

# SANTA BARBARA COUNTY BOARD AGENDA LETTER



Clerk of the Board of Supervisors  
105 E. Anapamu Street, Suite 407  
Santa Barbara, CA 93101  
(805) 568-2240

**Agenda Number:**  
**Prepared on:** 3/10/05  
**Department Name:** A-C, CoCo, & CAO  
**Department No.:** 061, 013 & 012  
**Agenda Date:** 3/15/05  
**Placement:** Departmental  
**Estimate Time:** 1 Hour  
**Continued Item:** Yes  
**If Yes, date from:** 3/8/05

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**TO:** Board of Supervisors

**FROM:** Robert W. Geis, CPA                      Stephen Shane Stark                      Michael F. Brown  
Auditor-Controller                      County Counsel                      County Administrator

**STAFF CONTACT:** John Torell                      Jason Stilwell, Project Manager  
568-2100                      568-3413

**SUBJECT:** County Formation Process Update

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## Recommendation:

That the Board of Supervisors:

Receive report regarding the Mission County Formation process providing direction as appropriate and consider the following:

1. Requesting the Commission consider amending Part 1 of the Distribution of Indebtedness Determination to enable Santa Barbara County to receive credit for financing new assets in the proposed county;
2. Whether to request the Commission consider finding an alternative indebtedness allocations as fair, just, and equitable;
3. Requesting the Commission consider amending the Distribution of Indebtedness Determination to specify the process for liquidating certain operational liabilities; and,
4. Requesting the Commission consider amending the Distribution of Indebtedness Determination to require Santa Barbara County and Mission County to work cooperatively to seek special legislation amending the maintenance of effort payments for the operations of the courts.

## Alignment with Board Strategic Plan:

The recommendation is primarily aligned with actions required by law or business necessity.

### **Executive Summary and Discussion:**

The Mission County Formation Review Commission completed the first draft of a final report. The report includes the eleven determinations of the Commission and other detailed analyses relating to the potential viability of a new Mission County north of Gaviota pass. The Board of Supervisors received the Commission's report at the Board's March 8, 2005 meeting and heard presentations from Commission staff, the County Auditor-Controller and County Counsel.

On Friday, March 11, 2005, staff learned that according to the Executive Secretary of the Commission, March 14 remains the last date for the Commission to consider input to its final report. Given the Board's discussion on March 8 there is a certainly an interest in having the opportunity to comment on March 15, 2005 and have those comments considered by the Commission. As such the Commission will be asked at its meeting on Monday, March 14, 2005 to provide for that opportunity.

At its meeting of March 8, 2005, the Board focused on two priority issues: 1) commenting on the Commission's draft final report and 2) considering other issues involving the Commission prior to disbanding; the Commission is projected to disband March 28, 2005. The Board took action to comment on the draft report and requested staff to return today with additional information regarding indebtedness.

There were two areas of indebtedness where the Board requested additional information. The first related to Santa Barbara County receiving credit for the financing of new assets that will be located within the proposed boundaries of Mission County. The second issue related to alternative methods of allocating the existing indebtedness. In addition, based on the Board's discussion at their March 8<sup>th</sup> meeting, there are two other issues in the Commission's final report that staff brings to the Board's attention. These are the impact of operational liabilities and the Court Special Services maintenance of effort payment; both issues are raised in the Commission's report but the Board may want to consider asking the Commission to formalize these issues in their determination.

#### Credit for financing new assets in the proposed county

The County Formation section of the California Government Code requires the Commission to determine "a fair, just, and equitable distribution, as between (the) affected county and the proposed county, of the indebtedness of (the) county" (§23332(a)). Section 23334 states that the "...the commission may, in determining a fair, just and equitable distribution of the indebtedness" provide for "(c) The...apportionment...of liability for payment of all or any principal, interest or any other amounts which shall become due on account of all or any part of any bonds...of an effected county which are authorized, *at the time the petition is filed...*, or other contracts or obligations of an affected county..." (emphasis added).

The Mission County Distribution of Indebtedness Determination states "the total indebtedness of Santa Barbara County considered by the Commission consisted of \$46.8 million in capital indebtedness payable to third party lenders..." (page 4). A copy of this document was included as an attachment to the March 8, 2005 Board letter. The determination describes "\$46.8 million represents, as of June 30, 2007, total principal and interest amounts that must be repaid for monies 'borrowed' from third parties. These borrowings are evidenced primarily by 'Certificates of Participation' (bonded indebtedness) and capital leases and other loans. These borrowed funds were used primarily for the purchase or construction of capital assets. The

June 30, 2007 date represents the 'settlement' date for determination and settling of all of account balances prior to the start of the proposed county's first fiscal year on July 1, 2007 (page 2-2 of Final Report).

Although the statute excludes indebtedness issued subsequent to the filing of the petition from being apportioned by the Commission, the Board of Supervisors has expressed an interest in seeking a way to receive credit for new indebtedness used to fund assets located within the boundaries of the proposed county. In recognition of the fact that Mission County will get post-petition, pre-formation assets, the Board may want to request that the Commission consider it fair, just and equitable to have Mission County pay for the cost of financing these assets. The request to the Commission would be to amend part 1 of the Distribution of Indebtedness determination (page 2-1 of the First Draft Final Report dated February 28, 2005) to add language that reads:

*This allocation of indebtedness will be adjusted by an amount equivalent to the cost of post-petition and pre-formation borrowings for assets to be located in the proposed county.*

#### Alternative Indebtedness Allocation Methods

The Commission considered four methods of allocating the indebtedness. These are: 1) allocating the debt based on the location of the asset, 2) allocating the debt based on the where the source of the revenue to repay the debt is generated, 3) allocating the debt based on the proportional assessed valuation of the two counties, and 4) allocating the debt to the remaining Santa Barbara County except for Courthouse Construction Funds. In accordance with Government Code Section 23332(a), the Commission determined the fourth method was fair, just and equitable.

