

LOCAL AGENCY FORMATION COMMISSION
POLICIES AND GUIDELINES

2.2 LAFCO FEES

2.2.1 Application of Fees

- (a) Effective May 2015, the Commission shall periodically review its fees and adopt a fee schedule for the purpose of recovering the costs pursuant to the Cortese-Knox-Hertzberg Act (§56383(a), §56384, §66016). See Section 8.3, Fee Schedule. The period between these reviews shall be no greater than once every five years.
- (b) The schedule of fees shall not exceed the estimated reasonable cost of providing the service for which the fee is charged and shall be imposed pursuant to §66016 and §56383.
- (c) No petition shall be deemed filed until the fee has been deposited (§56383(c)).
- (d) Any individual or entity that requests a LAFCO initiated study or service review of special district changes of organization or reorganization shall be responsible for required fees. Fees are due immediately after LAFCO acts to initiate the study. LAFCO will encourage cooperatively developed fee sharing agreements for LAFCO initiated multi-agency service reviews.

2.2.2 De Minimis Project Fee Waivers (Approved September 4, 1997)

- (a) Proposed projects which include requests for minor administrative or corrective actions shall be “De Minimis” for application processing and fee collection purposes if staff determines that the project:
 - is consistent with Section 56668, factors to be considered, and LAFCO policies and procedures;
 - will not cause significant adverse impacts upon any agency or individual;
 - does not involve any new extension of service;
 - is proceeding with the consent of all affected landowners; and
 - is defined as ministerial under, or qualifies for an Exemption from, the requirements of the California Environmental Quality Act.
- (b) De Minimis projects may be approved without notice or public hearing (§56662 and §56663).

2.2.3 Appeal of Fees

- (a) LAFCO fees may be appealed before the Commission.

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- (b) Appeals shall be submitted in writing with the application and contain specific justifications for the request. The appeal will be considered at the next LAFCO hearing.
- (c) Project processing will not begin until a fee determination is rendered by LAFCO.
- (d) The Commission may waive, defer or reduce fees based on the determination that the payment of such fee will result in undue and extra hardship to the applicant that is not caused by the applicant's own action, and where it can be demonstrated that the project is necessary for the public health, safety and welfare (§56383 (d)).
- (e) The Commission will consider the budget impacts of any fee waivers or reductions.

2.2.4 Refunds

- (a) If an application is withdrawn, LAFCO will refund fifty percent of the submitted fee, or a sum equal to the original fee minus processing costs to date, whichever ensures that LAFCO recovers its actual costs.
- (b) No refunds will be provided after a public hearing has been scheduled and LAFCO's scheduling procedure has been concluded. (Scheduling procedure includes mailed notices, legal ads, other agency notification.)
- (c) Projects which change substantially and require major revisions of previously completed work may be subject to the collection of additional fees (Adopted March 6, 1997).

2.2.5 Legal Defense Fees

- (a) The direct costs for legal defense of a LAFCO approval are considered application processing costs and are the responsibility of the applicant. As a condition of approval for any action, the Commission will impose a condition which requires, in the event of legal challenges, that the applicant assume the full legal defense costs because they are a liability incurred by LAFCO after, and as a result of, project approval (§56886(f), §56383).
- (b) The Commission reserves the right to waive payment if it finds that payment of such fee will result in extraordinary hardship to the applicant, and where it can be demonstrated that the project is necessary for the public health, safety and welfare.
- (c) The Commission may include, within its resolution of approval, a condition which requires the applicant to defend, indemnify, and hold the

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Commission harmless, in the event that legal action is taken against LAFCO as a direct result of a project's approval.

- (d) The Executive Officer shall notify an applicant of any legal action brought challenging the Commission's action, and the Commission, its agents, and employees shall cooperate fully in the defense of that action.
- (e) The applicant may provide his or her own counsel in the defense of the action taken, under the supervision of LAFCO Counsel, or the applicant may elect to use the services of LAFCO Counsel in that defense. In either case, the Executive Officer may require a deposit of funds sufficient to cover estimated expenses of the litigation (§56383(c)).

