means the city council or legislative body of a city.

35029.

Clerk

"Clerk" means the clerk of a city or county or legislative body thereof. Where the office of county clerk is separate from the office of registrar of voters, "clerk" means the registrar of voters with respect to all duties pertaining to the conduct of elections and the county clerk with respect to all other duties.

35030. Commission

"Commission" means a local agency formation commission created pursuant to Chapter 6.6 (commencing with Section 54773), Part 1, Division 2, Title 5.

35031. Conducting authority

"Conducting authority" means the legislative body of an affected city or county which is authorized by the commission to conduct proceedings for incorporation, change of organization, or a municipal reorganization. Subject to compliance with any commission determination, the conducting authority for proceedings shall be determined as follows:

- (a) A city whose boundaries would be changed as the result of a proposed annexation, detachment, or disincorporation shall be the conducting authority and proceedings for any such annexation, detachment or disincorporation shall be initiated and conducted by the legislative body of such city.
- (b) The legislative body of the city with the largest population shall be the conducting authority and shall initiate and conduct proceedings for the consolidation of two or more cities.
- (c) The board of supervisors of the county in which the affected territory is located shall be the conducting authority and shall initiate and conduct proceedings for the incorporation of a new city, for a municipal reorganization which includes the incorporation



35032. Consolidation

"Consolidation" means the uniting or joining of two or more cities located in the same county into a single new successor city, all such cities having been incorporated pursuant to law.

35033. Contiguous

"Contiguous" means:

- (a) In the case of annexation, territory adjacent to or adjoining territory within the city to which annexation is proposed.
- (b) In the case of consolidation, territory of a city or cities which is adjacent to or adjoining the territory of the consolidating city or to the territory of another city which is contiguous to the consolidating city and to be consolidated with such consolidating city.

Territory shall not be deemed contiguous as that word is used in this part if the only contiguity is based upon a strip of land more than 300 feet long and less than 200 feet wide, such width to be exclusive of highways.

35033.5

Repealed.

(Section re "contiguous" territory separated  
from annexing city, repealed by Stats. 1982,  
c. 364)

35034. Detachment

"Detachment" means the detachment, deannexation, exclusion, deletion, or removal from a city of any portion of the territory of such city.

35035. Disincorporation

"Disincorporation" means the disincorporation, dissolution, extinguishment and termination of the existence of a city and the cessation of its corporate powers.

35036. Executive officer

"Executive officer" means the executive officer appointed by a local agency formation commission, or if none has been appointed, then the county officer acting as the executive officer for the commission.

35037. Incorporation

"Incorporation" means the incorporation, formation, creation, and establishment of a city with corporate powers as provided by law.

35038. Inhabited territory

"Inhabited territory" means territory within which there reside twelve or more registered voters at the time preliminary proceedings are initiated pursuant to Chapter 2 (commencing with Section 35100) of this part. All other territory shall be deemed "uninhabited" as the word "uninhabited" is used in this part.



35039. Landowner

"Landowner" or "owner of land" means any person shown as the owner of land on the last equalized assessment roll; where such person is no longer the owner, then the person entitled to be shown as owner of the land on the next equalized assessment roll; where land is subject to a recorded written agreement of sale, any person shown therein as purchaser; and, any public agency owning land.

*For the purpose of mailed notice provided pursuant to Section 35055, "landowner" or "owner of land" means each person to whom land is assessed, as shown upon the last equalized assessment roll of the county, at the address shown upon the assessment roll.*

*(Amended by Stats. 1981, c. 961)*

35040. Last equalized assessment roll

"Last equalized assessment roll" means the last equalized assessment roll or book used by a city or county for the annual levy and collection of any taxes or assessments imposed by such city or county.

35041. Legislative body

"Legislative body" means the legislative body or governing board of a city, special district, or county.

35042. Municipal reorganization

"Municipal reorganization" means either:

- (a) One or more change of organization of a city proposed *in a single proposal* for each of two or more cities, and may include the incorporation of a new city;  
or
- (b) Two or more changes of organization proposed *in a single proposal* for any single city.

*(Amended by Stats. 1981, c. 961)*

35043. Next equalized assessment roll

"Next equalized assessment roll" means the next assessment roll or book to be equalized and used by a city or county for the purpose of the annual levy and collection of any taxes or assessments imposed by such city or county.

35044. Notice

"Notice" means any ordinance, resolution, order, notice or other matter authorized or required by this part to be published, posted or mailed.

35045. Preliminary proceedings

"Preliminary proceedings" means proceedings which are taken by the commission pursuant to Chapter 2 (commencing with Section 35100) of this part.

35046. Prime Agricultural Land

"Prime Agricultural Land" means an area of land, whether a single parcel or contiguous parcels, which:

- (i) has not been developed for a use other than an agricultural use and
- (ii) meets any of the following qualifications:
  - (a) Land which qualifies for rating as Class I or Class II in the Soil Conservation Service land use capability classification;
  - (b) Land which qualifies for rating 80 through 100 Storie Index Rating;
  - (c) Land which supports livestock used for the production of food and fiber and which 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, developed pursuant to Public Law 46, December 1935;
  - (d) Land planted with fruit or nut bearing trees, vines, bushes or crops which have a non-bearing period of less than five years and which will



normally return during the commercial bearing period on an annual basis from the production of unprocessed agricultural plant production not less than two hundred dollars (\$200) per acre;

- (e) Land which has returned from the production of unprocessed agricultural plant products in annual gross value of not less than two hundred dollars (\$200) per acre for three of the previous five years.
- (f) Land which is used to maintain livestock for commercial purposes.

35047. Proceeding

"Proceeding," "proceeding for incorporation," "proceeding for change of organization of a city" or "proceedings for municipal reorganization" means proceedings taken by the conducting authority pursuant to Chapter 3 (commencing with Section 35200) of this part.

35048.

Proposal

"Proposal" means a request or statement of intention made by petition or by resolution of application of a legislative body proposing proceedings for the incorporation of a city, municipal reorganization, or the change of organization of a city described therein.

35049. Public agency

"Public agency" means the state or any state agency, board or commission, any city, county, city and county, special district, or other political subdivision, and any agency, board, or commission thereof.

35050. Registered voter

"Registered voter" means any elector registered under,  
and pursuant to, the Elections Code.

35051.

Urban service area

"Urban service area" means existing developed, undeveloped, or agricultural land, either incorporated or unincorporated, within a city's sphere of influence, which is currently served by existing urban facilities, utilities, and services or are proposed to be served by urban facilities, utilities, and services in the first five years of a city's adopted capital improvement program. The boundary around such an urban area shall be called the "urban service area boundary" and shall be \*\*\* developed in cooperation with a city and adopted by a commission pursuant to policies adopted by a commission in accordance with Sections 54774 and 54774.5.

This section shall remain in effect only until January 1, 1989 and as of such date is repealed, unless a later enacted statute, which is chaptered after January 1, 1989, deletes or extends such date.

(Added by Stats. 1981, c. 855; amended by Stats. 1982, c. 1178)

Chapter 1.  
Article 3. Notice

Section

\*\*35055. Notice.

*\*\*Section amended by Stats. 1980.*

35055. Notice

Notice required to be given pursuant to this part shall be given in the same manner and form prescribed in Chapter 3 (commencing with Section 56080) of Part 1 of Division 1 of Title 6 of this code and in Section 4002 of the Elections Code.

*(Amended by Stats. 1980, c. 1132.)*



## Chapter 1

### Article 4. Elections

#### Section

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- 35069. Rebuttal arguments; preparation and submittal.
- 35070. Ballot pamphlet.
- 35071. Canvass of votes.

\*\*Amended by Stats. 1981

35060. Elections

Except as otherwise provided in this part, elections required to be held pursuant to this part shall be called, held and conducted in accordance with the resident voter district provisions of Chapter 4 (commencing with Section 56100) of Part 1 of Division 1 of Title 6 of this code. As used in such chapter, "change of organization" means "change of organization of a city;" "reorganization" means "municipal reorganization;" "district" means "city;" "board of directors" and "board of supervisors" means the legislative body of the conducting authority; and "conducting district" means "conducting authority" as such terms are defined in this part.

35061.

Resolution; contents

Any resolution adopted pursuant to this part which orders the incorporation of a city, a change of organization or a municipal reorganization subject to confirmation by the voters upon the question thereof shall:

- (a) Call, provide for, and give notice of a special election or elections upon such question;
- (b) Designate the affected territory within which such special election or elections shall be held;
- (c) Fix a date of election;
- (d) Provide for the question or questions to be submitted to the voters;
- (e) Designate precincts and polling places;
- (f) Specify any terms or conditions provided for in the incorporation or change of organization or municipal reorganization;
- (g) State the vote required for confirmation of incorporation or change of organization or municipal reorganization; and
- (h) Contain such other matters as may be necessary to call, provide for, and give notice of such special election or elections and to provide for the conduct thereof and the canvass of returns thereof.

(Amended by Stats. 1978, c. 339)

35062.

Form of questions

The question or questions to be submitted at any special election or elections called pursuant to this part shall be in substantially the following form:

(a) For an incorporation:

"Shall the order adopted on \_\_\_\_\_, 19\_\_\_\_, by the Board of Supervisors of \_\_\_\_\_ County ordering the incorporation of the territory described in said order and designated therein as \_\_\_\_\_ (insert the distinct short form designation theretofore assigned by the commission) be confirmed and a maximum property tax for such new city of \_\_\_\_\_ be approved?"

(b) For an annexation:

"Shall the order adopted on \_\_\_\_\_, 19\_\_\_\_, by the \_\_\_\_\_ (insert conducting authority) ordering the annexation to said city of the territory described in said order and designated as \_\_\_\_\_ (insert the short form designation therefore assigned by the commission) be confirmed?"

(c) For a detachment:

"Shall the order adopted on \_\_\_\_\_, 19\_\_\_\_, by the \_\_\_\_\_ (insert conducting authority) ordering

the detachment from said city of the territory described in said order and designated therein as \_\_\_\_\_ (insert the short form designation theretofore assigned by the commission) be confirmed?"

(d) For a consolidation:

"Shall the order adopted on \_\_\_\_\_, 19\_\_\_\_, by the \_\_\_\_\_ (insert conducting authority) of the City of \_\_\_\_\_ (insert name of city) ordering the consolidation of the cities of \_\_\_\_\_ (insert names of all cities ordered consolidated) into a single city known as the \_\_\_\_\_ be confirmed?"

(e) For a disincorporation:

"Shall the order adopted on \_\_\_\_\_, 19\_\_\_\_, by the City Council of the City of \_\_\_\_\_ ordering the disincorporation of the City of \_\_\_\_\_ be confirmed?"

(f) For a municipal reorganization:

"Shall the order adopted on \_\_\_\_\_, 19\_\_\_\_, by the \_\_\_\_\_ (insert conducting authority) ordering a municipal reorganization effecting the city(s) of \_\_\_\_\_ (insert names of all affected cities) and providing for \_\_\_\_\_ (insert list of all changes of organization or new cities proposed to be incorporated) be confirmed?"

35063. Ballot; voting squares

On the ballot opposite each question and to its right,  
the words "yes" and "no" shall be printed on separate  
lines with voting squares.

35064. Each voter entitled to one ballot

Where a special election is called pursuant to this part, each registered voter entitled to vote as a result of residing within the territory within which said election is called shall be entitled to one ballot and one vote.

35065. Notice of election call to local agency formation commission;  
contents; preparation of impartial analysis

Within five days after a special election is called pursuant to this part, the conducting authority which has called the election shall transmit, by registered mail, a written notification of the election call to the executive officer of the local agency formation commission of the county in which the affected territory is located. Such written notice shall include a description of the boundaries of the affected territory as assigned by the commission. Written notice required by this section may be made in the form of a certified copy of the resolution adopted by the legislative body calling the election.

The executive officer shall submit to the commission, for its approval or modification, an impartial analysis of the proposed incorporation or change of organization.

The impartial analysis shall not exceed 400 words in length in addition to a general description of the boundaries of the territory affected.



The local agency formation commission shall approve or modify the analysis and submit it to the clerk of the legislative body conducting the election no later than the last day for submission of rebuttal arguments.

(Amended by Stats. 1978, c. 339)

35066. Filing written arguments

The conducting authority, or any member or members of the conducting authority authorized by it, or any individual voter or bona fide association of citizens entitled to vote on the incorporation, change of organization, or municipal reorganization, or any combination of such voters and bona fide association of citizens may file a written argument for, or a written argument against, the question to be submitted to the voters.

Arguments shall not exceed 300 words in length and shall be filed with the clerk of the conducting authority no later than the last day for submission of rebuttal arguments *specified by Section 35067.*

*(Amended by Stats. 1987, c. 229.)*

35067.

Submittal of arguments; notice of date fixed

On the basis of the time reasonably necessary to prepare and print the arguments, analysis, and sample ballots for the election, the clerk of the conducting authority shall fix and determine a reasonable date prior to the election after which no arguments for or against the measure may be submitted for printing and distribution to the voters. Notice of the date fixed shall be published in accordance with Section 6061 in a newspaper of general circulation which is circulated in the affected territory. Arguments may be changed until and including the date fixed by the clerk.

