

LOCAL AGENCY FORMATION COMMISSION FOR SAN BERNARDINO COUNTY

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DATE: APRIL 13, 2016
FROM:  KATHLEEN ROLLINGS-McDONALD, Executive Officer
MICHAEL TUERPE, Project Manager
TO: LOCAL AGENCY FORMATION COMMISSION

SUBJECT: Agenda Item #9A – Proposed Schedule of Fees, Deposits, and Charges for FY 2016-17

RECOMMENDATION:

Staff recommends that the Commission take the following actions:

1. Review the proposed amendments and provide staff with direction on changes, corrections, or modifications to be included.
2. Direct staff to forward the Proposed Schedule of Fees, Deposits, and Charges for FY 2016-17 to the County, all Cities/Towns, and all Independent Special Districts for their review and comments.
3. Schedule the final review and adoption of the Schedule of Fees, Deposits, and Charges for the May 18, 2016 hearing.

BACKGROUND:

The Commission has established a schedule of fees, deposits, and charges for the processing of proposals and the conduct of proceedings under its purview as allowed by law. This staff report presents the Commission with recommendations for amendments to its current Schedule of Fees, Deposits, and Charges ("Schedule").

The amendments proposed consist of four categories: (1) increase of processing fees, (2) increase of processing deposits, (3) addition of categories for out-of-agency service contracts due to change in statute, and (4) clarification of language and reformatting. Staff is proposing the amended Schedule take effect June 1, 2016 (since applications received in June will be processed in the following fiscal year).

Increase of Processing Fees

Section 56383 includes the provision that the fees shall not exceed the estimated reasonable cost of providing the service for which it is charged. Further, it has been the position of the Commission to keep the fees charged for annexations at a level that recovers the processing costs but does not unduly burden the applicant(s). The last time the fees were increased was in 2010 and since then inflation has increased nine percent, resulting in increased processing costs.

A review of the costs associated with proposals since 2010 does not indicate a need for an increase in the fees for annexations, sphere amendments, or subsidiary district proposals. However, a fee increase is warranted for the items listed below due to the increase in processing costs to cover legal advertising and more complex staff analysis. Therefore, staff recommends the following increases in processing fees (page 2 of the Schedule, attached to this report):

Fee	Current	Proposed
Formation or Consolidation of Special District(s)	\$10,000	\$15,000
Incorporation or Disincorporation of a City, or Consolidation of Cities	\$10,000	\$20,000
Activation/Divestiture of Powers for Special Districts	\$5,000	\$7,500 each
Out-of-Agency Service Contract (subdivisions, specific plans)	\$4,000	\$5,000
Out-of-Agency Service Contract (parcel map, up to 4 units)	\$750 each	\$1,000 each

Increase of Processing Deposits

A review by staff of proposals submitted between FY 2010-11 through FY 2014-15 identifies that for two deposit categories (legal counsel and protest hearing), that LAFCO experienced costs approximately 20% above the original deposits. Commission policy requires applicants to reimburse the Commission for all charges and costs in excess of the deposits which are required to be paid prior to issuance of the Certificate of Completion for jurisdictional changes or issuance of the Commission's resolution for service contracts or sphere of influence amendments. Therefore, based upon this review, staff recommends the following increases for the deposits identified below (pages 4-6 of the Schedule). The deposit for individual notice required by Government Code Section 56157(f) and (g) has been adequate and no increase is proposed at this time.

Deposit	Current	Proposed
Legal Counsel		
Jurisdictional or Sphere Change	\$1,150	\$1,200
Service Contracts	\$575	\$650
Protest Proceeding	\$1,000	\$1,500

Additionally, should a proposal require individual notice to landowners due to the extension of an existing special tax as required by Government Code Section 56125, staff recommends that the fee schedule address the reimbursement of those costs. Staff’s recommendation is the inclusion of an additional deposit for the direct costs such as: (1) the County Assessor to compile the mailing list, (2) outside printing to produce the printed notices, and (3) County Mail for shipping and handling for both the Commission hearing (page 5) and protest hearing (page 6). LAFCO staff would notify the applicant of the deposit amount based upon the parcel count, to include a \$250 non-refundable LAFCO fee, prior to or at the time the application is submitted for Commission consideration.