The indebtedness allocation alternatives are described in Appendix B of the Mission County Distribution of Indebtedness Determination. Each alternative and its pros and cons are described on pages 41-43 of the document. The summary schedule on page 44 compares the financial impact of each alternative. The option selected by the Commission has the greatest financial impact on the remaining County (approximately \$43 million). The financial impacts of the other options range from approximately \$25 million to \$32 million. The impact of these payments on the operating budget is described on page 7 of the Mission County Distribution of Indebtedness Determination.

The Board may want to consider requesting the Commission consider that a different method of allocating the County's indebtedness is fair, just, and equitable. Staff will present each alternative and be prepared to answer questions.

#### Operational Liabilities

The Commission looked at four types of liabilities. These were Certificates of Participation (COPs), capital leases and loans, the unfunded actuarially accrued liability of the pension plan, and operational liabilities. The first two types, COPs and capital lease and loans, comprise the 'borrowings' the Commission allocated between the proposed county and Santa Barbara County. The third type, the pension liability, was distinctly considered by the Commission and also allocated, at a rate different than that of the borrowings, between the two counties.

The Commission determined the fourth type of liability is "other operational liabilities" and not indebtedness; these operational liabilities include self-insurance, litigation, employee compensated absences,

rebtable arbitrage, and unamortized premium on COPs. These are discussed on page 18 of the Mission County Distribution of Indebtedness Determination. These operational liabilities would be liquidated with assets of the various operating funds prior to the distribution and allocation of assets to the new Mission County.

The Commission's indebtedness determination is on page 2-1 of their First Draft Final Report dated February 28, 2005. This document was presented to the Board of Supervisors as an attachment to their March 8, 2005 Board letter. It is silent on the issue of operational liabilities. Although this issue is addressed in the Commission's Indebtedness Study, the Board may want to consider requesting that the Commission formally make this issue part of their indebtedness determination. The request would be that the Commission amend the determination relating to Distribution of Indebtedness by adding an item Number 4; Number 4 would read:

*Certain operational liabilities will be liquidated with assets of the various operating funds prior to the distribution and allocation of assets to the new Mission County. These operational liabilities are self insurance, litigation, employee compensated absences, rebtable arbitrage, and the unamortized premium on certificates of participation.*

#### Court Special Services

On January 1, 1998, AB233, the Lockyer – Isenberg Trial Court Funding Act of 1997 went into effect in the State of California. This bill fundamentally changed how the trial courts are funded by transferring primary responsibility for funding the courts to the state, including sole responsibility for funding future growth in court operations costs. In addition, it requires certain counties, including Santa Barbara County, to make a capped maintenance of effort (MOE) payment to the state each year for operations of the courts. This financial contribution is fixed by statute. The state relieved smaller counties of a significant portion of this obligation.

If the County were to split, absent any new legislation, the statutory payment obligation would remain. This would have a significant impact on a county half the size of the current county. For example, the Mission County portion of the MOE to the Courts of \$3.5 million is approximately 10% of the current projected operating deficit of Mission County. The remaining Santa Barbara County would have the highest maintenance of effort payment in the state for a court of its size.

This issue is raised in the Law and Justice section of the Commission's Fiscal Study. The fiscal study assumes this payment will be split 50/50 between the proposed county and Santa Barbara County since the operations of the court are split 50/50. In addition, the Government Code 77201.1(b)(1) excludes small counties from paying the maintenance of effort; for example, San Luis Obispo pays no maintenance of effort whereas Santa Barbara County pays \$6,764,792 according to this statute.

The Board may want to consider requesting that the Commission formally make these issues part of their determination relating to the fiscal impact of the proposed county on the affected county. This determination is on page 2-13 of the First Draft Final Report dated February 28, 2005. The request would be that the Commission amend the determination by adding the following language:

*The Boards of Supervisors of Santa Barbara County and Mission County shall cooperatively seek special legislation to split the maintenance of effort payments for operations of the courts 50/50 or seek legislation that would treat both counties as small counties and eliminate the maintenance of effort obligation.*

**Mandates and Service Levels:**

None from the suggested actions. However, the Board of Supervisors is required by Title 3, Chapter 3 of the Government Code "Creation of New Counties" to perform certain other functions including receiving the Mission County Formation Review Commission's final report and adopting a resolution setting the election.

**Fiscal and Facilities Impacts:**

None from the suggested actions. As of February 28, 2005 the county formation effort has cost the County \$582,669. Of this, \$458,515 is a result of County departments supporting the County Formation Review Commission and responding to Commission requests for information. \$124,154 relates to the direct work of the County Formation Review Commission including Commissioner stipends, professional consulting services and publication of legal notices.

**Special Instructions:** None

**Attachments:** None

Cc: Chair Tedesco and Members of the Mission County Formation Review Commission