The notice shall contain the following:

- (a) A statement of the proposition to be voted on and a general description of the boundaries of the affected territory;
- (b) An invitation to any registered voter or bona fide association of citizens entitled to vote on the proposal to submit and file with the clerk for printing and distribution in the ballot pamphlet, \*\*\* an argument for or an argument against the proposal;

- (c) The date of the election;
- (d) A statement that only one argument for and one argument against shall be selected and printed in the ballot pamphlet; and
- (e) A statement that arguments shall not exceed 300 words in length and shall be accompanied by not more than three signatures.

*(Amended by Stats. 1981, c. 229)*

35068. More than one argument for or against filed; selection of one by clerk

If more than one argument for or more than one argument against the proposal is filed with the clerk within the time prescribed in Section 35066, the clerk shall select one of the arguments for printing and distribution to the voters.

In selecting the arguments, the clerk shall give preference and priority in the order named to the arguments of the following:

- (a) The conducting authority or any authorized member or members of the conducting authority.
- (b) Individual voters or bona fide association of citizens or a combination of voters and associations.

35069. Rebuttal arguments; preparation and submittal

The provisions of Section 3787 of the Elections Code shall apply with regard to the preparation and submittal of rebuttal arguments.

(Amended by Stats. 1978, c. 339)

35070. Ballot pamphlet

The clerk shall cause a ballot pamphlet concerning the proposal to be printed and mailed to each voter entitled to vote on the question.

The ballot pamphlet shall contain the following in the order prescribed:

- (a) The complete text of the proposition to be voted on.
- (b) The impartial analysis of the proposition prepared by the local agency formation commission.
- (c) One argument for the proposal, if any.
- (d) One rebuttal to the argument for the proposal, if any.
- (e) One argument against the proposal, if any.
- (f) One rebuttal to the argument against the proposal, if any.

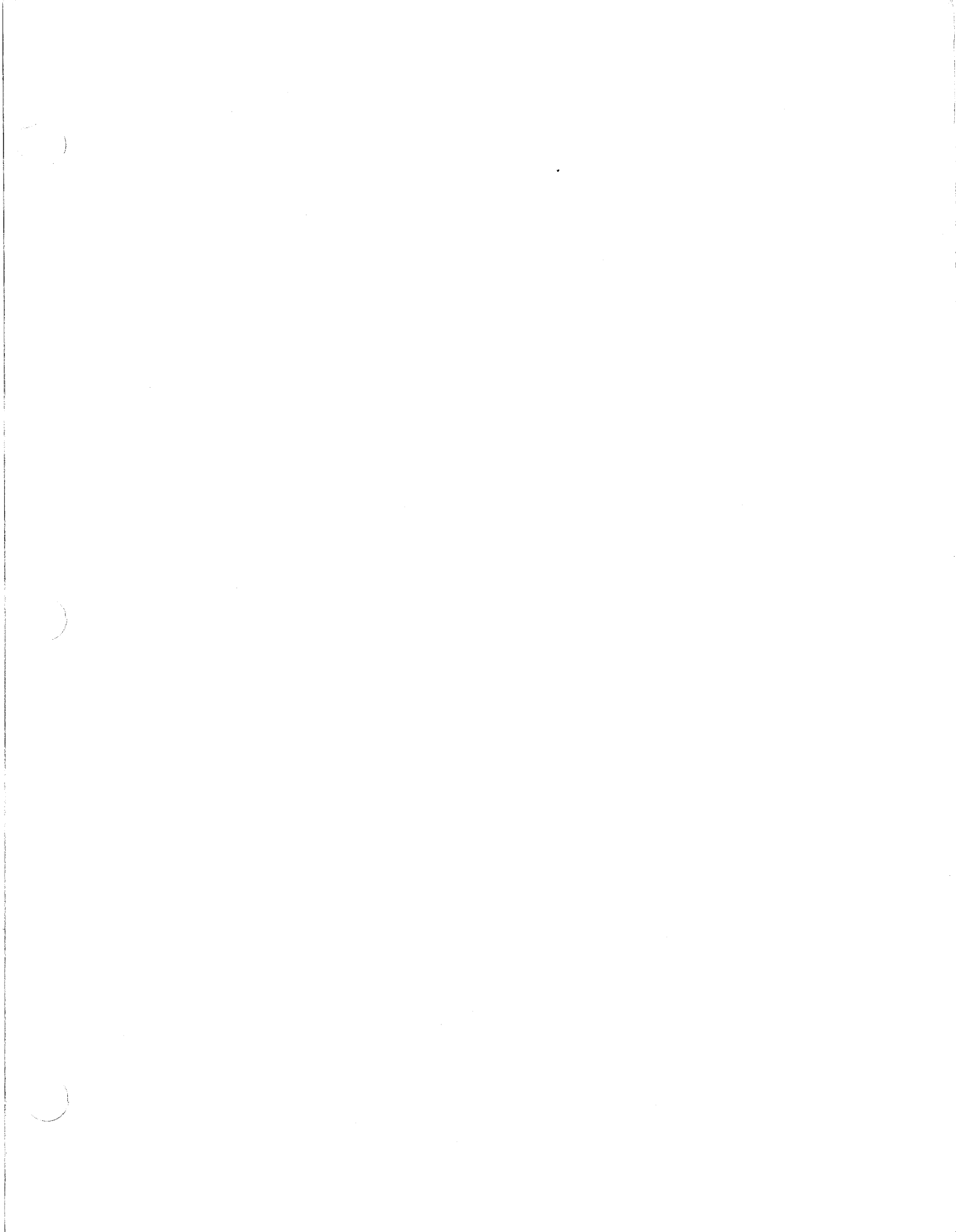
The clerk shall mail a ballot pamphlet to each voter entitled to vote in the election at least 10 days prior to the date of the election. Such a ballot pamphlet is "official matter" within the meaning of Section 10010 of the Elections Code.

35071.        Canvass of votes

The canvass of ballots cast at any election held pursuant to this part shall be conducted pursuant to Sections 17080 to 17089, inclusive, of the Elections Code.

(Amended by Stats. 1978, c. 339)





Chapter 2. Preliminary Proceedings

<u>Article</u>		<u>Section</u>
1	General Provisions -----	35100
2	Form, Filing and Certification of Petition-----	35110
3	Signature Requirements for Petitions -----	35130
4	Contents and Filing of a Resolution of Application-----	35140
5	Notice, Hearing and Determination by the Commission -----	35150

## Chapter 2

### Article 1. General Provisions

#### Section

- 35100. Preliminary proceedings; methods.
- 35101. Preliminary proceedings; acceptance for filing deemed initiation.
- 35102. Resolution of application for municipal reorganization or change of organization; submittal of plan for provision of services.
- 35103. Filing fees.
- 35104. Processing fees.
- \*35105. Processing fees; conducting authority.

\*Added by Stats. 1982

35100.

Preliminary proceedings; methods

Preliminary proceedings for city incorporation, municipal reorganization and change of organization may be initiated as follows:

- (a) Proceedings for incorporation may be initiated by proposals made by petition or by resolution of application of the affected county or an affected district.
- (b) Proceedings for changes of organization of a city or municipal reorganization may be initiated by proposals made by petition or by resolution of application of the legislative body of any affected city or the affected county.

All such preliminary proceedings shall be initiated in accordance with this chapter.

35101. Preliminary proceedings; acceptance for filing deemed initiation

Preliminary proceedings shall be deemed initiated on the date a petition or resolution of application is accepted for filing by the executive officer of the commission of the county in which the affected territory is located.

35102. Resolution of application for municipal reorganization or change of organization; submittal of plan for provision of services

Whenever a city submits a resolution of application, for a municipal reorganization or a change of organization pursuant to this part, the city shall submit with the resolution of application a plan for providing services within the affected territory of the municipal reorganization or change of organization. The plan for providing services shall include the following information and any additional information required by the commission or the executive officer: enumeration and description of the services to be extended to the affected territory; the level and range of such services; indication of when such services can feasibly be extended to the affected territory; indication of any improvement or upgrading of structures, roads, sewer or water facilities, or other conditions the city would impose or require within the affected territory should the municipal reorganization or change of organization be completed; and how the services will be financed.

35103. Filing fees

A commission may establish a schedule of filing fees for checking the sufficiency of any petition filed with the executive officer. Such fees shall not exceed fifteen cents (\$0.15) for each signature affixed to the petition. A minimum filing fee of not to exceed ten dollars (\$10) may be established. Any fees so established shall be paid to the executive officer at the time of filing a petition. No petition shall be deemed filed until such fees have been paid.

35104. Processing fees

The commission also may establish a schedule of processing fees for the estimated expenses of the preliminary proceedings to be taken by the commission. Such fees shall not exceed five hundred dollars (\$500) for each proposal. Such processing fee shall be deposited with the executive officer after the filing with the executive officer of any resolution of application by the legislative body of a city or the certification by the executive officer of the sufficiency of a petition. The deposit of the processing fee shall be made within such period as the commission may specify. No further action shall be taken upon any such resolution of application or petition until the processing fee is deposited.



35105.

Processing fee; conducting authority

The conducting authority may establish a schedule of processing fees for the estimated expenses of complying with procedures required or authorized by this chapter or local ordinance. The fees shall not exceed the amount reasonably required by the conducting authority to so comply. Notification of the fee schedule shall be given to the chief petitioners. The processing fee shall be deposited with the conducting authority after the adoption of a resolution initiating proceedings by the conducting authority. The deposit of the processing fee shall be made within such period as the conducting authority may specify. No further action shall be taken upon the resolution until the processing fee is deposited.

(Added by Stats. 1982, c. 1178)

## Chapter 2

### Article 2. Form, Filing and Certification of Petition

#### Section

- \*\*35110. Contents of petition.
- \*\*35111. Name proposed for city.
- 35111.5 Appointment of city manager and elective city officials
- 35112. Number of documents.
- 35113. Date of signature.
- 35114. Registered voter; additional information.
- 35115. Landowners; additional information.
- 35116. Signatures; time limit.
- 35117. Filing.
- 35118. Examination; certificate of sufficiency; notice of insufficient petition; supplemental petition; time limit.
- 35119. Petition certified insufficient; filing as public record.
- 35120. Sufficient petition; notice.
- 35121. Signatures; comparison with voters' register.
- 35122. Signatures; comparison with last equalized assessment roll.
- 35123. Signatures; land exempt from taxation; joint tenancy; land subject to recorded agreement to buy.
- 35124. Signatures; public agency as landowner.

\*\*Amended by Stats. 1981

35110. Contents of petition

A proposal for \*\*\* *municipal* incorporation, change of organization or municipal reorganization may be made by petition. Any such petition shall contain substantially the following:

(a) State that the proposal is made pursuant to this part.

(b) State the nature of the proposed\*\*\* *municipal* incorporation, change of organization, or municipal reorganization.

(c) Set forth a description of the boundaries of the affected territory accompanied by a map showing such boundaries.

(d) State the reason or reasons for the proposed incorporation, change of organization, or municipal reorganization.

(e) State whether the petition is signed by registered voters or owners of land.

(f) Designate not to exceed three persons as chief petitioners, setting forth their names and mailing addresses.

(g) Request that proceedings be taken for incorporation, change of organization, or municipal reorganization pursuant to this part.

(Amended by Stats. 1981, c.961)

35111. Name proposed for city

If a petition is for incorporation or for consolidation, the petition may propose a name for the new or consolidated city.

*The proposed name for the new or consolidated city may contain the word "town."*

*(Amended by Stats. 1981, c.961)*

35112. Number of documents

A petition may consist of a single instrument or separate counterparts.

35113. Date of signature

Each person signing a petition shall, at the time he signs the petition, affix after his signature the date upon which he signs the petition.

35114. Registered voter; additional information

If a petition is signed by registered voters, each person signing the petition shall, in addition to his signature and the date upon which he signs the petition, indicate on the petition his place of residence, giving street and number or other designation sufficient to enable the place of residence to be readily ascertained.

35115. Landowners; additional information

If a petition is signed by owners of land, each person signing the petition shall, in addition to his signature and the date on which he signs the petition, include on the petition a written description sufficient to identify the location of the land owned by him.



35116. Signatures; time limit

No petition shall be accepted for filing unless the signatures thereon shall have been secured within six months of the date on which the first signature on the petition was affixed and such petition is submitted to the executive officer for filing within 60 days after the last signature is affixed. If the elapsed time between the date on which the last signature is affixed and the date on which the petition is submitted for filing is more than 60 days, the executive officer shall file such petition in accordance with Section 35119.

35117.

Filing

All petitions shall be filed with the executive officer  
of the commission.

35118. Examination; certificate of sufficiency; notice of insufficient petition; supplemental petition; time limit

Within 30 days after the date of filing a petition, the executive officer of the commission shall cause the petition to be examined and shall issue a certificate of sufficiency indicating whether it is signed by the requisite number of signers.

If the certificate of the executive officer shows the petition to be insufficient, he shall immediately give notice by registered mail of the insufficiency to the chief petitioners, if any. Such mailed notice shall state in what amount the petition is insufficient. Within 15 days after the date of the certificate of insufficiency, a supplemental petition bearing additional signatures may be filed with the executive officer.

