

SACRAMENTO LOCAL AGENCY FORMATION COMMISSION
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January 5, 2005

TO: Sacramento Local Agency Formation Commission
FROM: Peter Brundage, Executive Officer
RE: Property Tax Sharing Agreement Policy

RECOMMENDATION

Adopt the following Sacramento Local Agency Formation Commission Policy:

Require the County of Sacramento notify and meet with affected independent special districts prior to approving a Property Tax Sharing Agreement for a Reorganization in which a city annexes territory and territory is detached from an independent special district. These meetings shall be meaningful and shall identify and address the fiscal and service impacts to both special districts and the communities they serve.

DISCUSSION

In October, 2003, LAFCo staff presented a Policy Discussion paper on the Tax Sharing Agreement Process for City Annexations to your Commission. Sacramento LAFCo adopted staff's recommendation as follows:

LAFCo encourages cities and the County of Sacramento to include special districts as part of the property tax sharing negotiation process in reorganization [annexation/ detachment] proposals in which special districts are affected.

Recently, the Commission processed the Air Gas Reorganization [Annexation to City of Sacramento; Detachment from County Service Area No. 1, Sacramento Metropolitan Fire District, Southgate Recreation and Park District, and County Water Agency Zone 40.]

Several of the special districts raised concerns about the property tax sharing negotiation process during this reorganization.

As a result, representatives of the County of Sacramento and the City of Sacramento requested LAFCo staff to facilitate a meeting between cities, special districts and the County of Sacramento to discuss the property tax negotiation process. On October 8, 2004, LAFCo staff met with representatives of the County of Sacramento, the Cities of Folsom and Sacramento and Sacramento Metropolitan Fire District, Southgate Recreation and Park District, and Rio Linda-Elverta Recreation and Park District to discuss the property tax sharing agreement negotiation process.

Staff of the County and cities understand their respective roles based on the recent meeting. County staff has agreed to meet with special districts prior to negotiating the property tax sharing agreement with cities. Special districts must understand that the County has no obligation to conclude a property tax sharing agreement that is necessarily satisfactory to the districts. However, County staff has agreed that it will consider special district issues and include their interests in the negotiation process.

At the meeting of October 8, 2004, each of the parties present agreed to the following process:

- The County of Sacramento will notify special districts whose service area and property tax revenue may be altered as a result of a proposed reorganization (annexation/ detachment).
- Prior to adoption of a Property Tax Agreement between the city and County, the County will meet and confer with the impacted special districts and city in a "meaningful" way to address concerns raised by special districts related to the fiscal and service delivery impacts related to proposed reorganizations. The proposed LAFCo policy exceeds the legal requirement set forth in Revenue and Tax Code Section 99.
- "Meaningful" shall be defined as giving adequate notice to impacted special districts, holding a good faith formal meet and confer process that allows special districts to voice their concerns, issues and/or impacts that affect their district in a reorganization. A meaningful process does not require that a city and/or the County reach an agreement between themselves or with affected special districts.
- The Executive Officer shall not issue a Certificate of Filing until the local agencies included in the property tax revenue exchange negotiation present resolutions adopted by each county and city whereby each county and city agree to accept the exchange of property tax revenue.

LAFCo's Responsibility for the Review of Annexation Proposals

The property tax exchange agreement between a city and county does not diminish LAFCo's responsibility from analyzing the financial and service delivery impacts to special districts and the community during its review of city annexation proposals. The Commission may approve, modify or deny proposals based on financial impacts even if a property tax agreement has been reached between the city and county. Therefore, to the extent possible, the property tax sharing negotiation process should examine the fiscal impacts of proposals that LAFCo will evaluate during its deliberations based on LAFCo's adoption of the policies set forth below.

The Special District Advisory Committee has requested LAFCo to consider the following principles in reviewing annexation and detachment proposals.

1. Include special districts early on in the discussions between the city and the county and have LAFCo act proactively by convening a stakeholder group.
2. Allow the special district to maintain the level of service to its residents not in the proposed annexation area. This can be accomplished by:
 - a. Ensuring the district has adequate facilities to retain the same level of service after annexation.
 - b. Some form of payment to the district that takes into consideration the investment in infrastructure by the district and the district's ability to make up for lost revenues and/or ongoing costs resulting from the annexation with growth.
3. Consider impacts to existing communities of interest.

