

EL DORADO LAFCO

LOCAL AGENCY FORMATION COMMISSION

AGENDA OF OCTOBER 26, 2011

REGULAR MEETING

TO: Ron Briggs, Chair, and
Members of the El Dorado County Local Agency Formation
Commission

FROM: José C. Henríquez, Executive Officer

AGENDA ITEM #6: **CONSIDERATION AND ADOPTION OF THE AMENDED EL
DORADO LAFCO FEE SCHEDULE**

RECOMMENDATION

Staff recommends that the Commission:

1. Receive and adopt the attached fee schedule so that the agency can recover the costs of processing applications;
2. Set an effective date of December 26, 2011 for the new fee schedule; and
3. Determine that any project currently being processed by LAFCO is subject to the current Schedule of Fees prior to the effective date of the new fee schedule and subject to the new rates after that date.

REASON FOR RECOMMENDED ACTION

Section 2.2.1(a) of the Commission's Policies and Guidelines require the periodic review of the fee schedule. In addition, an update to the fee schedule was one of the new initiatives adopted by the Commission for Fiscal Year 2011-2012.

BACKGROUND

Government Code §56383 allows for the Commission to adopt a Schedule of Fees to recover the "estimated reasonable costs" of processing various LAFCO actions. Outside of adjusting the hourly rate charged to applicants, staff does not recommend substantial changes to the fee schedule. Back in 2006, which was the last time the hourly rates were set, the Commission also adopted a multiplier into the fee schedule, whereby the staff hourly rates would increase 2% annually to keep up with costs and annual budget changes.

Hourly Rates

The recommended new rates better reflect the current salary compensation levels; though, the changes are relatively minor as shown here. These rates would be the applicable current rates for Fiscal Year 2011-2012 and the rates recommended after the effective date of December 26, 2011:

Employee	Current rates	Recommended Rates	Change (+/-)
Executive Officer	\$122.85	\$115.64	-\$ 7.21
Policy Analyst	\$ 57.25	\$ 60.89	+\$ 3.64
Clerk	\$ 47.70	\$ 36.25	-\$11.45

The hourly rate calculations are included in Attachment B and an explanation of the factors and methodology used to derive at these numbers are included in Attachments C, D and E. While staff does not forecast a significant increase in operating costs or in salaries, in the recent past expenditures for retirement and health benefits combined have been the primary drivers of increasing costs to the agency. Consequently, staff recommends that the Commission also adopt a built-in formula to increase the hourly rates by 7% annually for the next two years. This is a larger percentage increase than the 4.5% annual increase formula found in the 2006 Fee Schedule.

Please note that the Administrative Assistant is not included because her normal work functions do not include work on LAFCO petitions. Instead, the costs for this position are considered part of the agency's overhead.

Adjusting the Amount of the Initial Deposits

Some Commissioners have brought up to the Executive Officer lowering the LAFCO deposits for applications in order to stimulate economic activity. In addition, others have brought up using the fee schedule to encourage certain types of reorganizations, such as the annexation of service area holes or the dissolution or consolidation of districts. While related, these are actually two different matters for the Commission to consider.

Encouraging Economic Activity

LAFCO charges on a time and materials basis. This means the agency charges the applicants the actual staff time costs for processing the petition. An initial deposit is requested upfront to cover these costs. Consequently, at the end of the LAFCO process there could be two possible outcomes: The applicant is refunded a portion of their deposit if the LAFCO costs do not exceed the deposit; the applicant could be charged for the difference if costs exceed the deposit.

Four years ago, at staff's recommendation, the Commission increased the initial deposits because the amounts in the 2001 fee schedule were set too low. In those instances, costs always exceeded the deposit, and applicants reacted very negatively when LAFCO sent the final billing for the difference that in some instances were equal to, or exceeded, the deposits already paid by applicants.

In 2006, the initial deposit amounts were set based on the total processing cost of the applications from the immediate prior experience and the amounts appear to have been set correctly. Attachment F shows that the total costs for typical annexation applications processed in the past four years are close, on average, to \$5,000.

So lowering the initial deposits would not have the intended effect of lowering costs to applicants because eventually they are required to cover all of LAFCO's costs. If the Commission wishes to adjust the initial deposit amounts, staff cautions that the adjustments should not deviate too much from the current levels.

Encouraging Certain LAFCO Applications

Using the fee schedule to encourage certain types of petitions can be done in one of two ways. One way is permanent, by adopting a reduced fee (not tied to time and materials but must be set at a level that is defensible and in accordance with Government Code §56383) or on a case-by-case basis. The latter is already incorporated into the fee schedule, since it states that the Commission can use its discretion to lower or reduce fees by invoking Government Code §56383(d), which gives the Commission that authority in cases where fees are deemed "detrimental to the public interest."

On the former, the Commission will have to create a reasonable methodology to set the appropriate fee to charge these types of applications. While staff shares the Commission's desire to encourage certain applications, staff also cautions setting an alternate and permanent methodology. First, it creates confusion among applicants as to which methodology applies to their specific application. Second, the fee schedule is already four pages long. It will have to be longer if the agency wants to explain the differences in rates properly. Finally, there are budgetary impacts if LAFCO is unable to recover the true, full cost of providing service. Providing reduction or waivers on an ad hoc basis may be the most effective way to encourage certain applications while keeping an eye on the agency's budget.

Mailings

The fee schedule is unclear whether the cost of mailings is covered as a reimbursable item. Staff is requesting that the Commission add this cost because this can be a large expenditure that is currently absorbed in the budget as overhead. At a minimum, all applications have at least 23 types of mailings, with some requiring that it be sent to multiple recipients. If a petition requires notifying landowners and voters within 300 feet of the proposal area, the costs can escalate significantly depending on the number of people who need to be notified. While State Law has a few mechanisms in place to save costs on mailing and notifications, these savings do not fully offset the cost. In some circumstances, it might be better from a public notice standpoint not to use these mechanisms.

Public Notice

Should the Commission adopt the recommended fee schedule, the effective date of the new fee schedule would be 60 days from this hearing day. While the Cortese-Knox-Hertzberg Act does not specify a period of time between the adoption and implementation of new fees, other local agencies must comply with the 60 days specified in GC §66017(a). Since CKH directs LAFCOs to provide notice in accordance with §66016, it is reasonable to follow GC §66017(a).

Attachments:

- Attachment A: Recommended Fee Schedule
- Attachment B: Hourly Rate Calculations
- Attachment C: Net Productive Hours/Administrative Rates
- Attachment D: Explanation of the Net Productive Hours Calculations
- Attachment E: Explanation of Hourly Rate Calculations
- Attachment F: Final Billing Fees 2007-2011