



Date: January 28, 2009 for February 4<sup>th</sup> Agenda  
To: Commissioners  
From: Executive Officer  
Subject: Application Processing Fees and Deposits

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*Summary:*

*The Commission reviews its application processing fees and deposits each year.*

*Recommendation:*

*It is recommended that the Commission hold a public hearing and adopt draft Resolution No. 2009-2, which would revise fees and deposits effective February 5, 2009.*

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In 2002, the Commission conducted a major study of the deposits and fees it charges to process sphere of influence amendments, annexation applications, and other boundary change proposals. The main principle of the fee study was that applicants should pay for the staff time and other costs (legal ads, GIS mapping, postage for notices, etc.) needed to process the applications in accordance with the Local Government Reorganization Act. All fees collected in a fiscal year are used to reduce the next year's "dues" that the County, the four Cities, and the twenty-four Independent Special Districts are required by law to pay in order to fund the LAFCO budget. LAFCO reviews its fee schedule annually at a public hearing. This memo concludes with a staff recommendation to revise the schedule of fees and deposits. Using the same methodology as the 2002 study and incorporating the fiscal year 2007-8 data, the fees and deposits would increase 22%.

Recouping Service Review Costs

As revised in 2000, Government Code Section 56430 requires LAFCO to prepare and update service reviews every five years for all municipal-type services provided in the County. Santa Cruz LAFCO's first service review was completed in 2007 at a cost of approximately \$100,000 (\$70,000 in consulting costs and \$30,000 in staff costs). The contract required the consultant to suggest some options for LAFCO to recoup the cost of the service review. The options are attached in the letter dated August 6, 2007 from Dudek Consulting. The LAFCO staff is recommending that Option 2 be implemented. That option is a 10% surcharge on all applications. The strengths of this option are:

- A strong correlation between the service review's subject matter and the issues subsequently evaluated in the applications, and
- Simplicity of administration.

Combining the 22% increase in billing rates and the 10% increase to recoup service review costs results in average application processing costs going up 32% if the recommendation is implemented.

### Authority

Government Code Sections 56383 and 66016 allow each LAFCO, following a public hearing, to adopt and revise fees that will cover the costs of reviewing boundary changes, spheres of influence, and other applications that come before LAFCO. The fees “shall not exceed the estimated reasonable cost of providing the service.”

### History

Santa Cruz LAFCO uses a “total cost recovery” fee system whereby each applicant pays a fixed deposit upon applying, and the staff keeps track of staff time and project-specific costs. At the end of the sphere amendment or boundary change process, the staff compiles a final account statement and sends the applicant either a bill or a refund.

### Fee Revenues

The following table shows Santa Cruz LAFCO revenues and expenditures for the last six years.

#### REVENUES AND EXPENDITURES

<i>Fiscal Year</i>	<i>Revenues</i>	<i>Expenditures</i>	<i>% Recovery</i>
2002-2003	10,813	213,364	5
2003-2004	20,542	216,572	9
2004-2005	23,300	268,557	9
2005-2006	21,743	*322,105	7
2006-2007	67,951	*328,442	21
2007-2008	7,309	259,154	3

\*Significant increase in expenditures due to cost of preparing Countywide Service Review.

### 2002 Methodology

The 2002 methodology provides for the Commission to use the most recent year budget as the basis to apportion operating costs into three general categories:

1. Direct costs are tracked and billed to the applicants. Examples are staff salaries, staff benefits, and newspaper ads. Salaries and benefits are converted to productive hours so that holiday and leave time are factored into the direct costs.

2. Overhead represents all costs that are neither direct costs nor special project costs. Examples of overhead costs are staff time spent in training, general office operations, computer leasing, and phone bills.
3. Special projects represent the budgeted amount to do special studies such as the Countywide Service Review. Special projects also include the litigation reserve that has been carried over (rebudgeted) from the previous year end balance. These costs are excluded from the calculation of overhead.

As shown on attached Calculation of Billing Rates, the 2002 methodology would result in the following new rates:

	Executive Officer	Secretary-Clerk	Composite (average)
Current	\$103.91/hour	\$66.75/hour	\$85.33/hour
New	\$121.60	\$86.55	\$104.08
% Change	17%	30%	22%

The following chart compares Santa Cruz LAFCO's current and recommended billing rates with fourteen other LAFCOs that calculate hourly billing rates: These LAFCOs were selected for this table because they use an at-cost billing system similar to Santa Cruz LAFCO and publish their billing rates on their websites. Some LAFCO's use a composite figure and bills out all staff hours at a single average rate.