Addition of Categories for Out-of-Agency Service Contracts

This past year the Governor approved two bills regarding out-of-agency service contracts.

- SB 239 – contracts for the provision of fire protection outside an agency’s boundary (Gov’t Code 56134)
- AB 402 - special provisions for review of out-of-agency contracts outside a sphere of influence, a pilot program established for Napa and San Bernardino LAFCOs with a sunset of January 1, 2021 (Gov’t Code 56133.5)

At the last hearing the Commission amended its policies regarding AB 402 (Government Code Section 56133.5). On the agenda for this hearing is an item related to potential policy and procedure amendments necessary to implement the changes proposed by SB 239 (addition of Government Code Section 56134). However, that item is proposed for continuance to the June 15, 2016 hearing. This staff report proposes to include two new categories within the Schedule to accommodate the new provisions related to service contract statutes, as the existing fee categories cannot accommodate the changes. The proposed fee additions to the Schedule are shown below (page 3, B3 and B4 of the Schedule). Additionally, these items would be subject to the deposits related to a notice, legal counsel and environmental assessment.

Any contract for fire protection services outside a public agency’s jurisdictional boundaries pursuant to Govt. Code Section 56134	\$5,000
Contracts to provide services outside a sphere of influence pursuant to Govt. Code Section 56133.5	\$1,000

Clarification of Language and Reformatting

The proposed Schedule amends language for consistency and updates citations with the current Policy and Procedure Manual. The proposed Schedule also revises the

formatting for ease of use. For example, all items related to city incorporation are now in the same place. These proposed language clarifications and reformatting are deemed to be non-substantive.

CONCLUSION:

At this hearing the Commission is requested to provide staff with any changes, corrections, or additions to be included in the Schedule of Fees, Deposits, and Charges. The Schedule, as amended, will be forwarded 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 scheduled for May 18, 2016.

KRM/MT

Attachment:

Draft Schedule of Fees, Deposits, and Charges for FY 2016-17

LOCAL AGENCY FORMATION COMMISSION
FOR SAN BERNARDINO COUNTY

SCHEDULE OF FEES, DEPOSITS AND CHARGES
EFFECTIVE JUNE 1, 2016

The submission of a proposal to the Local Agency Formation Commission (hereinafter LAFCO) is not officially accepted for processing until the filing fees and deposits have been received (Gov't. Code Section 56383). These fees and deposits ordinarily involve the appropriate LAFCO filing fee and deposits for the recovery of the Commission's direct costs for such items as LAFCO Legal Counsel, environmental review, individual notification costs, and protest proceedings, etc. In addition, certain fees and charges are required at the conclusion of the application process and must be received prior to its official completion. Refer to [Policy and Procedure Manual, Section II, Chapter 2](#) for the Commission's policy related to waivers and reductions of processing fees.

PROCESSING FEES

A. Processing Fees:

1. Annexation, Detachment, Reorganization – involving solely annexations and/or detachments:

Valley and Mountain Region

	Under 20 acres	20 – 150 acres	151 – 275 acres	Over 275 acres
City	\$5,500	\$7,000	\$9,000	\$9,000 plus \$1 per acre over 275 acres
District	\$5,000	\$6,000	\$7,500	\$7,500 plus \$1 per acre over 275 acres

Desert Region (North and South Desert)

	Under 100 acres	100 – 640 acres	641 – 1,920 acres	Over 1,920 acres
City	\$5,500	\$7,000	\$9,000	\$9,000 plus \$1 per acre over 1,920 acres
District	\$5,000	\$6,000	\$7,500	\$7,500 plus \$1 per acre over 1,920 acres

2. Reorganization

(For a reorganization that involves changes other than annexations and detachments, the fee will be based upon the components of the reorganization.)

Sum of
Component
Fees

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| 3. | Sphere of Influence Amendment | \$5,000 |
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The fees identified above for Items A-1 through A-3 shall be assessed for each area of consideration within the proposal. A single area means any separate geographical area requiring a legal description. A "single area" does not include two areas that are contiguous only at a point, or two or more areas that are contiguous to an existing boundary of a city or district but not to each other.

