

SACRAMENTO LOCAL AGENCY FORMATION COMMISSION

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March 5, 2008

TO: Sacramento Local Agency Formation Commission
FROM: Peter Brundage, Executive Officer
RE: Arden Arcade Incorporation Proposal Status Report (03-07)

RECOMMENDATION:

1. Authorize the Executive Officer to prepare an amended project schedule for the Arden Arcade Incorporation Proposal that assumes adoption of SB 301 during the summer and fall of 2008.
2. Authorize the Executive Officer to reevaluate the contracts for the EIR and CFA and bring back any necessary amendments to the Commission for approval.
3. Authorize the Executive Officer to forego further work until it appears that SB 301 will be approved unless the proponents agree that LAFCo should move forward on studying Governance Structure Options that are required as part of this incorporation proposal as directed by the Commission's approved scope of work.

DISCUSSION:

Based on current progress, it is not possible to complete either the EIR or CFA for the Arden Arcade Incorporation to commence hearings in time for the November, 2008 election. In order for this proposal to have been placed on the November, 2008 ballot, the Commission would have had to approve this proposal by June, 2008.

It is unfortunate that the original highly aggressive schedule cannot be met. The creation of a new city requires an enormous effort and an adequate timeline for due consideration to examine issues and concerns that will likely be raised by the public and affected agencies. Several public hearings are often necessary. Therefore, the time extension would allow adequate time to respond to issues and concerns raised during the public hearing process and provide adequate time to complete the required studies in a thorough manner. By adjusting the schedule to a more realistic timeframe, the proponents, affected agencies and the community at large will benefit from a comprehensive and deliberative process.

This successful change in the schedule is only possible if Senate Bill 301 (as proposed) is approved by the legislature and signed by the Governor extending the VLF sunset from July 1, 2009 to July 1, 2014 for incorporation proposals. (See discussion below).

Since hearings cannot commence until sometime next fiscal year (FY 2008-09), the CFA should not be started until after the close of this fiscal year (FY 2007-08) because LAFCo is required to use the most current financial information in preparing the CFA. Also, the election cannot be scheduled until the next regular scheduled election. At this time, the next regular General Election is scheduled for June 8, 2010.

Senate Bill No. 301

Senate Bill 301 (SB 301) has been introduced by Senator Romero, largely driven by the proposed incorporation of East Los Angeles. This Bill would extend the Vehicle License Fee (VLF) provision to July 1, 2014. If approved, this Bill will continue to provide newly incorporated cities additional VLF revenues as currently exercised. Generally, without this additional revenue during the first several years of incorporation, new cities are not viable.

At this time, it appears that SB 301 has a strong chance of being approved by the Legislature. If approved by the Legislature and Governor, it will still be possible to process this incorporation without having a significant negative impact on the potential financial viability of the proposed city; however, this necessary schedule adjustment significantly impacts the timing of this proposal. Adoption of SB 301 by the legislature is not likely to occur until late summer. The Governor's approval may not be known until the fall of 2008.

Note: This Bill also provides that the sunset provision for inhabited annexations will be eliminated completely. (In addition, the additional allocation of VLF revenues does not negatively impact the amount of VLF received by counties).

Currently, SB 301 has the support of League of Cities, CALAFCo, Orange LAFCo, and various incorporation efforts. At this time no opposition has been registered. It appears that the earliest the Senate could act on SB 301 is after March 18, 2008.

A copy of SB 301 is attached with its current status, history and unofficial ballot.

Available Funding

The continuance of the incorporation process will still be based on a pay-as-you-go-method to fund the EIR, CFA, and legal costs of incorporation. LAFCo staff time will be recovered only if the Commission and the electorate approve the incorporation. In addition, LAFCo will recover its initial \$100,000 contribution to the current studies.

There is \$15,262 in funding currently on deposit for this project. The attached spreadsheets summarize the revenue and expenditures that have been made on this project. Most of the funds have been expended on the EIR. However, the EIR cannot proceed until information is provided

on municipal service delivery providers. To date \$10,238 has been expended on the CFA, \$88,715 expended on the EIR, and \$12,014 expended on legal costs.

At this point, the schedule modification should not significantly impact the original cost estimate. However, as before, the final actual cost estimate is not known and will be dependent upon the type of comments and issues that are raised on the Draft CFA and Draft EIR as well as comments and concerns raised during public hearings.