BILLING RATES 2009	Executive Officer	Composite	Secretary- Clerk	Legal Counsel
Santa Cruz current	\$104		67	177
<b>Santa Cruz recommended</b>	<b>122</b>		<b>87</b>	
El Dorado	112		44	Cost
Lake	97		48	162
Monterey		125		Cost
Napa		97		Cost
Nevada	155		75	Cost + 25%
Orange		95		173
Sacramento	134		89	Cost
San Joaquin	80		55	225
San Luis Obispo	110		50	150
Santa Clara	182		106	212
Solano	200		100	160
Tulare		100		
Ventura		150		Cost
Yuba		90		104

## Deposits

The deposit that proponents make when filing an application should approximate the cost to process an average application. Consequently, the amount of most final settlements will be modest. Staff is recommending that deposits be increased 32% with the following exceptions, which are based mainly on actual processing costs for recent applications to Santa Cruz LAFCO:

Section Number	Application Type	New Rate	% Increase	Reason for varying from 32% increase
1	Petition checking	\$0.55 per signature	0	Cost hasn't gone up
2g	District formation	\$20,000 deposit	226%	Experience with recent application
2h	City incorporation	\$30,000 deposit	62%	Experience in other counties
2o	Copies	\$0.18/page	0	Cost hasn't gone up
2q	Digital audio files	\$14.42/CD	n.a.	New fee

### Attachments:

- Draft resolution
- Draft new fees and deposits (strike out and underline format)
- 2007 Consultant's memo regarding cost recovery
- Government Code sections regarding LAFCO fees and service review mandate
- Calculation of billing rates

## **California Government Code**

**56383.** (a) The commission may establish a schedule of fees for the costs of proceedings taken pursuant to this division, including, but not limited to, all of the following:

- (1) Filing and processing applications filed with the commission.
  - (2) Proceedings undertaken by the commission and any reorganization committee.
  - (3) Amending a sphere of influence.
  - (4) Reconsidering a resolution making determinations.
- (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 Section 66016.
- (c) The commission may require that a fee be deposited with the executive officer before any further action is taken. The deposit of the fee shall be made within the time period specified by the commission. No petition shall be deemed filed until the fee has been deposited.
- (d) The commission may waive a fee if it finds that payment would be detrimental to the public interest.
- (e) The signatures on a petition submitted to the commission shall be verified by the elections official of the county and the costs of verification shall be provided for in the same manner and by the same agencies which bear the costs of verifying signatures for an initiative petition in the same county.
- (f) Waiver of fees is limited to those costs incurred by the commission in the processing of a proposal.
- (g) For incorporation proceedings that have been initiated by the filing of a sufficient number of voter signatures on petitions that have been verified by the county registrar of voters, the commission may, upon the receipt of a certification by the proponents that they are unable to raise sufficient funds to reimburse fees for the proceedings, take no action on the proposal and request a loan from the General Fund of an amount sufficient to cover those expenses subject to availability of an appropriation for those purposes and in accordance with any provisions of the appropriation. Repayment of the loan shall be made a condition of approval of the incorporation, if successful, and shall become an obligation of the newly formed city. Repayment shall be made within two years of the effective date of incorporation. If the proposal is denied by the commission or defeated at an election, the loan shall be forgiven.

## **California Government Code**

**66016.** (a) Prior to levying a new fee or service charge, or prior to approving an increase in an existing fee or service charge, a local agency shall hold at least one open and public meeting, at which oral or written presentations can be made, as part of a regularly scheduled meeting. Notice of the time and place of the meeting, including a general explanation of the matter to be considered, and a statement that the data required by this section is available, shall be mailed at least 14 days prior to the meeting to any interested party who files a written request with the local agency for mailed notice of the meeting on new or increased fees or service charges. Any written request for mailed notices shall be valid for one year from the date on which it is filed unless a renewal request is filed. Renewal requests for mailed notices shall be filed on or before April 1 of each year. The legislative body may establish a reasonable annual charge for sending notices based on the estimated cost of providing the service. At least 10 days prior to the meeting, the local agency shall make available to the public data indicating the amount of cost, or estimated cost, required to provide the service for which the fee or service charge is levied and the revenue sources anticipated to provide the service, including General Fund revenues. Unless there has been voter approval, as prescribed by Section 66013 or 66014, no local agency shall levy a new fee or service charge or increase an existing fee or service charge to an amount which exceeds the estimated amount required to provide the service for which the fee or service charge is levied. If, however, the fees or service charges create revenues in excess of actual cost, those revenues shall be used to reduce the fee or service charge creating the excess.