Within 10 days after the date of filing a supplemental petition, the executive officer shall examine the supplemental petition and certify in writing the results of his examination.

A certificate of sufficiency shall be signed by the executive officer and dated. Such certificate shall also state the minimum signature requirements for a sufficient

petition and show the results of the executive officer's  
examination.

35119. Petition certified insufficient; filing as public record

If the petition, including any supplemental petition, shall be certified to be insufficient, it shall be filed with the executive officer as a public record, without prejudice to the filing of a new petition. The executive officer shall give mailed notice to the chief petitioners, if any, stating that the petition has been found to be insufficient.

35120. Sufficient petition; notice

If the petition, including any supplemental petition, shall be certified to be sufficient, the executive officer shall give mailed notice thereof to the chief petitioners, if any.

35121. Signatures; comparison with voters' register

If a petition is signed by registered voters, the executive officer shall cause the names of the signers on the petition to be compared with the voters' register in the office of the county clerk or registrar of voters and have ascertained therefrom:

- (a) The number of registered voters in the affected territory.
- (b) The number of qualified signers appearing upon the petition.

35122. Signatures; comparison with last equalized assessment roll

If a petition is signed by owners of land, the executive officer shall cause the names of the signers on the petition to be compared with the names of the persons shown as owners of land on the last equalized assessment roll of the county and have ascertained to the extent possible therefrom:

- (a) The total number of landowners within the territory and the total assessed valuation of all land within the affected territory.
- (b) The total number of landowners represented by qualified signers and the total assessed valuation of land owned by qualified signers.



35123. Signatures; land exempt from taxation; joint tenancy; land subject to recorded agreement to buy

For purposes of evaluating the sufficiency of any petition signed by owners of land:

- (a) The assessed value to be given land exempt from taxation or owned by a public agency shall be determined by the county assessor, at the request of the executive officer, in the same amount as he would assess such land, if it were not exempt from taxation or owned by a public agency.
- (b) The value given land held in joint tenancy or tenancy in common shall be determined in proportion to the proportionate interest of the petitioner in such land.
- (c) When land is subject to a written recorded agreement to buy, the purchaser under the agreement may sign a petition and the seller may not sign, even though the seller is shown as the owner of the land on the last equalized assessment roll.

35124. Signature; public agency as landowner

Any public or federal agency owning land within the territory which is the subject of the proposed incorporation, change of organization, or municipal reorganization shall be deemed a landowner for the purpose of the signing and certification of a petition for an incorporation, a change of organization, or a municipal reorganization. Any such agency may authorize such petition to be signed for and on its behalf by any duly authorized officer or employee.

## Chapter 2

### Article 3. Signature Requirements for Petitions

#### Section

- 35130. Incorporation.
- 35131. Disincorporation.
- 35132. Consolidation.
- 35133. Annexation.
- 35134. Detachment.
- 35135. Municipal reorganization.

35130. Incorporation

A petition for the incorporation of a city shall be signed by either:

- (a) Not less than 25 percent of the registered voters residing in the area to be incorporated, as determined by the commission pursuant to subdivision (j) of Section 35150;  
or
- (b) Not less than 25 percent of the number of owners of land within the territory proposed to be incorporated who also own not less than 25 percent of the assessed value of land within the territory proposed to be incorporated, as shown on the last equalized assessment roll of the county.

35131. Disincorporation

A petition for the disincorporation of a city shall be signed by not less than 20 percent of the registered voters residing in the city proposed to be disincorporated as shown on the county register of voters.

35132. Consolidation

A petition for the consolidation of two or more cities shall be signed by not less than 20 percent of the registered voters of each affected city as shown on the county register of voters.

35133. Annexation

A petition for annexation of territory to a city shall be signed either:

- (a) By not less than 5 percent of the number of registered voters residing within the territory proposed to be annexed as shown on the county register of voters; or
- (b) By not less than 5 percent of the number of owners of land within the territory proposed to be annexed who also own 5 percent of the assessed value of land within such territory as shown on the last equalized assessment roll.

35134. Detachment

A petition for detachment of territory from a city shall be signed either:

- (a) By not less than 20 percent of the registered voters residing within the territory proposed to be detached, as shown on the county register of voters; or
- (b) By not less than 20 percent of the number of owners of land within the territory proposed to be detached who also own 20 percent of the assessed value of land within such territory as shown on the last equalized assessment roll.



35135. Municipal reorganization

A petition for municipal reorganization shall be signed so as to comply with the applicable signature requirements of Sections 35131, 35132, 35133, and 35134 of this article with respect to each of the various changes of organization proposed in such petition, and with the signature requirements of Section 35130 if incorporation is proposed as part of the reorganization.

## Chapter 2

### Article 4. Contents and Filing of a Resolution of Application

#### Section

35140 Resolution of application; adoption; contents.

35141. Application; filing with executive officer.

35140. Resolution of application; adoption; contents

- (a) A proposal for a change of organization or municipal reorganization may be made by the adoption of a resolution of application by the legislative body of an affected city or county.
- (b) A proposal for incorporation may be made by the adoption of a resolution of application by the legislative body of the affected county or affected district.

Except for the provisions regarding signers and signatures, a resolution for application shall contain all matters specified for a petition in Section 35110 and, when adopted by the legislative body of a city, shall be submitted with a plan for services prepared pursuant to Section 35102.

35141. Application; filing with executive officer

The clerk of the legislative body adopting a resolution of application shall file a certified copy thereof with the executive officer of the commission.

## Chapter 2

### Article 5. Notice, Hearing, and Determination by the Commission

#### Section

- \*\*35150. Powers of the commission.
- \*35150.5 Annexation within urban service area; Santa Clara County.
- 35151. Annexation, detachment or municipal reorganization without notice and hearing; notice of filing.
- 35152. Issuance of certificate of filing by executive officer; notice of incomplete filing.
- 35153. Notice by mail.
- 35154. Conflicting proposals; priority.
- 35155. Hearing; continuance.
- 35156. Hearing; protests; objections; evidence.
- 35157. Resolution making determinations; time.
- 35158. Resolution making determinations; content.
- 35159. Resolution making determinations; certified copy; mailing.
- 35160. Disapproval; effect; time for new proposal.
- 35161. Approval; duties of conducting authority.
- \*\*35162. Application for amendment of resolution; powers of commission; notice to conducting authority.
- 35163. Impartial analysis; procedure.

\*Added by Stats. 1982

\*\*Amended by Stats. 1982

35150. Powers of commission

The commission shall have the powers and duties set forth in Chapter 6.6 (commencing with Section 54773) of Part 1, Division 2, Title 5, and such additional powers and duties as are specified in this part, including the following:

- (a) To review and approve or disapprove with or without amendment, wholly, partially, or conditionally proposals for the incorporation of cities, for changes of organization of cities, and municipal reorganizations; provided, however, that a commission shall not have the power to disapprove an annexation, initiated by resolution, of contiguous territory which the commission finds is either (1) surrounded or substantially surrounded by the city to which the annexation is proposed or by such city and a county boundary or the Pacific Ocean if the territory to be annexed is substantially developed or developing, is not prime agricultural land as defined in Section 35046, is designated for urban growth by the general plan of the annexing city, and is not within the sphere of influence of another city or, (2) located within an urban service area which has been delineated and adopted by \*\*\* a commission, \*\*\* which is not prime agricultural land, as defined in Section 35046, and is designated for urban growth by the general plan of the annexing city.

As a condition to the annexation of an area, which is surrounded or substantially surrounded

by the city to which the annexation is proposed, the commission may require, where consistent with the purposes of this chapter, that the annexation include the entire island of surrounded or substantially surrounded territory.

- (b) With regard to a proposal for annexation or detachment of territory to, or from, a city, or with regard to a proposal for municipal reorganization which includes annexation or detachment, to determine whether territory proposed for annexation or detachment, as described in its resolution approving the annexation, detachment or municipal reorganization, is inhabited or uninhabited. Such determination shall be based on the definitions of "inhabited territory" contained in Section 35038.
- (c) With regard to a proposal for consolidation of two or more cities, to determine which city shall be the consolidated, successor city.
- (d) To adopt standards and procedures for the evaluation of plans for providing municipal services submitted pursuant to Section 35102.
- (e) To waive the restrictions of Section 35010, if it finds that the application of the restrictions would be detrimental to the orderly development of the community and that the area that would be enclosed as a result of incorporation or annexation is so located that it cannot reasonably be annexed to another city or incorporated as a new city.

- (f) To approve the annexation of unincorporated, noncontiguous territory not exceeding 160 acres in area, located in the same county as that in which the city is located, and which is owned by a city and used for municipal purposes; and to authorize the conducting authority to annex such territory without notice or hearing.
- (g) Subject to the provisions of Section 35031, to designate in the resolution making determinations the conducting authority for proceedings.
- (h) When a municipal reorganization includes the annexation of inhabited territory to a city and the assessed value of land within such territory equals one-half or more of the assessed value of land within the city, or the number of registered voters residing within such territory equals one-half or more of the number of registered voters residing within the city, to determine as a condition of the reorganization that the reorganization shall also be subject to confirmation by the voters in an election to be called, held, and conducted within the territory of the city to which annexation is proposed.
- (i) With respect to the incorporation of a new city, to determine the number of inhabitants or the number of registered voters residing within the proposed city.

Except as otherwise provided in this part, such powers and duties shall be exercised in accordance with the



provisions of Chapter 6.6 (commencing with Section 54773) of Part 1 of Division 2 of Title 5. To the extent of any inconsistency between Chapter 6.6 and this part, the provisions of this part shall control.

This section shall remain in effect only until January 1, 1988, and as of such date is repealed, unless a later enacted statute, which is chaptered before January 1, 1988, deletes or extends such date.

(Amended and repealed by Stats. 1981, c. 855; amended by Stats. 1982, c. 1178)

NOTE: As provided in AB 1113 (c. 855), the following becomes operative January 1, 1988.

35150.

35150. Powers of commission

The commission shall have the powers and duties set forth in Chapter 6.6 (commencing with Section 54773) of Part 1 of Division 2 of Title 5, and such additional powers and duties as are specified in this part, including the following:

- (a) To review and approve or disapprove with or without amendment, wholly, partially, or conditionally proposals for the incorporation of cities, for changes of organization of cities, and municipal reorganizations.
- (b) With regard to a proposal for annexation or detachment of territory to, or from, a city, or with regard to a proposal for municipal reorganization which includes annexation or detachment, to determine whether territory proposed for annexation or detachment, as described in its resolution approving the annexation, detachment, or municipal reorganization, is inhabited or uninhabited. Such determination shall be based on the definitions of "inhabited territory" contained in Section 35038.
- (c) With regard to a proposal for consolidation of two or more cities, to determine which city shall be the consolidated, successor city.
- (d) To adopt standards and procedures for the evaluation of plans for providing municipal services submitted pursuant to Section 35102.
- (e) To waive the restrictions of Section 35010, if it finds that the application of the restrictions would be detrimental to the orderly development of the community and that the area that would be enclosed as a result of incorporation or annexation is so located that it cannot reasonably be annexed to another city or incorporated as a new city.

(f) To approve the annexation after notice and hearing, and authorize the conducting authority to order annexation of the territory without an election if the commission finds that the territory contained in an annexation proposal:

(1) Does not exceed 100 acres in area and such area constitutes the entire island;

(2)(A) Is surrounded or substantially surrounded by the city to which annexation is proposed or by such city and a county boundary or the Pacific Ocean; or

(B) Is surrounded by a city and adjacent cities.

(3) Is substantially developed or developing;

(4) Is not prime agricultural land as defined in Section 35046; and

(5) Will benefit from such annexation or is receiving benefits from the annexing city.

The finding required pursuant to paragraph (3) of this subdivision shall be based upon one or more factors, including, but not limited to:

- (i) The availability of public utility services.
- (ii) The presence of public improvements.
- (iii) The presence of physical improvements upon the parcel or parcels within such area.

(g) To approve the annexation of unincorporated, noncontiguous territory not exceeding 160 acres in area, located in the same county as that in which the city is located, and which is owned by a city and used for municipal purposes; and to authorize the conducting authority to annex such territory without notice or hearing.

(h) Subject to the provisions of Section 35031, to designate in the resolution making determinations the conducting authority for proceedings.

- (i) When a municipal reorganization includes the annexation of inhabited territory to a city and the assessed value of land within such territory equals one-half or more of the assessed value of land within the city, or the number of registered voters residing within such territory equals one-half or more of the number of registered voters residing within the city, to determine as a condition of the reorganization that the reorganization shall also be subject to confirmation by the voters in an election to be called, held, and conducted within the territory of the city to which annexation is proposed.
- (j) With respect to the incorporation of a new city, to determine the number of inhabitants or the number of registered voters residing within the proposed city.

Except as otherwise provided in this part, such powers and duties shall be exercised in accordance with the provisions of Chapter 6.6 (commencing with Section 54773) of Part 1 of Division 2 of Title 5. To the extent of any inconsistency between Chapter 6.6 and this part, the provisions of this part shall control.

This section shall become operative January 1, 1988.

