

# LOCAL AGENCY FORMATION COMMISSION FOR SAN BERNARDINO COUNTY

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**DATE:** FEBRUARY 13, 2013  
**FROM:** KATHLEEN ROLLINGS-McDONALD, Executive Officer  
MICHAEL TUERPE, Project Manager  
**TO:** LOCAL AGENCY FORMATION COMMISSION

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**SUBJECT:** Agenda Item #10: Mid-Year Review for Period July 1 through  
December 31, 2012

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## **RECOMMENDATION:**

Staff recommends that the Commission:

1. Provide direction to staff on items of concern for the balance of the fiscal year: and,
2. Note receipt of this report and file.

## **BACKGROUND:**

Staff is presenting the Commission with the FY 2012-13 mid-year financial report which includes:

1. A review of the mid-year financial activities and the presentation of a spreadsheet (Attachment #1) outlining expenditures and revenues through December 31, 2012. The spreadsheets also provide a forecast of anticipated expenditures and revenues to the end of the fiscal year; and,
2. Discussion of Benefit Plan Changes Required Due to Recent Pension Legislation.

## **FY 2012-13 MID-YEAR FINANCIAL REVIEW:**

The following provides a review of the mid-year financial activity that includes expenditures and reserves, revenue and proposal activity, and cash in the County Treasury.

## Expenditures and Reserves

Expenditures are comprised of two categories of accounts: Salaries and Benefits and Services and Supplies. As of the close of the mid-year on December 31, 2012, total expenditures are at 45% of the Adopted Budget authority. The Commission has not authorized activity for the Contingency and Reserve accounts. A more detailed analysis of the categories is as follows:

### 1. Salaries and Benefits (1000 series)

#### A. *Mid-Year Activity*

The Salaries and Benefits series of accounts (1000 series) had expenditures of \$284,859 through December 31, representing 46% of Amended Budget authority. This amount is four percent lower than the benchmark of 50% due to lower staffing levels. The following provides an explanation of these lower costs.

A post-budget circumstance (reduction in revenues due to City of San Bernardino bankruptcy) has caused the Executive Officer to forgo the recruitment of a LAFCO Secretary and instead to contract with a temp agency for clerical support for this fiscal year. Since September, LAFCO has filled this position by contract with an overall reduction in salaries and benefits estimated at \$64,499. Costs for this service, estimated to be \$22,000, are accounted for in the Services and Supplies series of accounts representing an overall savings of \$42,499. At the first quarter review, the Commission approved the transfer of \$22,000 from Account 1010 to Account 2335 to fund the contract payment. The first quarter review identified that should the City's apportionment share be received then the opportunity to consider recruitment of a LAFCO Secretary this year could be implemented. However, as discussed in detail below, receipt of the City's apportionment share does not seem likely.

#### B. *Projected Remaining Activity*

There are no extraordinary activities anticipated for the second half. Salaries and Benefits are projected to end the year at 91% of budget authority.

### 2. Services and Supplies (2000 and 5000 series)

#### A. *Mid-Year Activity*

For the mid-year, the Services and Supplies series of accounts (2000 and 5000 series) had expenditures of \$164,917, or 45% of Amended Budget authority - within the normal range of activity for the period. Payments that are typical during the first two quarters that have taken place include activity from the prior year, full-year, and one-time payments such as payment for the California Association of LAFCOs (CALAFCO) and California Special District Association (CSDA) memberships, the CALAFCO conference (registration, hotel, and travel for staff and Commissioners), and the Commission's property and liability insurance. Given these one-time and full-year costs, expenditures are generally on target for the fiscal year.

*B. Status of Ongoing Commission-approved Projects*

**SCANNING PROJECT:** In February 2012, the Commission committed up to \$35,462 to scan the closed proposal files and other records that were back-logged and needed to be scanned for archival purposes. The figure below details the project's activities for the first two quarters as well as the current total project expenditure. As of the date of this report, \$25,064 has been expended for this project (\$20,234 to the vendor and \$4,830 for overtime for the clerk and deputy clerk to prepare the files for scanning by the vendor). The project has a remaining allocation of \$10,398 and roughly four-fifths of the contracted files have been scanned. LAFCO staff anticipates that this project will be finished under cost estimates.

Activity	2012-13 Mid-Yr	Total as of Feb 13, 2013
Payments to Vendor	\$16,308	\$20,234
Overtime paid	\$4,830	\$4,830
Total	\$21,138	\$25,064

**WEBSITE UPDATE:** As a part of the FY 2012-13 budget, the Commission approved the expenditure of up to \$10,629 for updating the LAFCO website. The new website is in the testing phase and is anticipated for activation in March or April of 2013. To date, \$7,098 has been spent on the project. Additional cost above the \$10,629 may be incurred in transferring map files for use on the site.