(b) Any action by a local agency to levy a new fee or service charge or to approve an increase in an existing fee or service charge shall be taken only by ordinance or resolution. The legislative body of a local agency shall not delegate the authority to adopt a new fee or service charge, or to increase a fee or service charge.

(c) Any costs incurred by a local agency in conducting the meeting or meetings required pursuant to subdivision (a) may be recovered from fees charged for the services which were the subject of the meeting.

(d) This section shall apply only to fees and charges as described in Sections 51287, 56383, 57004, 65104, 65456, 65863.7, 65909.5, 66013, 66014, and 66451.2 of this code, Sections 17951, 19132.3, and 19852 of the Health and Safety Code, Section 41901 of the Public Resources Code, and Section 21671.5 of the Public Utilities Code.

(e) Any judicial action or proceeding to attack, review, set aside, void, or annul the ordinance, resolution, or motion levying a fee or service charge subject to this section shall be brought pursuant to Section 66022.

**California Government Code  
56340.**

(a) In order to prepare and to update spheres of influence in accordance with Section 56425, the commission shall conduct a service review of the municipal services provided in the county or other appropriate area designated by the commission. The commission shall include in the area designated for service review the county, the region, the subregion, or any other geographic area as is appropriate for an analysis of the service or services to be reviewed, and shall prepare a written statement of its determinations with respect to each of the following:

- (1) Growth and population projections for the affected area.
- (2) Present and planned capacity of public facilities and adequacy of public services, including infrastructure needs or deficiencies.
- (3) Financial ability of agencies to provide services.
- (4) Status of, and opportunities for, shared facilities.
- (5) Accountability for community service needs, including governmental structure and operational efficiencies.
- (6) Any other matter related to effective or efficient service delivery, as required by commission policy.

(b) In conducting a service review, the commission shall comprehensively review all of the agencies that provide the identified service or services within the designated geographic area.

(c) The commission shall conduct a service review before, or in conjunction with, but no later than the time it is considering an action to establish a sphere of influence in accordance with Section 56425 or Section 56426.5 or to update a sphere of influence pursuant to Section 56425.

*Calculation of Billing Rates*  
*January 28, 2009*

	Executive Officer	Secretary-Clerk
Salary	\$ 54.22 / hour	\$ 28.59 / hour
Benefits	\$ 18.43 / hour	\$ 15.16 / hour
Compensation	\$ 72.65 / hour	\$ 43.75/ hour

Productive hours = Total annual compensated hours – holidays, vacations, and sick leave.

$$= 2080 - 365$$

$$= 1715$$

Ratio of total hours to productive hours =  $2080 / 1715 = 1.213$

	Executive Officer	Secretary-Clerk
Compensation	\$72.65 / hour	\$43.75/ hour
x Productivity Ratio	1.213	1.213
Labor Rate	\$88.12 / hour	\$ 53.07 / hour

Overhead = Supplies and services budget – Directly billed items – Special project costs+ Extra help + Retired health costs

The directly billed items are:

Processing fees	\$ 3,651
Employee medical charges	\$ 3,055
<u>Copies made by County offices</u>	<u>\$ 603</u>
Total directly billed item	\$7,309

The special projects are:

Professional Services rebudgeted	\$75,000
<u>Legal contingency rebudgeted</u>	<u>\$107,500</u>
Total special project costs	\$182,500

$$\text{Overhead} = \$300,300 - \$7,309 - \$182,500 + \$0 + \$4,165 = \$114,656$$

supplies    billed    projects    ex. help    health

$$\begin{aligned} \text{Overhead Rate} &= \text{Overhead} / \text{Annual Productive Hours} \\ &= \$114,656 / (2 \times 1715) \text{ hours} \\ &= \$33.48 / \text{hour} \end{aligned}$$

Therefore, under the 2002 methodology, the billing rates would be:

	Executive Officer	Secretary-Clerk
Labor	\$88.12 / hour	\$53.07/ hour
Overhead	\$33.48/ hour	\$33.48/ hour
Billing Rate	\$121.60 / hour	\$86.55 / hour

Following this methodology, the billing rates would go up on February 5, 2009 as follows:

	Executive Officer	Secretary-Clerk	Composite (average)
Current	\$103.91/hour	\$66.75/hour	\$85.33/hour
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