(Stats. 1981, c. 855)

35150.5 Annexation within urban service area; Santa Clara County

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- (a) Notwithstanding any other provision of this part, the commission shall not have any authority to review an annexation to any city in Santa Clara County of unincorporated territory which is within the urban service area of the city if the annexation is initiated by resolution of the legislative body of the city within two years after the date upon which the urban service area is delineated and adopted by the commission.
- (b) The legislative body of the city shall be the conducting authority for the annexation and the proceedings for the annexation shall be initiated and conducted as nearly as may be practicable in accordance with Article 2 (commencing with Section 35220) of Chapter 3.

The legislative body of the city, in adopting the resolution approving the annexation, shall make the following findings:

- (1) That the unincorporated territory is within the city's urban service area as adopted by the commission.
- (2) That the county surveyor has determined the boundaries of the proposal to be definite and certain, and in compliance with the commission's road annexation policies.

- (3) That the proposal does not split lines of assessment or ownership.
  - (4) That the proposal does not create islands or areas in which it would be difficult to provide municipal services.
  - (5) That the proposal is consistent with the city's adopted general plan.
  - (6) That the territory is contiguous to existing city limits.
- (c) All annexations which involve territory for which the land use designation in the city's general plan has changed from the time that the city's urban service area was last adopted by the commission, and which are processed by a city pursuant to this section shall be subject to an appeal to the commission upon submission of a petition of appeal, signed by at least 50 registered voters in the county.
- (d) An appeal to the commission may also be made by submission of a resolution of appeal adopted by the legislative body of a special district solely for the purpose of determining whether some or all of the territory contained in the annexation proposal should also be annexed or detached from that special district.

(e) Any petition under subdivision (c) or resolution under subdivision (d) shall be submitted to the executive officer of the commission within 15 days of the adoption by the legislative body of the city of the resolution approving the annexation. The executive officer of the commission shall schedule the hearing for the next regular meeting of the commission as is practicable. The commission may set a reasonable appeal fee.

At the appeal hearing the commission may reject the resolution approving the annexation and disapprove the annexation, or it may affirm the resolution and approve the annexation wholly, partially, or conditionally.

This section shall remain in effect only until January 1, 1989, and as of such date is repealed, unless a later enacted statute, which is chaptered before January 1, 1989, deletes or extends such date.

(Added and repealed by Stats. 1982, c. 1178)

35151. Annexation, detachment or municipal reorganization without notice and hearing; notice of filing.

If a petition for an uninhabited annexation, an uninhabited detachment, or for a municipal reorganization consisting solely of annexations or detachments of uninhabited territory, or both, shall be signed by all of the owners of land within the affected territory of the proposed change of organization or municipal reorganization, or if a resolution of application by a legislative body of an affected city or county making a proposal for an annexation or detachment, or for a municipal reorganization consisting solely of annexations or detachments, or both, shall be accompanied by proof, satisfactory to the commission, that all the owners of land within such territory have given their written consent to such change of organization or municipal reorganization, the commission may approve such change of organization or municipal reorganization without notice and hearing by the commission. In such cases the commission may also authorize the conducting authority to conduct proceedings for the change of organization or municipal reorganization (i) without notice and hearing by the conducting authority, (ii) without an election, or (iii) both.



The executive officer shall give each affected city mailed notice of the filing of any such petition or resolution of application. The commission shall not, without the written consent of each affected city, take any further action on such petition or resolution of application for 10 days following such mailing. Upon written request by an affected city, filed with the executive officer during such 10-day period, the commission shall make determinations upon said petition or resolution of application only after notice and hearing thereon. If no such request is filed, the commission may make such determinations without notice and hearing. By written consent, which may be filed with the executive officer at any time, an affected city may (i) waive the requirement of such mailed notice, (ii) consent to the commission making such determinations without notice and hearing, or (iii) both.

35152. Issuance of certificate of filing by executive officer; notice of incomplete filing

Except when a commission is the lead agency pursuant to Section 21067 of the Public Resources Code, the executive officer shall determine within 30 days of receiving a petition or resolution of application whether such petition or application is complete and acceptable for filing or incomplete. The application shall be deemed accepted for filing if no determination has been made by the executive officer within the 30-day period. When an application is accepted for filing, the executive officer shall immediately issue a certificate of filing to the chief petitioners or the legislative body making the proposal. A certificate of filing shall be in the form prescribed by the executive officer \*\*\*. Following issuance of the certificate of filing, the executive officer shall proceed to set the proposal for hearing and give published notice hereof as provided in this part. The date of such hearing shall be not more than 90 days after issuance of the certificate or after the application is deemed to have been accepted, whichever is earlier, and the date for

conducting the hearing, as determined herein, shall be mandatory. In the event that an application is determined not to be complete, the executive officer shall immediately transmit such determination to the applicant specifying those parts of the application which are incomplete and the manner in which they can be made complete.

*(Amended by Stats. 1981, c. 961)*

35153. Notice by mail

The executive officer shall also give mailed notice as provided in this part of any hearing of the commission to:

- (a) Any affected city, county, or district;
- (b) The chief petitioners, if any;
- (c) Each person who shall have filed a written request for special notice with the executive officer; and
- (d) Each registered voter and owner of land, within the territory proposed to be annexed, when the executive officer finds that the provisions of subdivision (f) of Section 35150 apply.

35154. Conflicting proposals; priority

If two or more proposals pending before the commission shall conflict or in any way be inconsistent with each other, the commission may determine the relative priority for conducting any further proceedings based on any such proposals. Any such determination shall be included in the terms and conditions imposed by the commission. In the absence of such determination, priority shall be given to that proceeding which shall be based upon the proposal first filed with the executive officer.

35155. Hearing; continuance

The hearing shall be held by the commission upon the date and at the time and place specified. The hearing may be continued from time to time but not to exceed 70 days from the date specified in the original notice.

35156. Hearing; protests; objections; evidence

At the hearing the commission shall hear and receive any oral or written protests, objections or evidence which shall be made, presented or filed, and consider the report of the executive officer and the plan for providing municipal services to the territory prepared pursuant to Section 35102.

35157. Resolution making determinations; time

At any time not later than 35 days after the conclusion of the hearing, the commission shall adopt a resolution making determinations approving or disapproving the proposal.



35158. Resolution making determinations; content

The resolution making determinations shall also:

- (a) Make any of the findings or determinations authorized or required pursuant to Section 35150;
- (b) If applicable, assign a distinctive short term designation to the affected territory and a description therefor; and
- (c) Direct the appropriate conducting authority to initiate proceedings in compliance with such resolution.

35159. Resolution making determinations; certified copy; mailing

The executive officer shall mail a certified copy of the commission's resolution making determinations to:

- (a) The conducting authority;
- (b) The chief petitioners, if any; and
- (c) Each affected city, county and district.

35160. Disapproval; effect; time for new proposal

If the commission wholly disapproves any proposal, no further proceedings shall be taken on such proposal. No new proposal involving the same or substantially the same territory shall be initiated for one year after the date of adoption of the resolution terminating proceedings; provided, however, that the commission may waive the provisions of this section if it finds such provisions are detrimental to the public interest.

35161. Approval; duties of conducting authority

If a proposal is approved by the commission, with or without amendment, wholly, partially, or conditionally, it shall be mandatory upon the conducting authority to take such proceedings in accordance with Chapter 3 (commencing with Section 35200) of this part. Such proceedings shall be initiated, conducted, and completed pursuant to those provisions which are applicable to the proposal and the territory contained in the proposal as it is approved by the commission. If the commission approves the proposal with modifications or conditions, proceedings shall be initiated, conducted, and completed in compliance with such modifications or conditions.

35162. Application for amendment of resolution; powers of commission; notice to conducting authority

The conducting authority or any affected county, city, district, landowner, voter, taxpayer, inhabitant, or other interested person desiring any addition, deletion, amendment, or revision of any commission resolution making determinations or of any term, condition, or other provision therein, including the boundaries of the affected territory determined and established by the commission, shall file written application therefor with the executive officer within \*\*\* 30 days of the adoption of the commission resolution, who shall present the same to the commission at its next meeting.

Once a request for a rehearing is filed with the executive officer, the conducting authority shall be notified by the executive officer, and the conducting authority shall not take final action until the commission has made a determination on the requested change.

Reconsideration of the \*\*\* commission resolution shall be made prior to final action of the conducting authority and in no case to exceed 60 days from the date of notification by the executive officer. The filed application may be withdrawn by the applicant at any time prior to its having been denied or approved by the commission.

The commission, in its discretion, may either (a) without further notice and hearing, deny or approve

the application in whole or in part, or (b) provide for notice and hearing upon \*\*\* the application in the same manner as for the original proposal, prior to denying or approving the same.

The determinations of the commission as specified in its resolution, or in any such amended resolution, including the commission's determinations as to boundaries of the affected territory, shall be final and conclusive, and no further changes shall be made except as provided in this section.

(Amended by Stats. 1981, c. 961; amended by Stats. 1982, c. 511)

35163. Impartial analysis; procedure

Whenever the executive officer is required pursuant to this part to prepare an impartial analysis of a proposition for approval by the commission, the commission may, by rule, provide a procedure for approval or modification and approval of the executive officer's analysis.

Chapter 3. Proceedings

<u>Article</u>		<u>Section</u>
1	General Provisions-----	35200
2	Annexation and Detachment -----	35220
3	Incorporation -----	35250
4	Disincorporation -----	35280
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## Chapter 3

### Article 1. General Provisions

#### Section

- 35200. Application of part
- 35201. Resolution initiating proceedings; time.
- 35202. Refusal or failure of conducting authority to act; certification to board of supervisors.
- 35203. Assumption of jurisdiction by supervisors.
- 35204. Resolution initiating proceedings; bar to other proceedings involving same territory.
- \*\*35205. Written protest; contents; withdrawal.

35200. Application of part

After completion of preliminary proceedings as provided in Chapter 2 (commencing with Section 35100) of this part, proceedings for incorporation, change of organization of a city, or municipal reorganization shall be taken pursuant to this chapter.

35201. Resolution initiating proceedings; time

No later than 35 days after the date of adoption of the commission's resolution making determinations, the conducting authority shall adopt a resolution initiating proceedings in accordance with the commission's resolution. A certified copy of the resolution initiating proceedings shall, immediately upon adoption, be mailed by the clerk of the conducting authority to the executive officer of the commission.

35202. Refusal or failure of conducting authority to act; certification to board of supervisors

After the expiration of 35 days from the date of adoption of the commission's resolution making determinations, the commission may by resolution certify to the board of supervisors of the county in which the affected territory is located, that the conducting authority has failed or refused to initiate, conduct or complete proceedings for the change of organization or municipal reorganization in compliance with the commission's resolution making determinations, or has failed to comply with any terms or conditions thereof.

35203. Assumption of jurisdiction by supervisors

At any time after the adoption of a resolution of certification pursuant to Section 35202, the board of supervisors shall assume jurisdiction to initiate, conduct and complete any proceedings for the change of organization or municipal reorganization and to enforce compliance with any terms or conditions thereto referred to in such resolution. Upon the assumption of such jurisdiction, the board of supervisors and the clerk and other officers of the county shall have exclusive jurisdiction with respect thereto and shall exercise all powers and duties vested in the conducting authority and the clerk or other officers of such authority. Any jurisdiction assumed and exercised by the board of supervisors and the clerk or other officers of the county pursuant to this section shall be given the same force and effect as if taken by the conducting authority and the clerk or officers thereof.

(Amended by Stats. 1978, c. 339)

35204. Resolution initiating proceedings; bar to other proceedings involving same territory

Upon adoption of a resolution initiating proceedings pursuant to this chapter, jurisdiction over the proceedings is acquired by the legislative body of the conducting authority, and until such proceedings are completed or terminated pursuant to this chapter, no other petition or resolution of application seeking the incorporation, municipal reorganization, or change of organization of all or part of the territory described by the resolution initiating proceedings shall be filed with, or acted on, by the commission.

35205. Written protest; contents; withdrawal

In proceedings for an annexation, detachment, municipal reorganization, or incorporation, any written protest \*\*\* *shall* show the date that each signature was affixed to such protest. All signatures without a date or bearing a date prior to the date of adoption of the resolution initiating proceedings shall be disregarded \*\*\*. Any person who has signed a written protest may withdraw his *or her* name from such protest at any time prior to conclusion of the public hearing.

*(Amended by Stats. 1980, c. 1132.)*

## Chapter 3

### Article 2. Annexation and Detachment

#### Section

- 35220. Resolution initiating proceedings.
- 35220.5 Resolution terminating proceedings.
- 35221. Resolution ordering annexation or detachment without notice and hearing.
- 35222. Notice of hearing.
- 35223. Notice by mail.
- 35224. Hearing; continuance.
- 35224.5 Resolution ordering annexation without election; termination of proceedings.
- 35225. Written protests; contents.
- 35226. Hearing; protests; objections; evidence.
- 35227. Written protest; value of.
- 35228. Inhabited proposal; resolution ordering annexation or detachment with or without election or terminating proceedings.
- 35229. Uninhabited proposal; resolution terminating proceedings or ordering annexation or detachment; time.
- \*\*35229.5 Detachment; resolution terminating proceedings.
- 35230. Election; time.
- 35231. Resolution subject to confirmation by voters in affected city; grounds.
- 35232. Notice of election.
- 35233. Contents of notice of election.
- 35234. Resolution ordering annexation or detachment without notice and hearing and without election.