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| 4. | Dissolution, Merger, or Establishment of Subsidiary District(s) | \$5,000 |
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| 5. | Formation or Consolidation of Special District(s) | \$15,000 |
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| 6. | Incorporation or Disincorporation of a City or Consolidation of Cities | |
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| a. | Processing Fee | \$20,000 |
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| b. | Comprehensive Fiscal Analysis for Incorporation or Disincorporation Proposal | Actual Cost |
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(A \$50,000 deposit is required at the time the application is submitted. Applicants shall be required to reimburse the Commission for all costs associated with the preparation of the Comprehensive Fiscal Analysis in excess of the deposit prior to the scheduling of the Commission hearing. If the charges billed to LAFCO for the preparation of the required document are less than the amount of the deposit, the balance will be refunded to the applicant or applied to other categories where excess charges have been incurred.)

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| c. | State Controller's Fiscal Review for Incorporations | Actual Cost |
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(A \$25,000 deposit is required at the time a Request for State Controller Review is submitted. All costs in excess of this amount will be the responsibility of the Requestor for payment. Any balance remaining after payments are made to the State will be refunded to the Requestor of Review.)

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| 7. | Activation/Divestiture of Functions and/or Services for Special Districts | \$7,500 each |
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(The fee shall be assessed for each function or service proposed for change.)

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| 8. | Verification of Petition Signatures by Registrar of Voters Office | Actual Cost |
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(A \$200 deposit from the applicants is required at the time of petition submission. This amount will be refunded upon certification of the petition and determination of billable charges. The charges assessed by the Registrar of Voters Office to verify petition signatures shall be payable by the affected entity in the same manner as the verification of initiative petition signatures is billed.)

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| 9. | Request for Reconsideration of LAFCO Decision/
Environmental Determination | \$1,100 |
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(Should a reconsideration request require individual notice due to the extension of a special tax, then the proponent will be required to submit a deposit for the direct costs to produce and mail the individual notices.)

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| 10. | Request for Extension of Time to Complete Change of Organization Proceedings (Gov't. Code Section 57001) | \$1,100 |
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11. Workshop Fees Actual Cost

(Proponents of actions pending Commission review may request that a Commission workshop be held in their area. If the Commission agrees to conduct such a workshop session, the Commission may require reimbursement of all costs associated with that session by the proponents, subject to a \$1,000 deposit.)

**B. Processing Fee for Out-of-Agency Service Contract Review
(City or District):**

The following service contracts require a noticed Commission hearing and environmental review:

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| 1. | Contracts involving developments such as: subdivisions/tracts as defined by the Subdivision Map Act (five or more units), Specific Plans | \$5,000 |
| 2. | Contracts involving the development of units requiring only a parcel map as defined by the Subdivision Map Act (up to four units) | \$1,000
per connection |
| 3. | Any contract for fire protection services outside a public agency's jurisdictional boundaries pursuant to Govt. Code Section 56134 | \$5,000 |
| 4. | Contracts to provide services outside a sphere of influence pursuant to Govt. Code Section 56133.5 | \$1,000 |
| 5. | Service Contract Requiring Approval Pursuant to Govt. Code Section 56133, Subsection (c) | \$750 |

The following service contracts request an exemption by the Commission or Administrative Review:

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| 6. | Development Related Request for Exemption from Govt. Code Section 56133, requires noticed Commission hearing | \$2,250 |
| 7. | Administrative Review of Non-development-related Out-of-Agency Service Contract (City or District) or Non-development Related Exemption from Govt. Code Section 56133 as Authorized by Commission Policy | \$500 |

PROCESSING DEPOSITS

Applicants shall be required to reimburse the Commission for all charges and costs in excess of the deposits outlined below. 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 or sphere of influence amendments/updates. 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.

