

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

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DATE: APRIL 14, 2010

FROM: MICHAEL TUERPE, LAFCO Analyst

TO: LOCAL AGENCY FORMATION COMMISSION

SUBJECT: Item #10A: Proposed Schedule of Fees, Deposits, and Charges for Fiscal Year 2010-11 and Amendment to Policy #27 Related to Individual Notice

RECOMMENDATION:

Staff is recommending that the Commission take the following actions:

1. For the LAFCO Schedule of Fees, Deposits, and Charges for FY 2010-11:
 - a. Review the proposed modifications and provide staff with direction on changes, corrections, or amendments to be included;
 - b. Direct staff to forward the Proposed Schedule of Fees, Deposits, and Charges for FY 2010-11 to the County, all Cities/Towns, and all Independent Special Districts for their review and comments pursuant to Government Code Section 66016;
 - c. Schedule the final review and adoption of the Schedule of Fees, Deposits, and Charges for the May 19, 2010 hearing.
2. Review and approve amendments to Policy #27 related to individual notice of Commission hearings to landowners and registered voters.

BACKGROUND:

Staff is presenting the Commission with recommendations for modifications to its Schedule of Fees, Deposits, and Charges and amendment to Commission Policy #27 – Individual Notice of Commission Hearings to Landowners and Registered Voters.

SCHEDULE OF FEES, CHARGES, AND DEPOSITS:

Pursuant to Government Code Section 56383, the Commission has established 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 proposing amendments to the Schedule of Fees, Deposits, and Charges (Schedule) to take effect June 1, 2010 (since applications received in June will be processed in the following fiscal year). The proposed Schedule (included as Attachment #1 to this report) identifies the changes in bold italic print. The following is a listing of the proposed changes with the changes identified in bold italic.

1. Effective January 1, 2009, proposals for the addition or deletion of powers for a special district is considered a “change of organization” which includes additional requirements for processing such as a property tax transfer process and protest proceeding. Therefore, staff is recommending an increase to the LAFCO Fee for this type of proposal to cover the additional processing costs. The increased fee of \$5,000 is the same fee charged to proposals for dissolution or merger for special districts.

A7. Addition/Deletion of Powers for Special Districts ***\$4,125 \$5,000***

2. For out-of-agency service contracts requiring approval pursuant to Govt. Code Section 56133(c), staff recommends a change in the description to adequately reflect the activity as well as an increase in the filing fee. An increase to \$750 is recommended to recover the processing costs associated with consideration at a public hearing.

B3. ***Service Contract Requiring Approval Pursuant to Request for Exemption from*** Govt. Code Section 56133, Subsection (c) ~~***(health and safety issue)***~~ ***\$550 \$750***

3. Staff recommends a change in the description for the LAFCO Filing Fee for administrative review of nondevelopment-related out-of-agency service contracts. As shown, staff is not recommending an increase in the fee.

B5. ***Administrative*** Review of Nondevelopment-related Out-of-Agency Service Contract (City or District) ***as Authorized by Commission Policy*** ***\$500***

4. Staff recommends three changes to the Legal Deposits required at the time of application submission.

- First, the legal counsel deposit for city island annexations currently is required at a lesser deposit than other jurisdictional changes. Actual charges for city island annexations are more reflective of a typical

jurisdictional change, and staff recommends that city island annexations be included in the Jurisdictional Change category for legal deposits (Item C1a).

- Second, a review of the billing history for service contracts indicates that applicants on average have been refunded \$450 or more for the legal deposit. Therefore, staff recommends that the legal deposit required for service contracts be reduced from \$825 to \$575 (Item C1b).
- Third, staff recommends a clarification as to which types of service contracts require submission of legal deposits (Item C1b).

C1. Legal Deposits are required at the time of application submission identified as follows:

- a. Jurisdictional Change (applicable to actions **identified listed** under Item A, #1 through #7 except for Item #3c)

\$200 non-refundable LAFCO fee	\$950 Deposit for LAFCO Legal Counsel costs	\$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 **through #3 —#4**

\$150 non-refundable LAFCO fee	\$675 \$425 Deposit for LAFCO Legal Counsel costs	\$825 \$575 Total Deposit required upon application submission
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5. Staff recommends two changes to the Environmental Review Processing deposit category.

- First, staff recommends a clarification as to which service contracts require submission of environmental review deposits (Item D1b).
- Second, that the Schedule reflect the increases in the Fish and Game filing fees (the responsibility of the applicant), effective January 1, 2010 (Item D4).