**DATABASE CONTRACT WITH ORANGE LAFCO:** The Fiscal Indicators and Shared Services contract negotiations approved by the Commission at the August 2012 hearing have not been finalized. In meetings with Orange LAFCO staff it has been identified that additional work by OCLAFCO is necessary to allow for use of the programs by others. Staff continues to work with Orange County LAFCO to utilize their programs for development of these databases for San Bernardino County as part of the Second Cycle of Service Reviews. It is anticipated that a resolution to the issues will be completed in March 2013 and staff will bring the contract as a part of the 2013-14 Budget discussions.

*C. Projected Remaining Activity*

Salaries and Benefits are projected to end the year at 91% of budget authority. Budgeted and anticipated activities for the second half include significant expenditures, identified as:

- Legal advertisement, publication, postage, and printing costs as the Commission concludes its consideration of the service reviews and sphere of influence updates for the South Desert communities.
- Payment of legal counsel costs associated with the City of San Bernardino bankruptcy and its effect on the payment of its state-mandated apportionment costs.

- Remaining payments for the independent audit, COWCAP, temporary clerical support, and Commission-approved projects for digital archiving of files and update of the website.

### 3. Contingency and Reserves (6000 series)

The Commission has not authorized any activity in the Contingency or Reserve accounts through the mid-year. None are anticipated at this time for the remainder of the fiscal year.

## **Revenue and Proposal Activity**

### 1. Revenues

#### *A. Mid-Year Activity*

The Commission has received 99% of Amended Budget revenues through the mid-year. The items below outline the revenue activity:

- Interest (Account 8500) – Fifty-one percent of the budgeted interest has been received from the Commission's cash in the County Treasury. However, the bulk of LAFCO's revenues are received during the first quarter of the fiscal year. It is anticipated that the annual rate will remain below 1% for the balance of the year.
- Apportionment (Account 8842) – Ninety-six percent of the mandatory apportionment payments have been received from the County, cities, and independent special districts billed by the County Auditor. At the first quarter review, staff identified that one city and one independent special district had an outstanding payment. Since that time, the outstanding independent special district payment was received through a reduction from that district's property tax allocation. As for the city payment, this matter is discussed in detail below.

At the October hearing the Commission was apprised that no actions related to receiving the City of San Bernardino apportionment funds could be taken due to the bankruptcy filing by the City. At that hearing the Commission was apprised that a legal action related to lifting the stay for LAFCO would be necessary to address the issue and directed staff and legal counsel to pursue this avenue.

Legal counsel during the interim apprised LAFCO staff that the proposed arguments to be submitted for collection of the outstanding apportionment were similar to the CalPERS arguments that were denied by the bankruptcy judge. Based on this information, LAFCO staff and legal counsel once again pursued other avenues for collection prior to officially filing a motion with the bankruptcy court. Happily, on February 8, 2013, LAFCO staff was notified that the City of San Bernardino had submitted payment of its apportionment and the amount had been credited to our revenue account. This amount is not identified on the attached spreadsheet, but will be identified in the reconciliation of payments and receipts at the next hearing. To date legal costs incurred for this matter total \$4,229, with staff anticipating the final expense being approximately \$5,000.

- Fees and Deposits (Accounts 9545 – 9800) – Through the mid-year, the Fees and Deposits series of accounts has received 123% of its budgeted revenue, or \$21,232. This amount is comprised of the following: one proposal and three service contracts received this fiscal year (\$15,950), protest and completion charges from a proposal (\$2,255), and cost recovery for completed proposals and service reviews (\$3,027).

B. *Projected Remaining Activity*

This LAFCO has historically taken a conservative approach to projecting revenues. Keeping in line with this practice, staff projects receipt of interest, one refund to the applicant of a closed file (a debit), and no proposals.

2. Proposal Activity

The figure below identifies the number of proposals, service contracts, and service review deposits received through the mid-year. The figure identifies that one proposal and three service contracts were received. Attachment #2 to this staff report includes a chart showing the yearly comparison of proposal, service review, and completed service review activity.

