

# SANTA BARBARA COUNTY BOARD AGENDA LETTER



Clerk of the Board of Supervisors  
105 E. Anapamu Street, Suite 407  
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**Agenda Number:**  
**Prepared on:** 4/25/03  
**Department Name:** CA  
**Department No.:** 012  
**Agenda Date:** 5/6/03  
**Placement:** Departmental  
**Estimate Time:** 1 Hour  
**Continued Item:** NO  
**If Yes, date from:**

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**TO:** Board of Supervisors

**FROM:** Michael F. Brown  
County Administrator

**STAFF CONTACT:** Jim Laponis, Deputy County Administrator (Ext 3400)  
Scott Ullery, Deputy County Administrator (Ext 3400)

**SUBJECT:** Proposed County Formation/Split

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## **Recommendation:**

That the Board of Supervisors:  
Receive a report and provide direction as determined appropriate on the process, law and pertinent issues including preliminary cost estimates regarding the proposal to split what is currently Santa Barbara County forming two counties: Mission and Santa Barbara.

## **Alignment with Board Strategic Plan:**

Goal #1: An efficient Government Able to Anticipate and Respond Effectively to the Needs of the Community

## **Executive Summary and Discussion:**

The county formation proposal is now in its petition circulation (signature gathering) phase and is reported to have currently garnered in excess of 10,000 signatures. At the request of Supervisor Gail Marshall, staff is submitting the attached information on the county formation process, laws and related issues including preliminary estimates of potential costs.

The formation of a new (splitting of the existing) county would have profound fiscal, social, political, historical and potential service level impacts on all current and future residents of the county(ies) as well as major impacts on the existing County organization and its employees. The report prepared by our office and County Counsel summarizes the laws, requirements, processes and timelines regarding the formation of a new county. It identifies a number of outstanding questions that are not addressed in current statutes or administrative guidelines. The report also includes a memorandum from County Counsel analyzing the restrictions on the County and the rights and limitations on County employees as to political activities regarding the county formation/split. Additionally, it includes a copy of a power point slide presentation on this matter that will be presented to the Board. Finally, it includes a preliminary county formation/split draft budget estimating the County costs of performing pertinent functions.

### **Preliminary Process and Analysis Questions**

The critical issue for all the citizens of the current Santa Barbara County (both the proposed Mission County and proposed remaining Santa Barbara County) is: With what analytical rigor will the County Formation Commission conduct its investigation on which it bases its “determinations” pursuant to Sections 23331 through 23344 of Article Three of Chapter 3 of the Government Code “County Formation Review Commission” (copy attached)?

#### **A. Process Questions**

1. The Code requires that the Governor appoint a five-member Commission within 120 days following his receipt of the petition certification (the required signatures) from the Board of Supervisors of Santa Barbara County. The Governor is required to appoint five members, whose sole qualification is that two reside in the territory of the proposed County, two reside in the territory remaining in the affected County and one shall not be a resident of either County. The Code does not provide any process for the Board of Supervisors, the proponents of County Formation or anyone else to advise the Governor or interact with the Governor with respect to appointments to the Commission. Thus it is unknown what process the Governor may use to determine who to appoint.
2. Since there are virtually no substantive qualifications for Commission members other than residency, the question arises on what basis will they be selected? Should they be current elected officials or former elected officials? Should they be partisan or non-partisan? Should they be disinterested academics with expertise in local government structure, finance and operations or should they be non-partisan professional administrators with large-scale local government experience? Should they be people from outside of government with large-scale organizational experience in other venues? Will there be an opportunity for citizens to volunteer? What would be the process for them to do so? If the Commissioners do not have substantial analytical, financial and operational experience in designing and operating local governments, what professional expertise will be required of the Commission staff/consultants and how much will it cost?
3. What process to engage citizens will the Commission use? Section 23335 only requires that the Commission meet within ten days of the last member being appointed and that it elect the chairman and appoint a secretary. The Code states, “thereafter they may meet at such places and times as they may select.” Only one advertised formal hearing is required for the entire process (see Section 23336). Will there be workshops, focus groups or other meetings? Who will prepare substantive data for citizens to consider should the Commission determine to hold workshops or other meetings?
4. What provisions will be made by the Commission to promote public participation? Will there be media advertising or simply legal notices?
5. If access and participation is important to the Commission, what will it cost the County 2003-04 budget to fund the logistics of the chosen process?
6. If it turns out that access and participation are not important to the Commission, what interest would the Board of Supervisors have to operate and fund a civic engagement process?