\*\*Amended by Stats. 1982.



Article 2. Annexation and Detachment (continued)

Section

- 35235. Canvass of votes.
- 35236. Resolution confirming order; filing with executive officer.
- 35237. Unfavorable vote; termination of proceedings.
- 35238. Termination of proceedings; time for new proposal.
- 35239. Resolution ordering annexation or detachment; contents.

35220. Resolution initiating proceedings

Except as otherwise provided in Sections 35220.5, 35221, 35222, and 35223, the conducting authority shall adopt a resolution initiating proceedings for an annexation or detachment, which resolution shall comply with the commission's resolution making determinations and shall:

- (a) Indicate the manner in which, and by whom, preliminary proceedings were commenced (reference to the chief petitioners, if any, shall be sufficient where preliminary proceedings were commenced by a petition).
- (b) State the distinctive short form designation assigned by the commission to the territory proposed to be annexed or detached and set forth a description of the exterior boundaries of such territory.
- (c) State whether the territory proposed to be annexed or detached is inhabited or uninhabited as determined by the commission in its resolution making determinations.
- (d) State the reason or reasons for the proposed annexation or detachment as set forth in the proposal thereof submitted to the commission.
- (e) Set forth any terms and conditions of the proposed annexation or detachment contained in the commission's resolution making determinations.

- (f) Fix a time, date and place of hearing on the proposed annexation or detachment, which shall be not less than 30 days nor more than 45 days after the date of adoption of the resolution initiating proceedings.
- (g) If the territory proposed to be annexed or detached is inhabited, state that any owner of land within the territory, or any registered voter residing within the territory may file a written protest against the annexation with the clerk of the conducting authority at any time prior to conclusion of the conducting authority's hearing on the proposed annexation or detachment.
- (h) If the territory proposed to be annexed or detached is uninhabited, state that any owner of land within the territory may file a written protest against the annexation or detachment with the clerk of the conducting authority at any time prior to the conclusion of the conducting authority's hearing on the proposed annexation or detachment.

35220.5 Resolution terminating proceedings

No later than 35 days after receipt of notification by the conducting authority of the commission's resolution making determinations, the conducting authority of a city with a population of 1,000 or less within which 10 percent or less of the land area is zoned for residential uses may adopt a resolution terminating all present proceedings in connection with any proposed annexation or detachment.

35221. Resolution ordering annexation or detachment without notice and hearing

If authorized by the commission pursuant to Section 35151, uninhabited territory may be annexed or detached by resolution of the conducting authority without notice and hearing if all of the landowners within such territory have consented in writing to such annexation or detachment.

35222. Notice of hearing

The clerk of the conducting authority shall cause notice of the hearing on the proposed annexation or detachment to be given as provided in Section 35055. Notice required by this section shall include all the information specified in Section 35220.

35223. Notice by mail

The clerk of the conducting authority shall also give mailed notice of the hearing as required by Section 35055 to:

- (a) Any person who has filed his name and address with the clerk and has requested such mailed notice;
- (b) The chief petitioners, if any, as indicated in the petition initiating proceedings pursuant to this part;
- (c) To each affected city, county, and district; and
- (d) To the executive officer of the local agency formation commission.

Mailed notice given pursuant to this section shall contain all the information specified in Section 35220, except that if annexation is approved and authorized pursuant to subdivision (f) of Section 35150, the notice shall not contain the statements specified by subdivision (g) and (h) of Section 35220.

(Amended by Stats. 1978, c. 339)

35224. Hearing; continuance

The hearing on the proposed annexation or detachment shall be held by the conducting authority on the date and at the time specified in the resolution giving notice of the hearing.

The hearing may be continued from time to time but not to exceed 60 days from the date specified for the hearing in the resolution adopted pursuant to Section 35220.



35224.5

Resolution; annexation without election; termination of proceedings

When approved and authorized by the commission pursuant to the provisions of subdivision (f) of Section 35150, the conducting authority shall, upon conclusion of the hearing, adopt a resolution ordering the annexation without an election or shall by resolution, terminate proceedings. The provisions of Sections of 35225, 35226, 35227, 35228, and 35229 shall not apply to any annexation subject to the provisions of this section.

(Amended by States. 1978, c. 339)

35225. Written protests; contents:

At any prior time to conclusion of the hearing, any owner of land or any registered voter within inhabited territory proposed to be annexed or detached, or any owner of land within uninhabited territory proposed to be annexed or detached, may file a written protest against the annexation or detachment. Each protest shall state the name and address of the owner of the land affected and the street address or other description sufficient to identify the location of such land; or the name and address of the registered voter as it appears on the affidavit of registration. Protests may be made on behalf of an owner by an agent authorized in writing by the owner to act as agent with respect to such land. Protests may be made on behalf of a private corporation which is an owner of land by any officer or employee of the corporation without written authorization by the corporation to act as agent making such protest.

35226. Hearing; protests; objections; evidence

At the hearing, the conducting authority shall hear and receive any oral and written protests, objections, or evidence which shall be made, presented or filed.

35227. Written protests; value of

Upon conclusion of the hearing the conducting authority shall determine the value of written protests filed and not withdrawn. The value of written protests shall be determined in the same manner prescribed in Sections 35121, 35122, and 35123 of this part for determining the sufficiency of petitions filed with the commission.

35228. Inhabited proposal; resolution ordering annexation or detachment, with or without election, or terminating proceedings

When the territory proposed to be annexed or detached is inhabited, the conducting authority, not more than 30 days after conclusion of the hearing, shall adopt a resolution making a finding regarding the value of written protests filed and not withdrawn and taking one of the following actions:

- (a) Terminate proceedings if written protests have been filed and not withdrawn by 50 percent or more of the registered voters within the affected territory.
- (b) Order the territory annexed or detached subject to the confirmation by the voters on the question, and call a special election and submit to the voters residing within the affected territory the question of whether it shall be annexed to or detached from the city, if written protests have been filed and not withdrawn by either 25 percent or more of the registered voters within the territory, or owners of land, who also own not less than 25 percent of the total assessed value of land within the territory.
- (c) Order the territory annexed or detached without an election if written protests have been filed and not

withdrawn by less than 25 percent of the registered voters within the territory and less than 25 percent of the owners of land who own less than 25 percent of the total assessed value of land within the territory.

(Amended by Stats. 1978, c. 339)

35229. Uninhabited proposal; resolution terminating proceedings or ordering annexation or detachment; time

When the territory proposed to be annexed or detached is uninhabited, the conducting authority, not more than 30 days after conclusion of the hearing on protests, shall adopt a resolution making a finding regarding the value of written protests filed and not withdrawn and taking one of the following actions:

- (a) Terminate proceedings if written protests have been filed and not withdrawn by the owners of land and improvements who own not less than 50 percent of the total assessed value of land and improvements within the territory.
- (b) Order the territory annexed or detached if written protests have been filed and not withdrawn by owners of land and improvements who own less than 50 percent of the total assessed value of land and improvements within the territory.

The value of improvements represented by such protest shall be determined in the same manner as the value of land is determined.

(Amended by Stats. 1978, c. 339)

35229.5 Detachment; resolution terminating proceedings

- (a) Notwithstanding the provisions of Sections 35228 and 35229 the conducting authority, not more than 30 days after conclusion of a hearing to detach inhabited or uninhabited territory, may by resolution, terminate such proceedings to detach territory.
- (b) Notwithstanding the provisions of Sections 35307, 35308, and 35309, the conducting authority, not more than 30 days after conclusion of a hearing on a proposed inhabited or uninhabited municipal reorganization which includes the detachment of territory from any city, shall terminate the proceedings for the proposed municipal reorganization if a resolution or written protest against the proposed municipal reorganization is filed prior to the conclusion of such hearing by any city from which any portion of the territory of the city would be detached or otherwise removed pursuant to the proposed municipal reorganization.
- (c) The provisions of subdivision (b) of this section shall not apply to any proceedings initiated by petition for which the executive officer of the commission, on or before May 1, 1978, has issued a certificate of sufficiency pursuant to Section 35118.

(Amended by Stats. 1978, c. 339; amended by Stats. 1982, c. 1178)



35230.      Election; time

If, pursuant to subdivision (b) of Section 35228, the conducting authority adopts a resolution ordering annexation of detachment of territory subject to the confirmation by the voters, such election shall be called and held at the next regular election held at least 75 days after the date on which the resolution was adopted.

35231. Resolution subject to confirmation by voters in affected city;  
grounds

Any resolution adopted pursuant to subdivision (b) of Section 35228 ordering annexation or detachment of territory subject to the confirmation by the voters shall also call an election in the affected city and submit to the registered voters residing therein the same question at the same time as that submitted to the registered voters residing within the affected territory if:

- (a) The total assessed value of land within the affected territory equals one-half or more of the total assessed value of land within the affected city as shown on the last equalized assessment roll; or
- (b) The number of registered voters residing within the affected territory equals one-half or more of the number of registered voters residing within the affected city as shown on the county register of voters.

35232. Notice of election

The clerk of the conducting authority shall cause notice of the election to be given as prescribed in Section 35055.

(Amended by Stats. 1978, c. 339)

35233.

Contents of notice of election

The notice of election shall contain all matters specified  
in Section 35061.

35234. Resolution ordering annexation or detachment without notice and hearing and without election

When approved and authorized by the commission pursuant to the provisions of subdivision (g) of Section 35150 or Section 35151, the conducting authority may adopt a resolution ordering an annexation or detachment: (i) without notice and hearing by the conducting authority, (ii) without an election, or (iii) both (i) and (ii).

(Amended by Stats. 1978, c. 339)

35234. Resolution ordering annexation or detachment without notice and hearing and without election

When approved and authorized by the commission pursuant to the provisions of subdivision (g) of Section 35150 or Section 35151, the conducting authority may adopt a resolution ordering an annexation or detachment: (i) without notice and hearing by the council, (ii) without an election, or (iii) both (i) and (ii).

35235.

Canvass of votes

After the canvass of the returns of any election or elections called on the question of annexation or detachment, the conducting authority shall declare by resolution the total number of votes cast in the election or elections, and the number of votes cast for and against the annexation or detachment.

35236.

Resolution confirming order; filing with executive officer

The conducting authority shall adopt a resolution confirming the order of annexation or detachment if a majority of votes cast upon such question are in favor of annexation or detachment either: (i) at an election called in the territory ordered to be annexed or detached; or (ii) at an election called within the territory ordered to be annexed or detached and within the territory of the affected city. The clerk of the conducting authority shall cause a copy of the resolution confirming the order of annexation or detachment to be filed with the executive officer of the commission.



35237.

Unfavorable vote; termination of proceedings

If the majority of the votes cast is against annexation or detachment, the conducting authority by resolution, shall terminate proceedings and file a certified copy of such resolution with the executive officer of the commission.

35238.

Termination of proceedings; time for new proposal

If proceedings for annexation or detachment are terminated, either by majority protest as provided in Sections 35228 and 35229 or by failure of the majority of voters to confirm the annexation or detachment as provided in Section 35237, no new proposal for annexation or detachment of the same or substantially the same territory may be filed with the commission within one year after the date of adoption of the conducting authority's resolution terminating proceedings; provided, however, that the commission may waive the provisions of this section if it finds such provisions are detrimental to the public interest.

35239.

Resolution ordering annexation or detachment; contents

Any resolution ordering an annexation or detachment shall describe the exterior boundaries of the territory annexed or detached, and shall contain all terms and conditions imposed upon the annexation or detachment.

## Chapter 3

### Article 3. Incorporation

#### Section

35250. Resolution initiating proceedings; board of supervisors as conducting authority.
35251. Published notice of hearing.
35252. Mailed notice.
35253. Time for hearing.
35254. Written protest; filing.
35255. Hearing by conducting authority.
35256. Determination of value of written protests; method.
- \*\* 35257. Resolution ordering incorporation subject to confirmation of voters or terminating proceedings; filing with executive officer.
35258. Election call; time; officers to be elected.
35259. Notice of election; publication.
35260. Notice of election; contents.
35261. Canvass of returns.
35262. Resolution confirming order of incorporation upon favorable vote; contents; filing with executive officer.
35263. Resolution terminating proceedings; unsuccessful election; filing with executive officer.
35264. Time for filing new proposal; waiver of time limitation.

\*\*Section amended by Stats. 1978, c. 339.

35250. Resolution initiating proceedings; board of supervisors  
as conducting authority

The board of supervisors of the county in which territory proposed to be incorporated is located, shall be the conducting authority and shall adopt a resolution initiating proceedings for incorporation, which resolution shall comply with the commission's resolution making determinations and shall:

- (a) Indicate the manner in which and by whom preliminary proceedings were commenced (reference to the chief petitioners, if any, shall be sufficient where preliminary proceedings were commenced by petition).
- (b) State the name of the proposed city as stated in the petition or resolution of application initiating preliminary proceedings and set forth a description of the exterior boundaries of such proposed city.
- (c) State the number of inhabitants or the number of registered voters residing within the proposed city as determined by the commission in its resolution making determinations.
- (d) State the reason or reasons for the proposed incorporation as set forth in the proposal therefor.

