

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

215 North D Street, Suite 204, San Bernardino, CA 92415-0490  
(909) 383-9900 • Fax (909) 383-9901  
E-MAIL: [lafco@lafco.sbcounty.gov](mailto:lafco@lafco.sbcounty.gov)  
[www.sbclafco.org](http://www.sbclafco.org)

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**DATE:           OCTOBER 8, 2008**

**FROM:           MICHAEL TUERPE, LAFCO Analyst**

**TO:              LOCAL AGENCY FORMATION COMMISSION**

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**SUBJECT:   Agenda Item # 6: First Quarter Financial Report for Period  
              July 1, 2008 through September 30, 2008**

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**RECOMMENDATION:**

1. Note report and file.
2. Adopt Resolution No. 3033 regarding 414(h)(2) pick-ups so LAFCO employees may elect to redeposit member contributions, and/or make additional contributions for the purchase of service credit, additional retirement and sick leave as permitted under County Employees' Retirement Law of 1937.

**BACKGROUND:**

Staff is presenting the Commission with a spreadsheet that summarizes the Commission's expenditures and revenues for the period beginning July 1, 2008, through the end of the first quarter, September 30, 2008 (Attachment #1). The information attached shows that the Commission has incurred 25% of its anticipated expenditures and has received 99% of its anticipated revenues. The following information provides a discussion of these revenues and expenditures.

**Expenditures**

Expenditures within the 1000 series of accounts (Salaries and Benefits) are at 25% of expenditure authority. However, the first quarter included seven pay periods and unbudgeted increases for medical and dental subsidy payments, auto allowance, retirement medical trust fund contributions, and deferred compensation. The Commission at the August 2008 hearing approved these increases to mirror changes in the County's Exempt Compensation Plan. In addition, at the time of the budget adoption, the Commission did not have a dedicated deferred compensation plan account; it is now reflected in Account 1376.

Expenditure items sensitive to activity levels in addition to one-time payments have brought expenditures within the 2000 series of accounts (Services and Supplies) to 32% of appropriation authority. The expenditures identified on the spreadsheet include:

- Full year and one-time payments totaling \$36,150 in Accounts:
  - 2075 (Memberships) for membership in professional organizations (\$7,060). One membership remains (\$765) with billing expected in November.
  - 2245 (Other Insurance) for property liability purchased through SDRMA (\$9,148). This is the full year cost and no additional costs are anticipated.
  - 2415 (COWCAP - Countywide cost allocation plan) for costs incurred from FY 05-06 (\$22,065).
- Travel expenses related to the CALAFCO conference totaling approximately \$4,400 (various accounts).

After the adoption of the budget, two budgeted activities are now reflected in different accounts. They are:

- All legal expenses were budgeted in Account 2400 (Legal Counsel). LAFCO staff has separated outside legal activities (litigation and special counsel) which are now accounted in Account 2449 (Outside Legal).
- LAFCO utilizes the County's contract with Office Depot for office supplies. LAFCO has historically budgeted for Office Depot charges in Account 2305 (General Office Expense). Per County direction, Office Depot charges are now reflected in Account 5012 (Office Depot). The 5000 series of accounts was not budgeted for the fiscal year and requires authorization by the Commission for its use. To account for this change in practice, staff during the mid-year budget review will request transfers to and from the appropriate accounts.

Given these one-time, full year, and reimbursable costs, expenditures are generally on target for the fiscal year. However, significant legal advertisement, publication and printing costs are anticipated for the upcoming months as the Commission begins its consideration of the San Bernardino Valley Municipal Water District and San Bernardino Valley Water Conservation District consolidation and completes its consideration of the municipal service reviews. Staff will closely monitor expenditures to ensure that costs are controlled within expenditure authority provided.

## Revenues

The Commission has received 99% of its anticipated revenues, and the revenue receipts include 98% of the mandatory apportionment payments from the County, the cities and independent special districts billed by the County Auditor.

The chart identifies that 38% (\$71,953) of Total Fee Revenue has been received; although, the fees and deposits that comprise Total Fee Revenue vary, depending on the proposal. However, \$5,000 of this amount is for deposits related to municipal service reviews. Adjusting for these deposits, Total Fee Revenues are at 35%.

Revenues within the fee and deposit categories are meeting expectations, as illustrated by the percentage of receipts for Total Fee Revenue. However, the current economic and housing challenges will affect future activity. Staff will closely monitor the Commission's revenue receipts and apprise the Commission of any changes.

At quarter's end, the Commission's operating fund had a balance of \$1,018,595.

#### Proposal Activity

Attachment #2 to this report is a chart outlining a comparison of the Commission's proposal type activity through September 30, 2008. To date, the Commission has received three proposals, four service contracts, and has completed seven service reviews.

#### **SAN BERNARDINO COUNTY EMPLOYEE RETIREMENT ASSOCIATION (SBCERA) CONTRIBUTIONS:**

In October 2006, Mr. Timothy Barrett, General Manager of SBCERA notified LAFCO staff of the requirement for adoption of two new resolutions authorizing payment for pick-up of employee (member) retirement costs. This request was prompted by an Internal Revenue Service (IRS) ruling on tax pick-ups of member contributions to retirement funds that directly affects both employers and public pension plans. This ruling (IRS Rev. Rul 2006-43) repeats previous guidance but issues a firm reminder for those not in compliance with Section 414(h)(2) of the Internal Revenue Code. Non-compliance would expose each employee tax on their contributions, and the employer would be exposed to taxes on their contributions. The IRS has given a grace period until 2009 to fix the outstanding, but not operational, problems.

While LAFCO has passed previous resolutions regarding pick-ups, in 2006 the SBCERA recommended that LAFCO pass two resolutions authorizing its employees to make retirement contributions and service credit purchases to SBCERA on a pre-tax basis. The first requested resolution was a reconfirmation of pick-ups for required employee retirement contributions and elective service credit. In January 2007, the Commission adopted the first resolution reflecting existing practices and its adopted Benefits Plan.

The second requested resolution would reflect a new type of retirement pick-up for redeposits and elective purchase of additional retirement credit and sick leave. At that time, staff was aware of concerns of the County of San Bernardino regarding this resolution request. Given the County's concerns, staff notified the Commission that additional time was necessary to evaluate this request further. Upon evaluation, the County passed this second resolution on August 5, 2008. LAFCO staff now requests that the Commission adopt this second resolution for redeposits and elective purchase of additional retirement credit and sick leave.

The staff will be happy to respond to any questions on this information prior to or at the hearing.

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Attachments:

1. First Quarter Status Report Spreadsheet Expenditures and Revenues
2. Chart Illustrating Proposal Activity through September 30, 2008
3. Draft Resolution No. 3033 and October 17, 2006 Letter from Mr. Timothy Barrett, Executive Director of SBCERA