

**LOCAL AGENCY FORMATION COMMISSION
COUNTY OF SAN BERNARDINO**

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DATE: MARCH 27, 2009

FROM: MICHAEL TUERPE, LAFCO Analyst

TO: LOCAL AGENCY FORMATION COMMISSION

SUBJECT: Item #7A: Preliminary Review of Schedule of Fees, Deposits, and Charges for Fiscal Year 2009-10

RECOMMENDATION:

Staff is recommending that the Commission take the following actions:

1. Review the modifications proposed for the LAFCO Schedule of Fees, Deposits, and Charges and provide staff with direction on changes, corrections, or amendments to be included;
2. Direct staff to forward the Proposed Schedule of Fees, Deposits, and Charges for FY 2009-10 to the County, all Cities/Towns, and all Independent Special Districts for their review and comments pursuant to Government Code Section 66016; and
3. Schedule the final review and adoption of the Schedule of Fees, Deposits, and Charges for the May 20, 2009 hearing.

BACKGROUND:

Pursuant to Government Code Section 56383, the Commission may establish a schedule of fees and service charges to recoup the costs of proceedings. Section 56383 includes the stipulation that the fees shall not exceed the estimated reasonable cost of providing the service for which it is charged.

Staff is presenting the Commission with recommendations for modifications to its Schedule of Fees, Deposits, and Charges. The new Schedule is recommended to take effect June 1, 2009 since applications received in June will be processed in the following fiscal year. The proposed Schedule (included as an attachment to this report) identifies the proposed changes in bold italic print. The following is a listing of the proposed changes:

1. Staff is recommending that the Legal Counsel Deposit contain a non-refundable portion. The total deposit will remain the same, but the addition of a non-refundable portion will allow staff to recover costs associated with the initial processing of a proposal. The proposed change is identified below in bold italic:

C. Legal Counsel Deposit:

1. Legal Deposits are required at the time of application submission identified as follows:

- a. Jurisdictional Change (applicable to Actions identified under Item A, #1 through #7 except as noted below) ***\$1,150***

<i>\$200 non-refundable LAFCO fee</i>	<i>\$950 Deposit for LAFCO Legal Counsel costs</i>	\$1,150 Total Deposit required upon application submission
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- b. City island annexations pursuant to Government Code 56375.3 and Service Contracts Item B #1, #2, #4 ~~\$825~~

<i>\$150 non-refundable LAFCO fee</i>	<i>\$675 Deposit for LAFCO Legal Counsel costs</i>	\$825 Total Deposit required upon application submission
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- c. Jurisdictional Change Item A, #3c \$0

(Applicants shall be required to reimburse the Commission for all LAFCO Legal Counsel charges and costs in excess of the deposit outlined above. Reimbursement to LAFCO shall be required prior to issuance of the Certificate of Completion for jurisdictional changes or issuance of the Commission's resolution for service contracts. If charges billed to LAFCO are less than the amount of deposit, the balance of the fee will be refunded to the applicant or applied to other categories where excess charges have been incurred. If Special Counsel is required due to a conflict of interest by LAFCO Legal Counsel, the Commission will determine at a public hearing whether the applicant will be required to pay the full cost of Special Counsel, as authorized by Government Code Section 56384, or the current hourly rate of LAFCO Legal Counsel.)

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2. In January 2007, the Commission modified its policy and procedure related to "Individual Notice of Commission Hearings" due to frequent errors in the submission of parcel and registered voter listings by applicants. Due to these errors, it became standard practice for staff to generate its own parcel listing for proposals.

Staff has evaluated the charges related to the landowner deposit since January 2007 and has determined that a separate notification deposit for landowners is no longer necessary. Rather, a single individual notification deposit for registered voters and landowners is appropriate given the costs incurred for these notices. Further, funds received for the landowner notice deposit have

historically been deposited into Account 9800 (LAFCO Fees) because a review of the County Auditor's listing of available accounts does not provide a proper account for these deposits. Combining the registered voter and landowner notification deposits into a single individual notice deposit would be more appropriate, as this would allow for a single deposit account and simplify tracking of the deposit.