- (e) Set forth any terms and conditions of the proposed incorporation contained in the commission's resolution making determinations.
- (f) Fix a time, place, and date of hearing on the proposed incorporation which shall be not less than 30 days nor more than 45 days after the date of adoption of the board's resolution pursuant to this section.
- (g) State that any registered voter residing within such territory may file a written protest against the incorporation at any time prior to conclusion of the conducting authority's hearing on the proposed incorporation.

35251. Published notice of hearing

The clerk of the conducting authority shall cause notice of the hearing to be given by publication as provided in Section 35055. Notice required by this section shall contain all the information specified in Section 35250.

35252. Mailed notice

The clerk shall also give mailed notice of the hearing as provided in Section 35055 to:

- (a) Any person who has filed his name and address with the clerk and has requested such mailed notice.
- (b) The chief petitioners, if any, as indicated in the petition initiating preliminary proceedings pursuant to this part.

Mailed notice given pursuant to this section shall contain all the information specified in Section 35250.



35253. Time for hearing

The hearing on the proposed incorporation shall be held by the conducting authority on the date and at the time specified in the notice. The hearing may be continued from time to time not to exceed 60 days from the date specified for the hearing in the resolution adopted pursuant to Section 35250.

35254. Written protest; filing

At any time prior to conclusion of the hearing, any registered voter residing within the territory proposed to be incorporated may file written protest against the incorporation.

35255. Hearing by conducting authority

At the hearing, the conducting authority shall hear and receive any oral or written protests, objections or evidence which shall be presented.

35256. Determination of value of written protests; method

Upon conclusion of the hearing, the conducting authority shall determine the value of written protests filed and not withdrawn. The value of protests shall be determined in the manner prescribed in Sections 35121, 35122, and 35123 of this part for determining the sufficiency of petitions filed with the commission.

35257. Resolution ordering incorporation subject to confirmation of voters or terminating proceedings; filing with executive officer

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Not more than 30 days after conclusion of the hearing, the conducting authority shall adopt a resolution making a finding regarding the value of written protests filed and not withdrawn and taking one of the following actions:

- (a) Terminate proceedings, if written protests have been filed and not withdrawn by 50 percent or more of the registered voters residing within the territory. A certified copy of the resolution shall be filed with the executive officer of the commission.
- (b) Order the affected territory incorporated subject to the confirmation of the voters therein on the question and call a special election and submit to the voters residing within the affected territory the question of whether such territory shall be incorporated, if written protests have been filed and not withdrawn by less than 50 percent of the registered voters residing within the affected territory.

(Amended by Stats. 1978, c. 339)

35258. Election call; time; officers to be elected

If pursuant to Section 35257 the conducting authority adopts a resolution ordering incorporation of territory subject to the confirmation of the voters, such election shall be called and held on the next regular election date occurring at least 75 days after the date on which the resolution was adopted. In addition to the election on the question of incorporation, the conducting authority shall provide for the election of the officers of the proposed city required to be elected.

35259. Notice of election; publication

The clerk shall cause notice of the election to be published as provided in Section 35055.

35260. Notice of election; contents

The notice of election shall contain all the matters specified in Section 35061, and in addition shall:

- (a) If the petition so requests, state that the voters may express a preference as to whether or not the city should operate under the city manager form of government, and the ballots used at the election shall include the words "for city manager form of government" and "against city manager form of government;" and
- (b) Inform voters of their right to express a preference as between names for the proposed city, and the ballots used at the election shall contain the proposed names of the city in alternative form.
- (c) State the proposed maximum property tax rate.



35261. Canvass of returns

After the canvass of the returns of any election called on the question of incorporation, the conducting authority shall declare by resolution the total number of votes cast in the election and the number of votes cast for and against the incorporation.

35262. Resolution confirming order of incorporation upon favorable vote; contents; filing with executive officer

If the majority of votes cast is for incorporation, the conducting authority shall adopt a resolution:

- (a) Confirming the order of incorporation;
- (b) Giving the newly incorporated territory a name, such name being either the name in the petition or favored by the electors; and
- (c) Declaring the persons receiving the highest number of votes for the several offices of the newly incorporated city to be elected to those offices.

The clerk of the conducting authority shall cause a certified copy of the resolution to be filed with the executive officer of the commission.

35263. Resolution terminating proceedings; unsuccessful election;  
filing with executive officer

If the majority of votes cast is against incorporation, the conducting authority by resolution shall terminate proceedings for the incorporation. A certified copy of said resolution shall be filed with the executive officer of the commission.

35264. Time for filing new proposal; waiver of time limitation

If proceedings for incorporation are terminated either by majority protest as provided in Section 35257 or by failure of a majority of the voters to confirm the incorporation as provided in Section 35263, no new proposal for incorporation of the same or substantially the same territory may be filed with the commission within two years of the date of the resolution terminating proceedings; provided, however, that the commission may waive the provisions of this section if it finds such provisions are detrimental to the public interest.

## Chapter 3

### Article 4. Disincorporation

#### Section

- 35280. Resolution initiating proceedings; contents.
- 35281. Election call; time.
- 35282. Notice of election; publication and posting; contents.
- 35283. Mailed notice.
- 35284. Canvass of returns; resolution confirming favorable vote; filing with executive officer.
- 35285. Resolution terminating proceedings; filing with executive officer; time for new proposal; waiver of time restriction.

35280. Resolution initiating proceedings; contents

The conducting authority shall adopt a resolution initiating proceedings for disincorporation, which resolution shall comply with the commission's resolution making determinations and shall:

- (a) Indicate the manner in which and by whom preliminary proceedings were commenced (reference to the chief petitioners, if any, shall be sufficient where preliminary proceedings were commenced by petition).
- (b) State the name of the city proposed to be disincorporated and the county in which such city is located.
- (c) State the reason or reasons for the proposed disincorporation as set forth in the proposal thereof submitted to the commission.
- (d) Set forth the terms and conditions of the proposed disincorporation contained in the commission's resolution making determinations.
- (e) Order the city disincorporated subject to confirmation of the voters of the city on the question and call a special election and submit to the voters residing within the city the question of whether the city shall be disincorporated.
- (f) Contain all matters required by Section 35061 which are not otherwise covered in this section.

35281. Election call; time

The election shall be called and held on the next regular election date occurring at least 75 days after the date upon which the resolution calling the election was adopted.

35282. Notice of election; publication and posting; contents

The clerk of the conducting authority shall cause notice of the election to be given by publication and by posting as provided in Section 35055. Notice required to be given by this section shall contain all the information specified in Section 35280.



35283. Mailed notice

The clerk shall also give mailed notice of the election as provided in Section 35055 to:

- (a) Any person who has filed his name and address with the clerk and has requested such mailed notice;
- (b) The chief petitioners, if any, as indicated in the petition initiating preliminary proceedings pursuant to this part; and
- (c) The board of supervisors of the county in which the affected city is located.

Mailed notice given pursuant to this section shall contain all the information specified in Section 35280.

35284. Canvass of returns; resolution confirming favorable vote; filing with executive officer

After the canvass of the returns of any election called on the question of disincorporation, the conducting authority shall declare by resolution the total number of votes cast for and against the proposed disincorporation within the affected city. The conducting authority shall adopt a resolution confirming the order of disincorporation if a majority of the votes cast upon such question is in favor of disincorporation. A certified copy of such resolution shall be filed with the executive officer of the commission.

35285. Resolution terminating proceedings; filing with executive officer; time for new proposal; waiver of time restriction

If, in any election called pursuant to this article, a majority of the votes cast is against disincorporation, the conducting authority, by resolution, shall terminate proceedings. A certified copy of such resolution shall be filed with the executive officer of the commission. No new proposal for disincorporation of the city may be filed with the commission within two years after the date of adoption of the resolution terminating proceedings; provided, however, that the commission may waive the provisions of this section if it finds such provisions are detrimental to the public interest.

## Chapter 3

### Article 5. Consolidation

#### Section

- 35290. Resolution initiating proceedings; contents.
- 35291. Notice of election; publication and posting; contents.
- 35292. Election call; time; officers to be elected.
- 35293. Canvass of returns.
- 35294. Resolution confirming consolidation upon favorable vote; contents; filing.
- 35295. Resolution terminating proceedings; time for filing new proposal; waiver of time restriction.

35290. Resolution initiating proceedings; contents

The conducting authority shall adopt a resolution initiating proceedings for consolidation, which resolution shall comply with the commission's resolution making determinations and shall:

- (a) Indicate the manner in which and by whom preliminary proceedings were commenced (reference to the chief petitioners, if any, shall be sufficient where preliminary proceedings were commenced by petition).
- (b) State the names of all cities proposed to be consolidated, the name of the proposed successor city, and the county in which the same are located.
- (c) State the reason or reasons for the proposed consolidation as set forth in the proposal thereof submitted to the commission.
- (d) Set forth any terms and conditions of the proposed consolidation contained in the commission's resolution making determinations.
- (e) Order the cities consolidated subject to confirmation of the voters of each of the cities on the question; call a special election in each of the

cities proposed to be consolidated for that purpose; and submit to the voters residing within each such city the question of whether the cities shall be consolidated.

- (f) State the name of the proposed successor city if a name is proposed in the petition or resolution of application submitted to the commission.
- (g) Contain all matters required by Section 35061 which are not otherwise covered in this section.

35291. Notice of election; publication and posting; contents

The clerk of the conducting authority shall cause notice of each consolidation election to be given by publication and by posting as provided in Section 35055. Notice required to be given by this section shall contain all the information specified in Section 35290 and inform the voters of their right to express a preference for the name of the successor city if the consolidation is approved.

35292. Election call; time; officers to be elected

The elections on the question of consolidation shall be called and held on the next regular election date held at least 75 days after the date on which the resolution was adopted. In addition to the elections on the question of consolidation, the conducting authority shall provide for the election of the officers of the successor city required to be elected.



35293.

Canvass of returns

After the canvass of the returns of the elections called on the question of consolidation, the conducting authority shall declare by resolution the total number of votes cast in the election held in each city proposed to be consolidated and the number of votes cast for and against the consolidation in each such election.

35294. Resolution confirming consolidation upon favorable vote; contents; filing

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If the majority of votes cast in each city is for consolidation, the conducting authority shall adopt a resolution:

- (a) Confirming the order of consolidation.
- (b) Declaring the persons receiving the highest number of votes for the several offices of the successor city to be elected to those offices.
- (c) If a majority of the voters have expressed a preference for the name of the successor city giving the successor the name so preferred. The clerk of the conducting authority shall file a certified copy of such resolution with the executive officer of the commission and the clerk of each affected city.

35295. Resolution terminating proceedings; time for filing new proposal; waiver of time restriction

If the majority of votes cast in at least one of the cities is against consolidation, the conducting authority by resolution shall terminate proceedings for the consolidation and file a certified copy of such resolution with the executive officer of the commission and the clerk of each of the affected cities. No new proposal for consolidation of any of the cities may be filed with the commission within two years after the date of adoption of the resolution terminating proceedings; provided, however, that the commission may waive the provisions of this section if it finds such provisions are detrimental to the public interest.

## Chapter 3

### Article 6. Municipal Reorganization

#### Section

- 35300. Resolution initiating proceedings; contents.
- 35301. Notice of hearing; contents.
- \*\*35302. Mailed notice; contents.
- 35303. Hearing; continuance.
- 35304. Written protest; contents.
- 35305. Conduct of hearing.
- 35306. Determination of value of protests; method.
- 35307. Inhabited reorganizations consisting solely of annexations or detachments; value of written protests; authorized actions.
- 35308. Uninhabited reorganizations consisting solely of annexations or detachments; value of written protests; authorized actions.
- 35309. Reorganization not consisting solely of annexations or detachments; termination of proceedings; order subject to confirmation by voters.
- 35310. Election call; time; officers to be elected in consolidation or incorporation.
- 35311. Conduct of election.
- 35312. Reorganization without notice, hearing or election.
- 35313. Canvass of returns.
- 35314. Resolution based on election results.
- 35315. Time for new proposal; waiver of time restrictions.

35300. Resolution initiating proceedings; contents

The conducting authority shall adopt a resolution initiating proceedings for a municipal reorganization, which resolution shall comply with the commission's resolution making determinations and shall:

- (a) Indicate the manner in which and by whom preliminary proceedings were commenced (reference to the chief petitioners, if any, shall be sufficient where preliminary proceedings were commenced by petition).
- (b) State the name of each affected city for which any change of organization is proposed.
- (c) Briefly describe each particular change of organization proposed for each of the affected cities and any new cities proposed to be incorporated.
- (d) State the reason or reasons for the proposed municipal reorganization as set forth in the proposal therefor.
- (e) Set forth any terms and conditions of the proposed municipal reorganization contained in the commission's resolution making determinations.

- (f) Fix a time, place and date of hearing on the proposed municipal reorganization which shall be not less than 30 nor more than 45 days after the date of adoption of the conducting authority's resolution pursuant to this section.
- (g) State that any interested person desiring to make written protest against such municipal reorganization shall do so by written communication filed with the clerk of the conducting authority not later than the hour set for hearing.
- (h) If the municipal reorganization proposal includes incorporation of a new city:
  - (1) State the name, if any, of the proposed city as stated in the petition or resolution of application initiating preliminary proceedings; and
  - (2) State the number of inhabitants or the number of registered voters residing within the proposed city as determined by the commission in its resolution making determinations.