A. Legal Counsel:

1. Legal Counsel Deposit

- a. Jurisdictional Change or Sphere of Influence Change (applicable to actions listed under Item A, #1 through #7)

\$200 non-refundable LAFCO fee	\$1,000 Deposit for LAFCO Legal Counsel costs	\$1,200 Total Deposit required upon application submission
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- b. Service Contracts Item B #1 through #5

\$200 non-refundable LAFCO fee	\$450 Deposit for LAFCO Legal Counsel costs	\$650 Total Deposit required upon application submission
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(It is the policy of this Commission that the costs for Special Counsel due to a representation conflict shall be the responsibility of the applicant. Refer to [Policy and Procedure Manual, Section II, Chapter 2.](#))

2. Legal Defense

Actual Cost

(As a condition of approval of any action taken by LAFCO, the proponents shall be required to defend, indemnify and hold harmless LAFCO or its agents, officers, and employees from any claim, action, or proceeding against LAFCO or its agents, officers, and employees to attack, set aside, void, or annul the approval of LAFCO concerning the proposal or any action relating to, or arising out of, such approval when such action is brought within the applicable statute of limitations. Refer to [Policy and Procedure Manual, Section II, Chapter 2.](#))

B. Environmental Review:

1. Environmental Review Deposit

- a. Jurisdictional Change or Sphere of Influence Change (applicable to actions listed under Item A, #1 through #7)

\$200 non-refundable LAFCO fee	\$550 Deposit for LAFCO Environmental Consultant costs	\$750 Total Deposit required upon application submission
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b. Service Contracts (Item B, #1 through #5)

\$200 non-refundable LAFCO fee	\$250 Deposit for LAFCO Environmental Consultant costs	\$450 Total Deposit required upon application submission
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(All applicants shall be required to pay the full costs of the Commission's Environmental Consultant's review regardless whether the Commission is the lead or responsible agency as defined under CEQA.)

- 2. Appeal of Environmental Recommendation \$750
- 3. Preparation of Environmental Impact Report Actual Cost

(A \$20,000 deposit with LAFCO shall be required before proceeding toward preparation of the required environmental documents.)

- 4. If the proposal requires that LAFCO prepare a Negative Declaration or Environmental Impact Report as CEQA lead agency, the California Department of Fish and Wildlife CEQA Environmental Document Filing Fees are required to be paid at the time LAFCO files the Notice of Determination with the Clerk of the Board of the affected County. The fees listed below (which include the County's \$50 processing fee) are current as of January 1, 2016. The applicant will be notified of the appropriate fees, which must be received by LAFCO prior to the Commission hearing:
 - a. Negative Declaration (LAFCO as lead agency) \$2,260.25
 - b. Environmental Impact Report (LAFCO as lead agency) \$3,120.00

C. Individual Notice:

- 1. Deposit for Individual Notice (Registrar of Voters Review, and Registered Voter and Landowner Notification Requirements)
 - a. Proposals listed under Items A1, A2, A3, B1-B5

\$250 non-refundable LAFCO fee	\$450 Deposit for Individual Notification costs	\$700 Total Deposit required upon application submission
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(Pursuant to Policy and Procedure Manual, Section IV, Chapter 1, Policy 9: Individual Notice of Commission Hearings to Landowners and Registered Voters, the individual notice of Commission proceedings shall be provided for all changes of organization, sphere of influence changes, or development-related service contracts, except as identified in item C2 below. Please contact the LAFCO office if the proposal would require individual notice or is eligible for a waiver.)

- b. Deposit for Publication of Display Ad in lieu of Individual Notice \$1,000
Proposals listed under Items A4 – A7, and those actions where individual notice has been waived by the Commission.
(Policy and Procedure Manual, Section IV, Chapter 1, Policy 9: Individual Notice of Commission Hearings to Landowners and Registered Voters)

(In cases where the change would involve mailing more than 1,000 notices, the Commission may waive the individual notice requirement and direct its staff to publish a 1/8th page display ad in a newspaper of general circulation within the area. By policy, individual notice to landowners and registered voters shall not be waived for city island annexations filed pursuant to Government Code Section 56375.3, even if it includes more than 1,000 notices.)