LAFCo Policies Related to Analysis of Impacts to Special Districts During Review of Proposals

Sacramento LAFCo has previously adopted extensive local policies related to city annexation proposals that propose detachments of special districts. These policies are summarized as follows and should be considered during the property tax sharing negotiation process between the county, city and special districts:

1. The Commission facilitates communication between local agencies in the region.
2. The Commission will favorably consider those applications that do not shift the cost for services and infrastructure benefits to other service areas.
3. The Commission will approve a proposal for a change of organization or reorganization only if the Commission finds that the proposal is revenue neutral at the time that the proposal comes before the Commission. A proposal is deemed revenue neutral if:

- a. The proposal ensures that the amount of revenue transferred from an agency or agencies currently providing service in the subject territory to the proposed service-providing agency equals the expense which the current service provider bears in providing the services to be transferred.
 - b. In the event the expense to the current service provider exceeds the amount of revenue transferred, the current service provider and new service providing agency agree to revenue transfer provisions to compensate for the imbalance. Such provisions may include, but are not limited to tax-sharing, lump-sum payments and payments over a fixed period of time.
 - c. Where revenue neutrality is not possible because of the requirements of state law or these standards, LAFCo shall impose all feasible conditions available to reduce any revenue imbalance, or it may deny the proposal.
 - d. A property tax exchange agreement has been reached pursuant to the Revenue and Taxation Code by the agencies participating in the change of organization or reorganization as required by law.
4. The Commission has determined that community needs for efficient services and orderly development are generally met most effectively by proposals which:
- a. Correct a threat to the public health and safety;
 - b. Consolidate the activities of public agencies in order to obtain economies from the provision of consolidated services;
 - c. Consolidate services and service providers if such consolidations enhance the efficiency and quality of service; and
 - e. Restructure agency boundaries and service areas to provide more logical, effective, and efficient local government services.
5. These standards govern Commission determinations regarding annexations and detachments to and from all agencies.
- a. The application to LAFCo for an annexation or detachment requires the submittal of an application form, supporting documentation, and fees, as set forth in Chapter II of LAFCo's policies, standards and procedures. In addition, the application shall be accompanied by a response to the applicable standards set forth in this section. On or after January 1, 1992, no application for an annexation proposed by an agency shall be accepted as complete by LAFCo in the absence of a Sphere of Influence Master Services Element for that agency approved by LAFCo as provided in the LAFCo standards.
 - b. The annexation or detachment must be consistent with the General Policies and General Standards in Chapters III and IV.

- c. The annexation or detachment must be consistent with the Sphere of Influence boundary. The land subject to annexation shall lie within the existing Sphere of Influence boundary of the annexing city or district.
- d. The annexation must be consistent with the applicable Master Service Element. An annexation or detachment shall be approved only if the Master Service Element of the Sphere of Influence Plan of the affected agency or agencies demonstrates that adequate services will be provided within the time frame needed by the inhabitants of the annexed or detached area. Proposed annexations for land areas that lie outside of the current and next five-year increments of projected service delivery in the Master Service Element are presumed not to comply with this standard unless the applicant clearly establishes that special and unique circumstances exist which ensure that provision of quality services during the applicable time frame for the affected area consistent with the other standards.
- e. The annexation must provide the lowest cost and highest quality of urban services for the affected population. LAFCo will approve an annexation or detachment only if the Commission determines that the annexing agency possesses the capability to provide the most efficient delivery of applicable urban services for the affected population.
 - 1. For purposes of this standard, the most efficient services are those which are provided at the most optimum combination of service cost and service level. In the case of providers with similar service costs, the provider with higher service levels shall be deemed more efficient. In the case of providers of similar service levels, the provider at the lowest cost shall be deemed more efficient. In comparing the providers of adequate but low-cost services, with high-quality, high-cost services, the Commission shall retain discretion to determine the optimum efficiency based on compliance with the other provision of the standards.
 - 2. For purposes of this standard, "affected population" means (1) the population which inhabits or will inhabit the area to be annexed; (2) the population currently served by a service provider operating in the area proposed to be annexed; (3) inhabitants of potential alternative service providers; and (4) in the case of a detachment, the inhabitants of both the area detached and those remaining in the area currently served by the service providers.
 - 3. In evaluating the capability of an annexing agency of alternative agencies, to provide the required service, LAFCo shall utilize the Master Service Element of the proposed annexing entity, current service providers, and potential alternative service providers. In addition, LAFCo shall take into account the following factors:

- (a) Physical accessibility of the territory to the agency's service provision resources; for example, is the agency the provider of sewer services which is located closest to the subject territory.
 - (b) The agency's possession of or ability to acquire resources necessary to provide the needed service; for example, an agency may be judged unable to acquire water rights necessary to provide the water services needed by a territory proposed for annexation;
 - (c) The agency's historic service provision effectiveness and efficiency; for example, an agency may be judged an inefficient service provider if it has a previously documented history of service disruptions, accidents, safety hazards, excessive complaints, non-compliance with CEQA, illegal activities or excess costs/ charges; and
 - (d) The appropriateness of the agency's organizational structure to meeting service needs.
4. The Commission shall determine the most efficient overall service provider or combination of providers.
6. Applications to annex unincorporated islands will be approved by the Commission. Annexations to annex lands mostly surrounded or within a Sphere of Influence which otherwise correct illogical distortion of boundaries will be approved unless they would violate another provision of these standards.
7. An annexation or attachment shall not be approved merely to facilitate the delivery of one or a few services to the detriment of the delivery of a large number of services or services more basic to public health and welfare.
8. The Commission shall take one of the following three actions on an application for annexation or detachment:
- a. Approve the application if it has found the change to result in the most efficient delivery of services for the affected population and complies with other applicable standards;
 - b. Approve the application on the condition that the applicant agrees to actions necessary to maximize the efficiency of urban services. These may include, but are not limited to:
 - 1. Waiver of detachment from an existing service provider or, in the alternative, appropriate detachment fees;

2. Entering into a Joint Powers Agreement with another service provider.
- c. Deny the annexation on the grounds that a more efficient combination of services for the affected population may be provided by either existing or a combination of new and existing service providers.
In the event of such a denial, the Commission may present to the applicant, the conducting agency, and affected service providers, a statement of the reasons for denial, and recommendations for actions necessary to ensure the most efficient form of urban services delivery to the affected population.
9. The Commission will consider factors to minimize financial impacts by any of the following means:
 - a. Waiver of detachment from an existing service provider, or alternatively, a fund exchange agreement in compensation for the potential adverse impact caused by such detachment;
 - b. Agreement between the applicant and agency to annex the subject territory to a different service provider;
 - c. A Joint Powers Agreement with another service provider;
 - d. Modification of the proposal (e.g., changed boundaries) which eliminates the harmful impact, or reduces the harmful impact to an acceptable level; or
 - e. Tax sharing, lump-sum payments, payments over a fixed period of time.
10. The Commission shall not approve the detachment of territory from a high-quality service provider unless the following can be demonstrated:
 - a. The detachment is necessary to ensure delivery of services essential to the public health and safety;
 - b. The successor provider supplies services of equal or higher quality; and
 - c. The detachment does not significantly reduce the efficiency of service delivery to the remaining inhabitants of the current service provider's territory from which the detachment will occur.
11. The service plans of special districts which lie within a city's sphere of influence should provide for orderly detachment of territory from the district or merger of the district as district territory is annexed to the city.
12. The Commission will consider detachments in areas which require organized public service if another service provider is capable and willing to provide the service(s).

13. The Commission will not approve a detachment from a city or special district which conflicts with the adopted Master Service Element of the Sphere of Influence Plan of the agency from which detachment is sought.
14. Detachment from a city or special district shall not relieve the landowners within the detaching territory from existing obligations for bonded indebtedness or other indebtedness under similar security instrument incurred previously by the city or district to provide service to the detaching applicant unless the following apply:
 - a. The relief from indebtedness is part of a revenue exchange agreement applying to the detachment; or
 - b. The service benefits previously received by the applicant can be readily assumed by another landowner within the district who is willing to assume the financial responsibility in exchange for the added services.

PB:Maf
(Property Tax Policy)