The single individual notice deposit is proposed to be \$700 with a non-refundable \$250 portion to allow staff to recover costs associated with the initial processing of a proposal. The proposed increases are identified below in bold italic from an excerpt from the Proposed Schedule.

E. Deposit for ***Individual Notice*** (Registrar of Voters Review, and Registered Voter ***and Landowner*** Notification Requirements)

[Annexations, Detachments, Reorganizations, Sphere of Influence Reviews (except for Item 3c), and Service Contracts - Item B, #1 and #2]

\$250 <i>\$150</i> non-refundable LAFCO fee	\$ 450 <i>\$300</i> Deposit for <i>Individual Registrar of Voters services and</i> Notification costs	\$700 <i>\$450</i> Total Deposit required upon application submission
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(Applicants shall be required to reimburse the Commission for Registrar of Voters charges and notification costs (notice to all registered voters ***and landowners*** within the proposal and surrounding the area according to Commission policy) in excess of the deposit outlined above. Reimbursement to LAFCO shall be required prior to issuance of the Certificate of Completion. If charges billed to LAFCO are less than the amount of deposit, the balance of the deposit will be refunded to the applicant or applied to other categories where excess charges have been incurred.)

F. ~~Deposit for Landowner Notification~~

~~[Annexations, Detachments, Reorganizations, Sphere of Influence Reviews (except for Item 3c) and Service Contracts - Item B, #1 and #2]~~

\$150 <i>non-refundable LAFCO fee</i>	\$300 <i>Deposit for Landowner Notification costs</i>	\$450 <i>Total Deposit required upon application submission</i>
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~~(LAFCO staff shall provide individual notice to all landowners within a proposal and those surrounding the area according to Commission policy. The initiating agency or individual shall be required to reimburse the Commission for direct costs for individual notice in excess of the deposit prior to issuance of the Certificate of Completion. If the charges are less than the amount of the deposit, the balance of the deposit will be refunded to the applicant or applied to other categories where excess charges have been incurred.)~~

- On a couple of occasions in previous years after the Commission has adopted its Fee Schedule, the Department of Fish and Game has increased its fees. The increases have required LAFCO to revise its Fee Schedule, which required a public hearing with legal notice. As a costs savings measure, should either the Department of Fish and Game or State Board of Equalization fees increase after adoption of the LAFCO Fee Schedule, staff recommends that the Commission include language in the Schedule that identifies that the fees listed are of a specific date and that the applicant is responsible for paying the current fees. The changes are identified in bold italic below:

Department of Fish and Game Fees are required to be paid at the time of filing with the Clerk of the Board of the affected County. These fees are dependent upon the action reviewed. ***The fees listed below, as identified by the Department of Fish and Game, are current as of January 1, 2009.*** LAFCO staff will notify the applicant of the appropriate ***charges fees:***

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At the time the Certificate of Completion is forwarded to the State Board of Equalization (SBE), application types listed under Item A - LAFCO Filing Fees Subsections 1 through 6 (except for Spheres of Influence), are charged a processing fee pursuant to SBE's adopted Fee Schedule (Government Code Section 54902.5). ***The fees listed below, as identified by SBE, are current as of January 1, 2009. LAFCO staff will notify the applicant of the appropriate fees:***

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For the proposed changes to the Schedule identified above, pursuant to existing policies, charges incurred in excess of the deposits will be collected prior to the issuance of the Certificate of Completion. If charges are less than the deposit, the balance of the deposit will be refunded to the applicant or applied to other deposit categories. Additionally, the proposed changes have no impact on the Commission's existing policies related to the implementation of the Schedule of Fees, Deposits and Charges.

At this hearing, the Commission is requested to provide staff with any changes, corrections, or additions to be included in the Schedule prior to forwarding to the County, the Cities and Towns, and the Independent Special Districts for their review and comment. Any comments received will be reviewed with the Commission at the final hearing to be scheduled for May 20, 2009.

MT/

Attachment:

Draft Schedule of Fees, Deposits, and Charges