D1. Environmental Review Deposit:

- a. Jurisdictional Change (applicable to ~~types of~~ actions listed under Item A, #1 through #7 except for Item #3c)

\$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 #4~~ –#2–)

\$150 non-refundable LAFCO fee	\$300 Deposit for LAFCO Environmental Consultant costs	\$450 Total Deposit required upon application submission
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D4. 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~~ 2010. LAFCO staff will notify the applicant of the appropriate fees:

a.	Negative Declaration (as lead agency)	\$2,043.00 \$2,060.25
b.	Environmental Impact Report (as lead agency)	\$2,818.25 \$2,842.25
c.	Notice of Determination (as responsible agency)	\$50.00
d.	Notice of Exemption	\$50.00

6. Discussed below in this staff report, staff is recommending amendment to the Commission’s policy related to individual notice of Commission hearings. Should the Commission accept staff’s proposed policy amendments, staff recommends that the language for Deposit for Display Ad (Item F) be modified accordingly as identified below. As shown, staff is not recommending an increase in the deposits.

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

[Applicable to actions listed under Items A1, A2, A3, (except for Item 3c), B1 and B2

\$250 non-refundable LAFCO fee	\$450 Deposit for Individual Notification costs	\$700 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 Display Ad Required for *Items A4 through A7* \$1,000
~~*Incorporation, Formation, Consolidation or Dissolution Proposals*~~

(Adopted Commission policy waives the requirement for individual landowner and registered voter notice inside and surrounding a proposal for **dissolution, merger, or establishment of subsidiary district; formation or consolidation of special districts; activation of divestiture of powers for special districts; consolidation of cities; or incorporation or disincorporation of a city proposal, incorporation, formation, consolidation and dissolution proposals**. In doing so, the Commission required that a 1/8th page display ad be provided in a newspaper of general circulation within the area. ~~and a local newspaper~~. Applicants shall be required to reimburse the

Commission for advertisement charges in excess of the deposit prior to issuance of the Certificate of Completion. If the charges billed to LAFCO 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.)

7. Staff recommends that the Commission modify the DVD reproduction and preparation of transcript charges to be more reflective of the cost. The proposed changes are identified below to provide these products:

D. Copy of Commission Hearing

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b. DVD (available if production services are utilized for hearings) ~~\$25~~ \$20 per DVD

E. Preparation of Transcript of Hearing

~~\$53 per hour~~ Actual Cost

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POLICY #27 – INDIVIDUAL NOTICE:

The current policy for individual notice to landowners and registered voters of Commission hearings does not identify the full range of proposals for which an automatic waiver is granted on the basis that such items routinely exceed 1,000 notices (as allowed pursuant to Government Code Section 56157). Staff recommends that the policy language be amended to include the following proposal types: dissolution, merger, or establishment of subsidiary district; formation or consolidation of special districts; activation or divestiture of powers for special districts; consolidation of cities; or incorporation or disincorporation of a city. As required by Section 56157, in lieu of individual notice a 1/8th page legal ad will be placed in a newspaper of general circulation within the area of consideration.

For proposals where such a change would involve mailing more than 1,000 notices but not granted an automatic waiver of individual notice, the current policy states the Commission may direct staff to publish a 1/8th page legal ad in a newspaper. However, the procedure for such a waiver is not defined. Staff recommends that the Commission approve the procedure as outlined below.

- After consultation with the applicant, if the Executive Officer has identified controversy, no waiver shall be granted.
- Where no controversy has been identified by the Executive Officer, the waiver will be tentatively authorized subject to the following:
 - The Executive Officer is to provide individual notice to each Commission member identifying the determination of no controversy and the preliminary determination to waive individual notice.
 - If the Executive Officer receives objection from any Commissioner no waiver shall be granted.

The recommended procedure is similar to that of waiver of conflict for legal counsel (Policy 34). However, the Commission has required that individual notice shall not be waived for city island annexations even if it exceeds more than 1,000 notices.

A complete copy of the proposed amended Policy #27 is included as Attachment #2 to this report.

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 as required by statute. Any comments received will be reviewed with the Commission at the final hearing scheduled for May 19, 2010.

Additionally, staff recommends that the Commission review and approve the amended Policy #27 related to individual notice of Commission hearings to landowners and registered voters.

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Attachments:

1. [Draft Schedule of Fees, Deposits, and Charges](#)
2. [Draft Amended Policy #27](#)