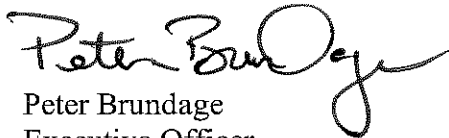
Recommendation

I recommend that the Commission direct me to continue to proceed with the required analysis as follows: 1) develop a revised project schedule, 2) negotiate and/or renegotiate contracts for the CFA and EIR, and 3) forego further expenditures on the CFA and EIR until SB 301 is adopted or it appears evident that it will be adopted. It may be possible to proceed with data collection and the Governance Structure Options based on agreement with the proponents. Further discussions will be required with the contractors to determine if this is a feasible option. Note: All contract amendments and changes will be brought back to the Commission for review and approval.

Since the CFA cannot be commenced until the beginning of the next fiscal year, it is not prudent to proceed until the end of July when the actual revenue and expenditures are known for FY 2007-08. The adjusted project schedule runs concurrently with the critical legislation (SB 301) that needs to be approved.

Respectfully,

SACRAMENTO LOCAL AGENCY FORMATION COMMISSION



Peter Brundage
Executive Officer

Attachments

Arden Arcade Deposits, Expenditures and Fund Balance

March 5, 2008

Deposits

Date	Proponent's Payment	LAFCO Match	Total Funds
2-Jul-07	17,000.00	17,000.00	34,000.00
25-Jul-07	11,189.00	11,189.00	22,378.00
10-Sep-07	5,000.00	5,000.00	10,000.00
1-Oct-07	15,000.00	15,000.00	30,000.00
26-Nov-07	10,000.00	10,000.00	20,000.00
23-Jan-08	5,000.00	5,000.00	10,000.00
			0.00
			0.00
			0.00
Total Funds	63,189.00	63,189.00	126,378.00

Expenditures

Date	Expenditures	Amount	Description of Work
July	LAFCo Invoice No. 1	5,010.00	Legal and Enviornmental Support
August	LAFCo Invoice No. 2	1,367.50	Legal and Enviornmental Support
September	LAFCo Invoice No. 3	2,730.50	Legal and Enviornmental Support
September	LAFCo Invoice No. 4	1,850.50	Legal and Enviornmental Support
Sept-Oct	LAFCO Invoice No. 5	1,055.25	Legal and Enviornmental Support
19-Oct-07	EIR-Brandman	21,615.72	EIR Expenses as of Nov. 6, 2007
7-Nov-07	EIR-Brandman	22,463.90	EIR Expenses as of Nov. 6, 2008
21-Dec-07	Burr Consulting	10,237.80	CFA
12/18/2007	LAFCo	150.00	Legal and Enviornmental Support
12/19/2007	Brandman Associates	31,147.55	EIR
1/15/2008	Brandman Associates	2,130.15	EIR
2/20/2008	Brandman Associates	11,357.49	EIR

11/2/07 YTD Expenditures **111,116.36**

11/2/07 Project Fund Balance **15,261.64** Authorized but not expended

Summary of LAFCo Matching Funds

LAFCo Share of Cost	100,000.00
LAFCo Contribution	<u>63,189.00</u>
Remaining LAFCo Match	<u>36,811.00</u>

Summary of YTD Project Revenue and Expenses

Proponents Deposits	63,189.00
LAFCo Match	63,189.00
Expenses	<u>111,116.36</u>
Fund Balance	<u>15,261.64</u>

AMENDED IN SENATE JANUARY 18, 2008

AMENDED IN SENATE JANUARY 7, 2008

SENATE BILL

No. 301

Introduced by Senator Romero

(Coauthors: Assembly Members Dymally and Laird)

February 15, 2007

An act to amend Sections 11005 and 11005.3 of the Revenue and Taxation Code, relating to local government finance.

LEGISLATIVE COUNSEL'S DIGEST

SB 301, as amended, Romero. Local government finance.

The Vehicle License Fee (VLF) Law establishes, in lieu of any ad valorem property tax upon vehicles, an annual license fee for any vehicle subject to registration in this state. Under existing law, the Controller is required to allocate VLF revenues in the Motor Vehicle License Fee Account in a specified order to, among others, each city that was incorporated from an unincorporated territory after August 5, 2004, but before July 1, 2009. Existing law also requires cities that were incorporated before August 5, 2004, be allocated additional VLF revenues in an amount determined pursuant to a specified formula. For purposes of this formula, existing law specifies that the population of a city that is incorporated before August 5, 2004, is that city's actual population, as defined, residing in areas annexed after August 5, 2004, but before July 1, 2009, ~~as specified.~~

This bill would require that cities that are incorporated from *an* unincorporated territory after August 5, 2004, but before July 1, 2014, be allocated VLF revenues, ~~as specified.~~ This bill would specify, for purposes of this formula used to determine additional VLF revenues for cities that were incorporated before August 5, 2004, that the city's

actual population is the population residing in areas annexed after August 5, 2004, but before July 1, 2014.