- (i) If the municipal reorganization proposal includes consolidation, state the names of the affected cities proposed to be consolidated and the name, if any, proposed for the successor city as provided in the petition or resolution of application initiating preliminary proceedings.
- (j) Set forth a general description of the boundaries of each change of organization or incorporation proposed in the municipal reorganization.

35301. Notice of hearing; contents

The clerk of the conducting authority shall cause notice of the hearing to be given by publication as provided in Section 35055. Notice required by this section shall contain all the information specified in Section 35300.



35302. Mailed notice; contents

The clerk shall also give mailed notice of the hearing as provided in Section 35055 to *all of the following*:

- (a) Any person who has filed his *or her* name and address with the clerk and has requested such mailed notice
- (b) Chief petitioners, if any, as indicated in the petition initiating preliminary proceedings pursuant to this part
- (c) Each affected city.
- (d) *If uninhabited, to each owner of land within the affected territory.*
- (e) The executive officer of the local agency formation commission.

Mailed notice given pursuant to this section shall contain all the information specified in Section 35300.

*(Amended by Stats. 1980, c. 1132.)*

35304. Written protest; contents

At any time prior to conclusion of the hearing, any owner of land or any registered voter within the territory proposed to be reorganized may file a written protest against the municipal reorganization. Each protest shall state the name and address of the owner of the land affected and the street address or other description sufficient to identify the location of such land; or the name and address of the registered voter as it appears on the affidavit of registration. Protests may be made on behalf of an owner by an agent authorized in writing by the owner to act as agent with respect to such land. Protests may be made on behalf of a private corporation which is an owner of land by any officer or employee of the corporation without written authorization by the corporation to act as agent in making such protest.

35305. Conduct of hearing

At the hearing the conducting authority shall hear and receive any oral or written protests, objections or evidence which shall be made.

35306. Determination of value of protests; method

Upon conclusion of the hearing, the conducting authority shall determine the value of written protests filed and not withdrawn. The value of protests shall be determined in the manner prescribed in Sections 35121, 35122, and 35123 of this part for determining the sufficiency of petitions filed with the commission.

35307.

Inhabited reorganizations consisting solely of annexations or detachments; value of written protests; authorized actions

Where a proposed inhabited municipal reorganization consists solely of annexations or detachments, or both, the conducting authority, not more than 30 days after conclusion of the hearing, shall adopt a resolution making a finding regarding the value of written protests filed and not withdrawn and taking one of the following actions:

- (a) Terminate proceedings if written protests have been filed and not withdrawn by 50 percent or more of the registered voters within the affected territory.
- (b) Order the territory reorganized subject to the confirmation by the voters on the question and call a special election and submit to the voters residing within the affected territory the question of whether it shall be reorganized, if written protests have been filed and not withdrawn by either 25 percent or more of the registered voters within the territory or 25 percent or more of the number of owners of land who also own not less than 25 percent of the total assessed value of land within the territory.

- (c) Order the territory reorganized without an election if written protests have been filed and not withdrawn by less than 25 percent of the registered voters within the territory and less than 25 percent of the number of owners of land who also own less than 25 percent of the total assessed value of land and improvements within the territory.

(Amended by Stats. 1978, c. 339)

35308. Uninhabited reorganizations consisting solely of annexations or detachments; value of written protests; authorized actions

Where a proposed uninhabited municipal reorganization consists solely of annexations or detachment, or both, the conducting authority not more than 30 days after conclusion of the hearing shall adopt a resolution making a finding regarding the value of written protests filed and not withdrawn and taking one of the following actions:

- (a) Terminate proceedings if written protests have been filed and not withdrawn by the owners of land and improvements who own not less than 50 percent of the total assessed value of land and improvements within the territory.
- (b) Order the territory reorganized if written protests have been filed and not withdrawn by owners of land who own less than 50 percent of the total assessed value of land and improvements within the territory.

The value of improvements represented by such protest shall be determined in the same manner as the value of land is determined.

(Amended by Stats. 1978, c. 339)

35309. Reorganization not consisting solely of annexations and detachments; termination of proceedings; order subject to confirmation by voters

Where a proposed municipal reorganization does not consist solely of annexations or detachments or both, the conducting authority, not more than 30 days after conclusion of the hearing, shall adopt a resolution making a finding regarding the value of written protests filed and not withdrawn and taking one of the following actions:

- (a) Terminate proceedings if written protests have been filed and not withdrawn by 50 percent or more of the registered voters residing within the territory.
- (b) Order the affected territory reorganized subject to the confirmation of the voters therein on the question and call a special election and submit to the voters residing within the affected territory the question of whether such territory shall be reorganized if written protests have been filed and not withdrawn by less than 50 percent of the registered voters residing within the affected territory.

(Amended by Stats. 1978, c. 339)



35310. Election call; time; officers to be elected in consolidation or incorporation

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If pursuant to Section 35307 or 35309 the conducting authority adopts a resolution ordering a municipal reorganization of territory subject to the confirmation of the voters, such election shall be called and held on the next regular election date held at least 75 days after the date on which the resolution was adopted. In addition to the election on the question of municipal reorganization, if the proposed municipal reorganization includes the consolidation of two or more cities or the incorporation of a new city, or both, the conducting authority shall provide for the election of the officers of the consolidated or incorporated city or cities required to be elected.

35311. Conduct of election

In any resolution ordering a municipal reorganization, subject to confirmation of the voters, the conducting authority shall call and provide for an election to be held and conducted:

- (a) Within the entire territory of each city ordered to be incorporated, disincorporated or consolidated;
- (b) Within any territory ordered annexed to or detached from a city; and
- (c) Subject to the provisions of Section 35150 (i), both within the territory proposed to be reorganized and within the territory of any city to which territory is proposed to be annexed.

35312. Reorganization without notice, hearing, or election

As approved and authorized by the commission pursuant to the provisions of Section 35151 the conducting authority may adopt a resolution ordering a municipal reorganization

(a) without notice and hearing by the conducting authority,

(b) without an election, or (c) both.

35313. Canvass of returns

After the canvass of the returns of any election or elections called on the question of municipal reorganization, the conducting authority shall declare by resolution the total number of votes cast in the election or elections and the number of votes cast for and against the municipal reorganization.

35314. Resolution based on election results

After the canvass of the returns of the election or elections called upon the question of municipal reorganization, the conducting authority shall adopt a resolution either:

- (a) Confirming the order of municipal reorganization if the question of municipal reorganization was favored by a majority of the votes cast at each election held upon such question; or
- (b) Declaring the order of municipal reorganization defeated by failure of the question of municipal reorganization to receive the required majority favorable vote at any or all of the elections held upon such question.

The clerk of the conducting authority shall file a certified copy of the resolution adopted pursuant to this section with the executive officer of the local agency formation commission.

35315. Time for new proposal; waiver of time restriction

If proceedings for a municipal reorganization are terminated, either by majority protest as provided in Sections 35307, 35308, and 35309, or by failure of the required vote to confirm the municipal reorganization as provided in Section 35314, no new proposal for the same or substantially the same municipal reorganization affecting the same or substantially the same territory may be filed with the commission within one year after the date of adoption of the resolution terminating proceedings; provided, however, that the commission may waive the provisions of this section if it finds such provisions are detrimental to the public interest.



Chapter 4. Completion and Effective Date of City  
Incorporation, Change of Organization or  
or Municipal Reorganization

Section

- 35350. Final completion of proceedings; examination of resolution by executive officer.
- 35351. Certificate of completion; contents.
- 35352. Certificate of completion; recording.
- 35353. Date of completion.
- 35354. Effective date; date of recordation.
- 35355. Effective date specified in resolution.
- 35356. Additonal filings; executive officer.
- \*35357. Filing of notice with Secretary of Stats.

\*Section added by Stats. 1978, c. 339



35350. Final completion of proceedings; examination of  
resolution by executive officer

Immediately after adoption of a resolution ordering a change of organization or municipal reorganization without election or a resolution confirming an order for an incorporation, change of organization, or municipal reorganization after confirmation by the voters, the clerk of the conducting authority shall transmit a certified copy of such resolution along with a remittance to cover the fees required by Section 54902.5 to the executive officer of the commission. The executive officer shall examine such resolution and determine whether it is in compliance with boundaries, modifications, and conditions specified by the commission in its resolution making determinations.

- (a) If the resolution ordering the change of organization, municipal reorganization, or incorporation is determined not to be in compliance, the executive officer shall specify in writing the points of non-compliance and return the resolution to the conducting authority for modification.
- (b) If the resolution ordering the change of organization, municipal reorganization, or incorporation is

determined to be in compliance, the executive officer shall prepare and execute a certificate of completion and shall make the filings required by this chapter.

35351. Certificate of completion; contents

The certificate of completion of proceedings prepared and executed by the executive officer shall contain:

- (a) The name of the incorporated city or the name of each existing city for which a change of organization or municipal reorganization was ordered and the name of the county within which any such new or existing city is located.
- (b) A statement of the kind or type of incorporation, change of organization, or municipal reorganization ordered.
- (c) A description of the boundaries of the new city ordered incorporated or of any territory affected by the change of organization or municipal reorganization, which description may be made by reference to a map and legal description showing the boundaries attached to such certificate.
- (d) Any terms and conditions of the incorporation, change of organization, or municipal reorganization.
- (e) The date of adoption of the resolution ordering the change of organization or municipal reorganization, without an election; or the date of adoption of the

resolution confirming an order for incorporation, change of organization, or municipal reorganization after confirmation by the voters.

If any resolution contains the information required to be contained in the certificate, the executive officer may attach a certified copy of such resolution to the certificate and refer to such resolution in the certificate.

35352. Certificate of completion; recording

The executive officer shall record a certified copy of the certification of completion with the recorder of the county in which the affected territory is located, with the county surveyor, and with the clerk of each affected city.

35353.

Date of completion

The incorporation, change of organization, or municipal reorganization shall be complete from the date of execution of the certificate of completion of proceedings and shall be effective from the dates specified in Sections 35354 and 35355.

35354.

Effective date

If no effective date was fixed in any of the terms and conditions or in the resolution ordering or confirming the order of incorporation, or change of organization or municipal reorganization, the effective date is the date of the recordation with the county recorder pursuant to Section 35352.

35355. Effective date specified in resolution; restrictions

If an effective date is fixed in the terms and conditions or the resolution ordering or confirming the order of incorporation, change of organization, or municipal reorganization, such date shall be the effective date.

An effective date shall not be fixed which will be:

- (a) Earlier than the date of execution of the certificate of completion.
- (b) Later than the earlier of:
  - (1) One year after the date of execution of the certificate of completion; or
  - (2) The due date of any taxes or assessments levied upon property within the affected territory which was subject to the incorporation, change of organization, or municipal reorganization.



35356. Additional filings; executive officer

The executive officer shall also make such filings as may be provided for by Chapter 8 (commencing with Section 54900) of Part 1, Division 2, Title 5.

35357.

Filing of notice with Secretary of State

- (a) The executive officer shall, within 30 days after the recordation of the certificate of completion with the county recorder, file a notice with the Secretary of State briefly describing the incorporation, change of organization, or municipal reorganization.
- (b) The failure to file the notice within the time required by this section shall not affect any determination as to the completion of the proceedings or the effective date thereof.

(Added by Stats. 1978, c. 339)

Chapter 5. Terms and Conditions;  
Effect of City Incorporation, Change of Organization,  
or Municipal Reorganization

<u>Article</u>		<u>Section</u>
1	General Provisions -----	35400
2	Annexations -----	35410
3	Detachment -----	35420
4	Incorporation -----	35440
5	Disincorporation -----	35460
6	Consolidation -----	35490
7	Municipal Reorganization -----	35500

Chapter 5.

Article 1. General Provisions

Section

- 35400. Rights of bondholder or other creditor; enforcement of.
- 35401. Senatorial or assembly district boundaries not affected.
- \*\*35402. Expenses incurred in conducting proceedings; payment.
- 35403. Adjustment of councilmanic district boundaries.

*\*\*Section amended by Stats. 1980.*

35400. Rights of bondholder or other creditor; enforcement of  
No city incorporation, change of organization or municipal reorganization or any term or condition thereof, shall impair the rights of any bondholder or other creditor of any county, city, or district. Notwithstanding any other provision of this part, or any incorporation, change of organization, or municipal reorganization completed pursuant to this part, or any term or condition thereof, each and every bondholder or other creditor may enforce all his rights in the same manner and to the same extent as if such incorporation, change of organization, or municipal reorganization, term or condition, had not been made. Any such rights may also be enforced against agencies and their respective officers, as follows:

- (a) Annexation or detachment: Against the city to or from which territory is annexed or detached.
- (b) Incorporation: Against the newly incorporated city.
- (c) Disincorporation: Against the successor county receiving distribution of the remaining assets of the disincorporated city.

- (d) Consolidation: Against the consolidated successor city.
- (e) Municipal reorganization: Against the affected city, successor consolidated city, successor county or newly incorporated city, as the case may be, for any of the above enumerated changes of organization or city incorporations which may be included in the particular municipal reorganization.