Activity	Budget	ACTUAL	
		No.	% of Budget
Proposals	3	1	33%
Service Contracts - Development	1	1	100%
Service Contracts - Admin approval	2	2	100%
Service Review Deposits	20	0	0%
Protest Hearing Deposits	2	0	0%

Service Reviews requiring additional time due to complexity, lack of agency participation, or lack of agency resources have been deferred for the end of the first round. Three service reviews were completed during the mid-year. The remainder of the year anticipates the completion of the remaining three service reviews for the South Desert Region, three for mountain road service, for a total of 9 completed service reviews. The current schedule has the first round of service reviews concluding in April. The Commission has already initiated the second cycle Service Reviews for the Valley region and staff is currently formulating the engagement plan. However, this is a state mandated program; therefore, there are no application fees for processing.

Staff believes that the stagnation of application filings have hit bottom. This is based upon its understanding of current activity forecasts for the Inland Empire that the economic and housing challenges are slowly climbing out from the biggest economic slump since the Great Depression. Nonetheless, San Bernardino LAFCO has not yet seen increased proposal activity, nor seen much discussion of future proposals. The effect on long-term funding revenue streams remains depressed.

## Fund Balance

As of December 31, 2012, the Commission's balance in the County Treasury was \$920,133. This amount is comprised of the categories shown in the chart below. Taking into account expenditure and revenue projections, staff is projecting that all of the Reserves and Contingencies will carry forward into FY 2013-14.

<b>DEC 31, 2012 Cash Balance</b>	<b>\$920,133</b>
<b>Liabilities</b> (as of Jan 14, 2012)	
<u>Unearned Revenue from open applications</u>	6,625
<u>Deposits Payable to be spent or refunded from open applications</u>	4,572
<b>FUND BALANCE (Cash - Liabilities)</b>	<b>\$908,936</b>
<b>Committed</b> (formal action to impose, remove, or modify)	
<u>Contingency (Account 6000)</u>	84,730
<u>COWCAP Reserve (Account 6010)</u>	46,780
<u>General Reserve (Account 6025)</u>	200,000
<u>Compensated Absences Reserve (Account 6030)</u>	66,620
<b>Assigned</b> (limitation resulting from intended use)	
<u>Projected Remaining Expenditures</u>	451,481
<b>Estimated Carryover Revenue/(Additional Revenue Needed)</b>	<b>\$59,326</b>
Notes for Estimated Carryover Revenue:	
<i>CURRENT FISCAL YEAR:</i>	
Of the \$64,499 budgeted for the Secretary, \$22,000 transferred to Account 2335. Remaining amount of <b>\$42,999</b> in 1000 series.	
<i>PRIOR FISCAL YEAR</i>	
Of the \$58,371 in additional carryover, <b>\$4,734</b> was unallocated (placed in Account 2445). \$38,266 placed in Account 6000 for loss of apportionment. \$2,137 placed in Account 6000 for legal counsel costs related to Bankruptcy filing. \$13,234 placed in Account 2450 for increased ISD costs due to County contract.	

Staff is closely monitoring the Commission's revenue receipts and expenditures processed, and will apprise the Chairman and Commission of any change in the situation. However, on a positive note, based upon the efforts of the Commission and staff to constrain expenditures, it is projected that the Commission will have sufficient fund balance to complete the current fiscal year in the black and carry forward the reserves identified by staff as shown above.

## **DISCUSSION OF BENEFIT PLAN CHANGES REQUIRED DUE TO RECENT PENSION LEGISLATION:**

### **California Public Employees' Pension Reform Act of 2013**

San Bernardino LAFCO is a participating agency in the San Bernardino County Employees' Retirement Association ("SBCERA"), which is governed by the County Employees Retirement Law of 1937. As of January 1st, SBCERA is also governed by California Public Employees' Pension Reform Act of 2013 ("PEPRA"). PEPRA primarily impacts new employees hired on or after January 1, 2013. An individual who is a member of a reciprocal retirement system but ineligible for reciprocity prior to January 1, 2013 would also be considered a new member. These new employees will receive reduced retirement benefit formulas, limited pensionable compensation, three-year final average salary, and will be required to pay at least 50% of the normal cost of the plan. Although most PEPRA provisions affect new members, a few sections do apply to current members - elimination of Additional Retirement Credit and new Replacement Benefit Plans, new rules for retirees returning to temporary work within the same retirement system, and pension forfeiture for felons.