#### **B. Subjects for Analysis**

1. What are the prospects for the local economy and its ability to support and sustain County government services?
2. What is the tolerable range of variability in government service levels and the various revenue sources (including taxes and fees) within the scope of “economic viability” (required as one of the determinations by the Commission) i.e., can an acceptable level service and acceptable tax rate be provided and sustained?

3. Given various service level assumptions, what would a pro forma look like for a new county (and the remaining Santa Barbara County) including staffing requirements, projected expenditures and requirements on a departmental basis?
4. Section 23332 requires, among other things that the Commission “determine ..... a fair, a just, and equitable distribution, as between each affected county and the proposed county, of the indebtedness of each affected county.” Subjects for analysis here include:
  - a. Certificates of participation used to fund major buildings.
  - b. Long-term borrowing from state financing authorities for the Laguna Sanitation advanced sewage filtration plant and disposal system.
  - c. Real property rental leases.
  - d. Equipment (construction, landfill, data systems, communications, etc.) lease purchases.
  - e. Long-term worker’s compensation liability (for example: in dividing it up between the two counties, would it be based on where the employee was hurt, where he or she lives, whether he or she will work for the old or the new County? What if as a result of the split the employee is not employed by either County?
  - f. Potential liability debt from pending law suits.
  - g. Landfill debt.
  - h. Accrued vacation liability. This is largely unfunded since it would only come into play if there were very large layoffs or as a result of a creation of a new county, the new county board of supervisors determined to use many fewer employees, contracting out or to hire a new labor force.
  - i. Unfunded liability of the County Retirement System is deemed indebtedness for purposes of the Commission’s determination. In Santa Barbara County this is currently estimated to be close to \$300 million dollars as a result in the decline in financial markets and increased benefits. How should this be divided up – by residence of the member or retiree? How will the costs be determined which are attributable to employees with countywide jobs? What about former employees who had countywide jobs? Could the new Mission County use Santa Barbara County’s system? What if the Board of Supervisors of the new county determines to use significantly less employees and contract out for services causing the remaining employees and the remaining Santa Barbara County to be responsible for current and future costs on a much narrower employee base?

Short term, what analysis is required to make an informed distribution determination? What will it cost?

5. Are the proposed “determinations” subject to CEQA review?
6. Is there a limit on how much the Commission can expend?
7. Is there a mechanism for the current County to be reimbursed for staff time spent on the County Formation effort?
8. Who funds the formation election?
9. Districting
  - a. How are new districts established within the original county?

- b. Since the County Formation Commission establishes the new districts in the proposed new county, what analysis, staff assistance, studies and costs will be involved?

10. Courts

- a. What happens to the local courts?
- b. What happens to the employees of the Court?
- c. What happens to the cases pending before the Courts?
- d. What happens to the judgeships?
- e. What happens to the Court facilities?

11. School Districts

- a. How are school districts divided or otherwise impacted?
- b. What about school financing?
  - (1.) In some instances a school may be in one county but the property tax revenue would come from another county.

12. Fire

- a. What happens to fire districts (ours is countywide in the unincorporated area)?
- b. What happens to the California Department of Forestry contract which provides \$4 to \$5 million per year to the existing County Fire Department?

13. Employee Relations

- a. What happens to existing employee MOU's?
- b. What is the new/old County obligation to existing employees?
- c. If employees of the old county become employees of the new county, how does that work in terms of pay/benefits/etc.? How is it determined what employees transfer and on what basis?
- d. The new County may have different job classes and salary structure. How would that work in terms of current employees?
- e. What happens to employment contracts (some officials have an employee contract)? What about contractors on payroll?
- f. Is the new County bound by the existing Civil Service system?
- g. What would happen to any pending arbitration cases?

14. The County is obligated to fund Maintenance of Effort requirements to receive various State/Federal funds. What happens to the County's obligation for these MOE's if a new county is formed? Some examples are:

- a. Proposition 172
- b. DSS CalWorks/Food Stamps
- c. AB 818
- d. Mental Health MOE

15. What happens to the County allocation of funding for

- a. Children and Families Commission (Proposition 10)?

