

A periodic news publication for KMTG clients and other friends featuring significant legal updates, client reminders and law-related articles.

Providing Services Outside Special District Jurisdictional Boundaries

If a city or district proposes to provide services outside of its sphere of influence, LAFCo may only approve the city or district's request if the services are provided to respond to "an existing or impending threat to the public health or safety of the residents of the affected territory."

California Government Code section 56133 is part of the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000, which provides the rules governing city and special district boundary changes. Section 56133 was originally enacted by the Legislature in 1993 in response to cities and special districts circumventing the local agency formation commission process ("LAFCo" process) by contractually extending services outside their jurisdictions to property owners instead of annexing the affected lands.

California Government Code section 56133 provides that a "city or district may provide new or extended services by contract or agreement outside its jurisdictional boundaries only if it first requests and receives written approval from the LAFCo in the affected county." With regards to services provided outside of city or district jurisdictional boundaries and within the city or district's sphere of influence, LAFCo may authorize the provision of services "in anticipation of a later change of organization." LAFCo approval may be with or without conditions.

If a city or district proposes to provide services outside of its sphere of influence, LAFCo may only approve the city or district's request if the services are provided to respond to "an existing or impending threat to the public health or safety of the residents of the affected territory." In this case, the city or district will be required to provide LAFCo "with documentation of a threat to the health and safety of the public or the affected residents."

A special district, however, is not required to seek LAFCo approval for the following:

- "contracts or agreements solely involving two or more public agencies where the public service to be provided is an alternative to, or substitute for, public services already being provided by an existing public service provider and where the level of service to be provided is consistent with the level of service contemplated by the exiting service provider."
- "contracts for the transfer of nonpotable or nontreated water."
- "contracts or agreements solely involving the provision of surplus water to agricultural lands and facilities, including, but not limited to, incidental residential structures, for projects that serve conservation purposes or that directly support agricultural industries. However, prior to extending surplus water service to any project that will support or induce development, the . . . district shall first request and receive written approval from the LAFCo in the affected county."
- "extended service that a . . . district was providing on or before January 1, 2001."
- "a local publicly owned electric utility . . . providing electric services that do not involve the acquisition, construction, or installation of electric distribution facilities by the local publicly owned electric utility, outside of the utility's jurisdictional boundaries."

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