2. **Additional Deposit for Proposals Extending an Existing Special Tax** **Actual Cost**

(Should a proposal require individual notice due to the extension of an existing special tax, the proponent will be required to submit a deposit for the direct costs such as: (1) the County Assessor to compile the mailing list, (2) outside printing to produce the printed notices, (3) and County Mail for shipping and handling, to include a \$250 non-refundable LAFCO fee. Please contact the LAFCO office for the estimated deposit cost.)

D. **Protest Proceeding:**

(Deposit required within 30 days of Commission approval of action. The Protest Hearing will not be set until deposit has been paid. Applicants shall be required to reimburse the Commission for any protest proceeding costs in excess of the deposit. 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 the deposit, the balance of the fee will be refunded to the applicant or applied to other categories where excess charges have been incurred.)

1. **All Proposals Subject to a Protest Proceeding**

\$200 non-refundable LAFCO fee	\$1,300 Deposit for LAFCO Protest Proceeding costs	\$1,500 Total Deposit required for Protest Proceeding
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2. **Additional Deposit for Proposals Extending an Existing Special Tax** **Actual Cost**

(Should a proposal require individual notice due to the extension of an existing special tax, the proponent will be required to submit a deposit for the direct costs such as: (1) the County Assessor to compile the mailing list, (2) outside printing to produce the printed notices, (3) and County Mail for shipping and handling, to include a \$250 non-refundable LAFCO fee.)

COMPLETION FEES AND CHARGES

Following Commission approval of an action, the following fees or charges may be required. LAFCO staff will notify the applicant at the time the Commission’s resolution is forwarded which of the following fees or charges is applicable to the proposal:

A. County Geographic Information Management System (GIMS) Processing, required prior to issuance of the Certificate of Completion for jurisdictional changes or issuance of the Commission’s resolution for sphere of influence amendments/updates:

1. Changes requiring an update to current sphere or boundaries of participating agencies

(Fees identified below will be assessed for each area of consideration. The definition of area is provided under Processing Fees on Page 1.)

<u>Acreage</u>	<u>Primary Charge</u>	<u>Additional Agency</u>
0 to 100 acres	\$400	\$ 85
101 to 640 acres	\$550	\$110
641 to 2,560 acres	\$825	\$150
over 2,560 acres	\$1,100	\$175

2. Incorporation, Formation, or placement of a new agency boundary or sphere into the LAFCO-maintained GIMS system \$3,000

(The fees for incorporations or formations can be deferred until the new City/Town or District receives its first revenues. A request for deferral shall be made to the Executive Officer.)

B. At the time the Certificate of Completion is forwarded to the State Board of Equalization (SBE), application types listed under Item A - Processing Fees Subsections 1 through 7 (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, 2011. LAFCO staff will notify the applicant of the appropriate fees:

Single Area Charges:	
Less than 1 acre	\$300
1-5 acres	\$350
6-10 acres	\$500
11-20 acres	\$800
21-50 acres	\$1,200
51-100 acres	\$1,500
101-500 acres	\$2,000
501-1,000 acres	\$2,500
1,001-2,000 acres	\$3,000
2,001 acres and above	\$3,500

(Additional types of charges are outlined in the State Board of Equalization Fee Schedule. LAFCO staff will notify the applicant of the appropriate fees.)

MISCELLANEOUS CHARGES

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| A. | Charges for Purchase of Paper Copies, per page | |
| | (1) from paper materials (requests in excess of 10 pages) | 10 cents |
| | (2) from existing digital data (requests in excess of 20 pages) | 5 cents |
| B. | Charges for Purchase of Digital Data | |
| | (1) placement of materials on CD | \$10 per CD |
| | (2) scan copies of paper materials (if applicable), per page | 5 cents |
| C. | DVD Copy of Commission Hearing
(available if production services are utilized for hearings) | \$25 per DVD |
| D. | Preparation of Transcript of Hearing | Actual Cost |

(Those requesting a transcript of a Commission hearing will be notified of the estimated cost for preparation. The Requestor will be required to provide a deposit in the amount of the estimated cost. All costs in excess of the deposit amount will be the responsibility of the Requestor for payment. Any balance remaining after final charges are determined will be refunded to the Requestor.)

KRM/June 1, 2016