35401. Senatorial or assembly district boundaries not affected

Any proceeding completed pursuant to this part does not alter or affect the boundaries of any assembly or senatorial district.

35402. Expenses incurred in conducting proceedings;  
payment

All proper expenses incurred in conducting proceedings for city incorporation, change of organization or municipal reorganization pursuant to Chapter 3 (*commencing with Section 35200*) \* \* \* shall be paid, unless otherwise provided by agreement between the conducting authority and the proponents, as follows:

- (a) In the case of annexation or detachment proceedings, by the city to or from which territory is annexed or detached or was proposed to be annexed or detached.
- (b) In the case of incorporation proceedings, by the newly incorporated city, *if successful*, or by the county within which the proposed city is located if the incorporation proceedings are terminated.
- (c) In the case of disincorporation proceedings, from the remaining assets of the disincorporated city or by the city proposed to be disincorporated if disincorporation proceedings are terminated.
- (d) In the case of consolidation proceedings, by the successor city or by the cities proposed



to be consolidated, to be paid by such cities in proportion to their respective assessed values, if consolidation proceedings are terminated.

(e) In the case of municipal reorganization:

- (1) If the municipal reorganization is ordered, by the affected city or cities, successor consolidated city or cities, or newly incorporated city or cities, as the case may be, for any of the above-enumerated changes of organization or city incorporation which may be included in the particular municipal reorganization, to be paid by such cities in proportion to their assessed value.
- (2) If the municipal reorganization proceedings are terminated or the proposal is defeated by the county within which such city is located.

*(Amended by Stats. 1980, c. 1132.)*

35403. Adjustment of councilmanic district boundaries

If at any time between each decennial federal census, a city annexes or detaches territory or consolidates with another city, the legislative body of the city annexing or detaching the territory or the legislative body of the successor city, shall reexamine the boundaries of its councilmanic districts, if any, after the first census is taken or the first current population estimates are obtained, following such annexation, detachment, or consolidation.

If, upon reexamination, the legislative body finds that the population of any councilmanic district has varied so that the districts no longer meet the criteria specified in Section 34891, the legislative body shall, within 60 days after such census is taken, or current population estimate received, by ordinance or resolution, adjust the boundaries of any or all of the councilmanic districts of the city so that the districts shall be as nearly equal in population as may be.

## Chapter 5

### Article 2. Annexations

#### Section

- 35410. Jurisdiction; rights and duties.
- 35411. Liability for general indebtedness.
- 35412. Special district taxes or assessments; continuation of services by agreement.

35410. Jurisdiction; rights and duties

Upon and after the effective date of an annexation, the territory annexed to a city, all inhabitants of such territory, and all persons entitled to vote by reason of residing within such territory shall be subject to the jurisdiction of such city and, except as otherwise provided in this article, shall have the same rights and duties as if such territory had been a part of such city upon its original incorporation.

35411. Liability for general indebtedness

Unless otherwise provided in the terms and conditions of the annexation, land and improvements within territory annexed shall be liable for the general indebtedness of the city existing at the time of annexation.

35412. Special district taxes or assessments; continuation of district services by agreement

As an alternative to any procedure prescribed by law for the division of taxes or assessments collected in a special district lying partially or wholly in territory annexed by an incorporated city, the city and the special district may enter into an agreement providing that the district shall continue to perform services for such annexed territory until the close of the fiscal year for which the special district has levied taxes or assessments.

## Chapter 5

### Article 3. Detachment

#### Section

- 35420. Jurisdiction; rights and duties.
- 35421. Liability for prior debts.
- 35422. Petition for debt adjustment.
- 35423. Notice of hearing on petition.
- 35424. Time for hearing.
- 35425. Parties entitled to demur or answer; "plaintiffs"; "defendants."
- 35426. Rules of pleading and practice applicable.
- 35427. Determination of proportion of indebtedness due from excluded territory.
- 35428. Findings respecting indebtedness and value of property.
- 35429. Ratio for determination of indebtedness and public owned property.
- 35430. Finding of excess value; liability of excluded territory for indebtedness; city property.
- 35431. Finding balance due from excluded territory; rendition of judgment.
- 35432. Tender of amount due from excluded territory; effect.

35420. Jurisdiction; rights and duties

Except as otherwise provided in this article, upon and after the effective date of a detachment, the territory detached from a city, all inhabitants within such territory, and all persons formerly entitled to vote by reason of residing within such territory shall cease to be subject to the jurisdiction of such city and shall have none of the rights or duties of the remaining territory, inhabitants, or voters of the city.



35421. Liability for prior debts

Unless otherwise provided in the terms and conditions of the detachment, the city from which territory is detached may from time to time levy and collect from the detached territory its just proportion of liability for payment of the interest and principal of debts of the city contracted prior to detachment.

35422. Petition for debt adjustment

When territory has been detached from a city, ten taxpayers residing in the city or the territory may submit a verified petition to the superior court of the county in which the city is situated, requesting adjustment of the territory's proportion of the city's debts contracted prior to detachment and stating the facts of detachment and the amount of indebtedness.

35423. Notice of hearing on petition

Upon receipt of such a petition, the court shall cause notice to be given by publication as provided in Section 35055, stating the substance of the petition and setting forth the time and place for hearing by the court on the petition.

35424. Time for hearing

The hearing shall be held at least 30 days, but not more than 45 days, after the filing of the petition, and may be continued to another time by the court.

35425. Parties entitled to demur or answer; "plaintiffs";  
"defendants"

Any person interested in the city, the detached territory, or the adjustment and settlement of the indebtedness, may demur to, or answer, the petition. The signers of the petition are plaintiffs; and those persons or agencies demurring to, or answering, the petition are defendants in the hearing.

35426. Rules of pleading and practice applicable

Except as otherwise provided, the rules of pleading and practice of the Code of Civil Procedure are applicable to the hearing.

35427. Determination of proportion of indebtedness due from  
excluded territory

Upon the hearing, the court shall determine the amount due from the territory as its proportion of the city indebtedness contracted prior to detachment.

35428. Findings respecting indebtedness and value of property

In fixing the amount due, the court shall ascertain and find:

- (a) The purposes for which the indebtedness was created.
- (b) The manner and place in which the proceeds of the indebtedness were expended.
- (c) The value of the property belonging to the city at the time of the detachment.
- (d) The assessed value of the property situated in the city as shown by the last equalized assessment roll of the city in effect immediately preceding detachment.
- (e) The assessed value of the detached territory as shown by such last equalized assessment roll.



35429. Ratio for determination of indebtedness and public  
owned property

The detached territory is charged with a pro rata share of the city indebtedness contracted prior to the detachment and is entitled to the value of a pro rata share of the city's publicly owned property, in the same ratio as the value of the property remaining in the city, as determined by the last equalized assessment roll of the city in effect immediately preceding detachment.

35430. Finding of excess value; liability of excluded territory  
for indebtedness; city property

If the value of the city's publicly owned property remaining within the city is greater than its pro rata share, and such excess is greater than the territory's pro rata share of the city's indebtedness, the court shall find and adjudge that there is nothing due from the detached territory.

After such finding and judgment, the detached territory is not liable for the payment of any city indebtedness, and all city property remaining within its boundaries belongs exclusively to it.

35431. Finding balance due from excluded territory; rendition of judgment

In all other cases, the court shall find the balance due from the detached territory and render judgment accordingly. The judgment shall be assessed and collected in the manner and at the time that assessments and collections are made upon the property remaining in the city for payment of these debts.

35432.

Tender of amount due from excluded territory; effect

At any time, the detached territory may tender to the city legislative body the amount for which it is liable.

If tender is made, the city's authority to levy taxes on the detached territory shall cease.

## Chapter 5

### Article 4. Incorporation

#### Section

- 35440. Jurisdiction; rights and duties.
- 35441. Continuance, enforcement, and supersedure of county ordinances.
- 35442. Term of office.
- 35443. City councilmen; terms of office.
- 35444. Judicial notice.
- 35445. Surrender of office upon qualification of new officers.
- 35446. Conveyance of property held in trust for public use.
- 35447. Los Angeles County; conveyance of parking lots to cities; restrictions.
- \*\*35448. Services by county after incorporation of formerly unincorporated territory.

35440. Jurisdiction; rights and duties

Except as otherwise provided in this article, upon and after the effective date of an incorporation, the territory incorporated, all inhabitants within such territory and all persons entitled to vote within such newly incorporated city by reason of residing there, shall be subject to the jurisdiction of such city and shall have the rights and duties conferred on them as inhabitants and voters of such incorporated city.

35441. Continuance, enforcement, and supersedure of  
county ordinances

If the newly incorporated city comprises territory formerly unincorporated, the city council shall, immediately following its organization and prior to performing any other official act, adopt an ordinance providing that all county ordinances theretofore applicable shall remain in full force and effect as city ordinances for a period of 120 days thereafter, or until the legislative body of the city has enacted ordinances superseding them, whichever shall first in time occur.

The ordinance shall provide that no city ordinance enacted within such 120-day period of time be deemed to supersede any county ordinance unless the city ordinance specifically refers thereto, and states an intention to supersede it. Enforcement of the continuing county ordinances in the incorporated area shall be by the city, except insofar as services of enforcement may be furnished in accordance with Section 35448.

35442.

Term of office

Officers, except members of the city council, shall hold office until the first succeeding general municipal election held in the city and until their successors are elected and qualified. Of the five elected members of the city council, the three receiving the lowest number of votes shall hold office until the first succeeding general municipal election held in the city and until their successors are elected and qualified, and the two receiving the highest number of votes shall hold office until the second succeeding general municipal election held in the city and until their successors are elected and qualified. If two or more members of the city council are elected by the same number of votes, the terms of each shall be determined by lot. The members of the city council elected to succeed the members elected at the incorporation election shall hold office for four years from the Tuesday succeeding their election, and until their successors are elected and qualified.

(Amended by Stats. 1978, c. 339)



35443. City councilmen; terms of office

If the first general municipal election following an incorporation will occur less than one year after the incorporation election, all of the city council members elected at the incorporation election shall hold office until the second general municipal election following the incorporation election and until their successors are elected and qualified. Of the five council members elected at such second general municipal election, the three receiving the lowest number of votes shall hold office for two years and until their successors are elected and qualified, and the two receiving the highest number of votes shall hold office for four years and until their successors are elected and qualified. Subsequent council members shall hold office for four years from the Tuesday succeeding their election, and until their successors are elected and qualified.

This section shall apply only to council members elected at an incorporation election held after the effective date of this section. If this section applies, the first general

municipal election following the incorporation election shall not be held unless either a proposition is to be voted upon or offices other than council member offices are to be filled.

35444. Judicial notice

Courts shall take judicial notice of the organization and existence of cities incorporated pursuant to this part.

35445. Surrender of office upon qualification of new officers

Immediately upon qualification of the elected officers, all persons in possession of the offices of the city shall surrender the possession of such offices, though the terms of office for which they were elected or appointed have not expired.

35446. Conveyance of property held in trust for public use

All officers, boards, and persons holding any property in trust for any city use shall convey such property to the city or officer entitled to it.

35447. Los Angeles County; conveyance of parking lots to cities; restrictions

In any county having a population of more than 2,000,000, the board of supervisors may, by a two-thirds vote, convey any parking lot owned by the county and situated within the boundaries of an incorporated city to such city for public parking purposes, without consideration other than the agreement by the city to continue to use and maintain the property as a public parking lot.

This section shall apply only to parking lots acquired principally from revenues raised through onstreet or offstreet parking fees for the specific purpose of parking lot development, and shall not apply to lots purchased through expenditures from the General Fund or other means to serve as sites for other types of facilities.

The conveyance provided for by this section shall not occur until all liens or financial obligations attached to such lots have been satisfied.

35448. Services by county after incorporation of formerly unincorporated territory

(a) Whenever a city has been incorporated from territory formerly unincorporated, the board of supervisors shall continue to furnish, without additional charge, to the area incorporated all services furnished to the area prior to the incorporation. Such services shall be furnished for the remainder of the fiscal year during which the incorporation became effective or until the legislative body of the city requests discontinuance of the services, whichever first occurs.

(b) *At the request of the legislative body of the city, the board of supervisors, by resolution, may determine to furnish, without charge, to the area incorporated all or a portion of services furnished to the area prior to the incorporation for an additional period of time after the end of the fiscal year during which the incorporation became effective. The additional period of time after the end of the fiscal year during which the incorporation became effective for which the board of supervisors determines to provide services, without charge, and the specific services to be provided shall be specifically stated in the resolution adopted by the board of supervisors.*

*(Amended by Stats. 1980, c. 450, urgency, eff. 7-13-80)*

## Chapter 5

### Article 5. Disincorporation

#### Section

- 35460. Jurisdiction; rights and duties.
- 35461. Surrender of public property to supervisors.
- 35462. Determination of financial status of disincorporated city; certified statement.
- 35463. Disposition of funds.
- 35464. Effect of failure to provide certified statement.
- 35465. County tax collector to collect uncollected city taxes.
- 35466. Redemption of city tax delinquent property.
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## Chapter 1

### Article 1. Introductory Provisions

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\*Section added by Stats. 1981