Additionally, PERPA includes provisions on the agency and the retirement association:

- Pension holidays are no longer permitted.
- The retirement system must now determine whether compensation was paid to enhance a member's retirement benefit, which is consistent with SBCERA's current practice of auditing a member's account prior to payment of retirement benefits.
- An agency must report only compensation earnable to the retirement system, and must certify what pay period the compensation was earned regardless of when it was paid.
- If the agency knowingly fails to report compensation correctly, the retirement system can audit and assess fees to cover the cost of the audit, correction or adjustment necessary, and the agency may not pass this cost on to employees.
- The retirement board may also audit the agency to determine correctness of retirement benefits, reportable compensation, and enrollment in or reinstatement to the system.

### **SBCERA Implementation**

SBCERA has drafted preliminary interpretations which may be revised as the law is implemented. Tier 1 (existing members) are all members with SBCERA membership dates prior to January 1, 2013. All current LAFCO employees are Tier 1 members with the exception of the Executive Officer who is a contract employee. Tier 2 (new members) are members who are new to SBCERA on or after January 1, 2013 or had more than a six month break in service from a prior public retirement system and were ineligible for or did not establish reciprocity. The SBCERA summary is included in its entirety as Attachment #3 and is abbreviated below.

Issue	Tier 1 Existing Members	Tier 2 New Members
<b>Contribution Rates</b>	No change to existing rates. Employer pick-up remains the same.	Must pay at least 50% of total normal cost. Contributions cease when CAP of \$136,440 is hit for 2013.
<b>Benefit Formulas</b>	No change: General 2% @ 55	New formula: General 2.5% @67
<b>Final Average Salary</b>	No change: highest 1-yr avg.	New formula: highest 3-yr avg.
<b>Compensation Earnable vs. Pensionable Compensation</b>	<u>Compensation Earnable:</u> Generally no changes.	<u>Pensionable Compensation:</u> Normal monthly rate of pay or base pay of the member paid in cash. Pay items excluded include leave cashouts and allowances. Capped at \$136,440 for 2013 (adjusted annually for CPI)
<b>Replacement Benefit Plan</b>	No change if employer has a plan in place by Dec 31, 2012.	Not allowed for new members.
<b>Working after Retirement</b>	Must take 180-day break prior to returning to service. Exceptions must be approved by governing body & prove critical need. Hours limited to 960 per year. Pay must not be less than min or more than max paid to other employees.	Same as Tier 1.
<b>Additional Retirement Credit</b>	No longer available.	No longer available.

### Current and Future Actions

As was to be expected, there are varying interpretations of the PEPRA legislation resulting in differing implementation or inaction by various agencies throughout the state. It is anticipated that additional legislation will occur to clear up the ambiguities. Nonetheless, regarding reciprocity, the former system's interpretation of the law may be different than SBCERA or LAFCO's. In this case, LAFCO staff needs to fully understand items allowed under compensation earnable and pensionable compensation at the time that reciprocity is established, which is to be determined by the Commission.

LAFCO mirrors the County Exempt Compensation Plan, and the County has not yet adopted any changes to its Exempt Compensation Plan, other than establishing separate contribution rates for Tier 1 and Tier 2 members on December 18, 2012. As part of the FY 2013-14 Budget, staff will recommend the establishment of the two tier system for contribution rates, update the Commission further on PEPRA and its impact to the budget as well as recommended amendments to the Human Resources Policies and Procedures and Benefits Plan section of the LAFCO Policy and Procedure Manual.

Overall, PEPRA is expected to generate savings. These savings will gradually occur over time as new employees are hired. However, as identified by the Legislative Analyst's Office, the lowering of compensation by reducing pensions may result in offering higher salaries and other benefits over the long-run. Additionally, the advertisement of open positions and offer packages will need to be tailored to fit the new law and the two-tiered system.

### **CONCLUSION:**

The Commission in approving the Fiscal Year 2012-13 Budget emphasized actions to constrain spending to within anticipated revenue streams which were projected conservatively. Staff has identified that the expenditures for the Commission are within budget targets, proposal activity revenues are at full-year anticipated amounts (even though proposals received are under projections), and cost savings have been identified by forgoing the hiring of the LAFCO secretary position authorized in the budget this fiscal year. These are positive budgetary findings in a very difficult financial environment. As part of the FY 2013-14 Budget, staff will update the Commission further on PEPRA and its impact to the budget as well as recommended amendments to the Benefits Plan section of the LAFCO Policy and Procedure Manual.

Staff will be happy to respond to any questions on the information presented in this report prior to or at the hearing.

KRM/MT

Attachments:

1. [Spreadsheet of Mid-Year Expenditures, Reserves, and Revenues](#)
2. [Chart Illustrating Yearly Proposal, Service Contract, and Service Review Activity](#)
3. [SBCERA Summary on the California Public Employees' Pension Reform Act of 2013](#)