- b. Tobacco Settlement?
  - c. Measure D?
16. Water Rights
- a. State Water – Flood Control District is the State Water Contractor and is countywide. What happens to the Flood Control District and the existing contracts/entitlements?
  - b. Are there water rights issues from which either the new County or remaining County ought to be concerned?
17. If the proposed County does not appear to be fiscally viable, can the formation Commission impose a new tax or take revenues from the remaining county to ensure the fiscal viability of the new county?
18. Measure D funds – local sales tax for roads.
- a. Transfer?
  - b. Applicability to the new county?
19. Tidelands
- a. Oil revenue sharing allocations?
20. Tangible property rights – “taking”
- a. Could the formation of a new county result in the devaluation of property “taking” as it relates to the loss of the name of Santa Barbara County – i.e., vintners, etc?
  - b. What about the value of the goodwill and historical identification of the name Santa Barbara County?
21. Housing Element
- a. Allocation?
  - b. Fair share of affordable housing – how would the State requirements be divided between the two counties?
22. HIPPA Compliance
23. CDBG – if we obtain entitlement status what happens if the county split reduces population below the threshold?
24. Elected Officials
- a. What happens to the exiting elected officials?
  - b. Some elected officials in the County have been consolidated (i.e. Treasurer-Tax Collector)? Would these positions also be consolidated in the new county?
25. What happens to other regional entities?
- a. APCD
    - (1) Emission credits?
  - b. Housing authority?
  - c. SBCAG?
  - d. Regional Health Authority?
26. Assessment appeals

- a. What happens to outstanding appeals and pending appeals and/or refunds?
27. What happens to potential debt/audit repayments to state agencies?
  - a. ADMHS settlement costs?
28. Are the Commission's "determinations" subject to any court or legislative appeal?

The question is often raised how much will it cost to fund the County Formation Commission if requisite signatures are obtained. Given the complexity of the subject matter involved, the more pertinent question may be how much should it cost? The quality and accuracy of the analysis conducted by the Commission is of paramount importance to ensure that the Commission itself has appropriate information to make its "determinations" and more importantly that the voters have appropriate information to make an informed decision. On the one hand, it is troublesome to project significant costs that are not included in the proposed 2003-04 Budget. This is all the more problematic given the impending disaster resulting from the State budget deficit. On the other hand, determinations by an inexperienced and under funded and insufficiently staffed County Formation Commission could result in poor decision-making and trouble for decades to come.

The law provides for a maximum payment of \$50 per day for a County Formation Commission member (\$6.25 per hour for an 8 hour day). The California minimum wage was \$6.75 per hour beginning January 1, 2002.

#### **Mandates and Service Levels:**

If the required number ( 20,779) of authorized signatures is obtained to place the county formation/split proposal on the ballot, the process must proceed to an election on the matter. The new county would be formed if more than 50% of the votes cast in the whole (existing) county and more than 50% of the votes cast in the proposed county are in favor of creating the new county. Unlike annexation or city incorporation proposals, the Local Agency Formation Commission (LAFCO) has no authority over county formations. The Board of Supervisors also has no substantive policy role or authority with respect to the matter.

#### **Fiscal and Facilities Impacts:**

If the required number of authorized signatures is obtained to place the county formation/split proposal on the ballot, a County Formation Review Commission must be appointed by the Governor. The cost of operating/administering such a commission must be borne by the County and would cost several hundreds of thousands of dollars. Preliminary estimates (Attachment F) suggest that the Formation Commission and County support costs could be over \$830,000; elections costs would be on top of that. In addition, staff from every department would need to participate in the extensive effort required to provide information to and ensure that the analysis of the Commission is complete and accurate. A preliminary draft budget is included in the attached report.

#### **List of attachments:**

- A—Article 3, Sections 23331 through 23344 of the Government Code – County Formation Review Commission
- B—Memo on political activity by the County and its employees regarding the county formation/split
- C—Memo summarizing county formation laws
- D—Memo regarding review/appeal of County Formation Review Commission decisions
- E—Power point/slide presentation regarding county formation process and the law
- F—Preliminary County cost estimates regarding the county formation commission/process
- G—Mission County formation timeline
- H— Map of proposed Mission County formation boundary

cc: Department Directors  
CAO Staff  
Employee Organizations