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2.10 FUND BALANCES

- 2.10.1 Fund balances are classified in accordance with the Governmental Accounting Standards Board (GASB) Statement Number 54, *Fund Balance Reporting and Governmental Fund Type Definitions*. Reporting of fund balance in LAFCO's CAFR will be based on the amounts and classifications listed in the fund balance summary of LAFCO's Annual Budget. Classification of fund balance reflects the current plans of the Commission with respect to the use of fund balance. These plans represent current intention and are subject to change and assignment. Furthermore, the classification of funds (reflecting current plans for asset use) does not in any way limit the ability of LAFCO to use those funds for other purposes, as deemed necessary by LAFCO.
- 2.10.2 Under GASB Statement Number 54, fund balances will be classified as "Non-Spendable" and "Spendable". Spendable categories will be further classified as *Restricted, Committed, Assigned, and Unassigned*.
- 2.10.3 Non-Spendable: The Commission shall designate fund balance as "Non-Spendable" for amounts that cannot be spent or are not in spendable form (i.e. prepaid items, land held for resale, long-term receivables), or are legally or contractually required to be maintained intact. Although, if the use of the proceeds from the sale of those properties or from the collection of those receivables is restricted, committed, or assigned, then they should be included in the correct spendable classification rather than the Non-Spendable classification.
- 2.10.4 Spendable Category Definitions
- a. Restricted: The Commission shall designate fund balance as "Restricted" for amounts that are externally imposed by creditors, grantors, contributors, or laws and regulations of other governments. The Commission shall also designate fund balance as "restricted" if required by imposed enabling legislation or regulations.
 - b. Committed: The Commission shall designate fund balance as "Committed" for amounts committed for specific purposes by formal action of LAFCO, such as enacted ordinances, resolutions, or action-items, which prevent the amounts from being used for any other purpose without formal action of LAFCO. Committed funds also include contractual obligations to the extent that existing resources have been specifically committed for use in satisfying those contractual requirements.
 - c. Assigned: The Commission or Executive Officer may designate fund balance as "Assigned" for amounts intended to be used for specific purposes without formal action. This authority to determine the portions of a fund balance that

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is to be reported as "Assigned" in LAFCO's CAFR may be delegated to the Executive Officer or the Executive Officer's designee.

- d. Unassigned: The Commission shall designate fund balance as "Unassigned" for amounts that are in excess of Non-Spendable, Restricted, Committed, and Assigned fund balances.

2.10.5 LAFCO will allocate the fund balances in the following manner:

- a. Assigned: An "Accrued Leave" fund to cover the balance of all employees' vested time off (vacation and sick leave), allocated annually as a line item in the budget. Funds may be expended for the sole purpose of compensating an employee who leaves the agency's employment of the balance of his/her accrued time off, in accordance with applicable Federal and State laws and in conformance with LAFCO's policies. Disbursement of the Accrued Leave is delegated to the Executive Officer.
- b. Assigned: An "Operating Contingency" fund set at 10% of total operating expense, allocated annually as a line item in the budget. Funds may be expended to cover increases in cost for other budget items or unexpected expenses within the scope of other items in the budget. Disbursement of the operating contingency is at the discretion of the Executive Officer.
- c. Assigned: An "Emergency Expense" fund set at a maximum of 5% of the LAFCO budget for the purposes of funding non-budgeted legal expenses that may occur from time-to-time; unexpected catastrophic expenses; or an unexpected drop in revenues. Expenditure of "Emergency Expense" funds must receive prior approval of the Commission. An emergency expense can be authorized from the "Emergency Expense" with approval of the Executive Officer and either Commission Chair or Vice Chair for an amount totaling less than \$10,000.00 during a monthly period. Assignments into this classification will not be allocated in the budget. Instead, assignments into this fund will come from any carryover monies that are in excess of the estimated carryover amount specified in the final budget. Upon the time the "Emergency Expense" fund is fully funded in accordance with this policy, the application of any excess carryover monies will be applied per Policies & Guidelines Section 2.7.5.
- d. Unassigned: Carryover/Fund Balance amounts, as defined in Policy 2.1, can be deposited into LAFCO's short-term CalTRUST account between the time the amount is calculated and its utilization on the fiscal year beginning with July 1 after the amount has been calculated.