Existing law establishes a formula to determine, for purposes of these allocations of VLF revenues, establishes a formula to determine the population of a city that was incorporated from an unincorporated territory after August 5, 2004, and before July 1, 2009, and provides that the population of a city that was incorporated from an unincorporated territory after July 1, 2009, shall be its actual population.

This bill would provide that this formula shall be used instead extend the formulary method used to determine the population of a city that was incorporated from an unincorporated territory after August 5, 2004, and before July 1, 2014, and would provide that the method for determining the population of a city that was unincorporated from an incorporated territory after July 1, 2014, would be its actual population.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 11005 of the Revenue and Taxation Code
2 is amended to read:

3 11005. After payment of refunds therefrom and after making
4 the deductions authorized by Section 11003 and reserving the
5 amount determined necessary by the Pooled Money Investment
6 Board to meet the transfers ordered or proposed to be ordered
7 pursuant to Section 16310 of the Government Code, commencing
8 with the 2004–05 fiscal year, the balance of all motor vehicle
9 license fees and any other money appropriated by law for
10 expenditure pursuant to this section and deposited to the credit of
11 the Motor Vehicle License Fee Account in the Transportation Tax
12 Fund and remaining unexpended therein at the close of business
13 on the last day of the calendar month, shall be allocated by the
14 Controller by the 10th day of the following month in accordance
15 with the following:

16 (a) First, to the County of Orange. For the 2004–05 fiscal year,
17 that county shall be allocated fifty-four million dollars
18 (\$54,000,000) in monthly installments. For the 2005–06 fiscal year
19 and each fiscal year thereafter, that county shall receive, in monthly
20 installments, an amount equal to the amount allocated under this

1 section for the prior fiscal year, adjusted for the percentage change
2 in the amount of revenues credited to the Motor Vehicle License
3 Fee Account in the Transportation Tax Fund from the revenues
4 credited to that account in the prior fiscal year. Moneys allocated
5 to the County of Orange under this subdivision shall be used first
6 for the service of indebtedness as provided in paragraph (1) of
7 subdivision (a) of Section 11001.5. Any amounts in excess of the
8 amount required for this service of indebtedness may be used by
9 that county for any lawful purpose.

10 (b) Second, to each city, the population of which is determined
11 under Section 11005.3 on August 5, 2004, in an amount equal to
12 the additional amount of vehicle license fee revenue, including
13 offset transfers, that would be allocated to that city under Sections
14 11000 and 11005, as those sections read on January 1, 2004, as a
15 result of that city's population being determined under subdivision
16 (a) or (b) of Section 11005.3.

17 (c) Third, to each city that was incorporated from an
18 unincorporated territory after August 5, 2004, but before July 1,
19 2014, in an amount equal to the product of the following two
20 amounts:

21 (1) The quotient derived from the following fraction:

22 (A) The numerator is the product of the following two amounts:

23 (i) Fifty dollars (\$50) per year.

24 (ii) The fraction determined as the total amount of vehicle
25 license fee revenue collected during the most recent fiscal year
26 divided by the total amount of vehicle license fee revenue collected
27 during the 2004–05 fiscal year.

28 (B) The denominator is the fraction determined as the actual
29 population, as defined in subdivision (e) of Section 11005.3, of
30 all cities during the most recent fiscal year, divided by the actual
31 population, as defined in subdivision (e) of Section 11005.3, of
32 all cities in the 2004–05 fiscal year.

33 (2) The city's population determined in accordance with Section
34 11005.3.

35 (d) Fourth, to each city that was incorporated before August 5,
36 2004, in an amount equal to the product of the following two
37 amounts:

38 (1) The quotient derived from the following fraction:

39 (A) The numerator is the product of the following two amounts:

40 (i) Fifty dollars (\$50) per year.

1 (ii) The fraction determined as the total amount of vehicle
2 license fee revenue collected during the most recent fiscal year
3 divided by the total amount of vehicle license fee revenue collected
4 during the 2004–05 fiscal year.

5 (B) The denominator is the fraction determined as the actual
6 population, as defined in subdivision (e) of Section 11005.3, of
7 all cities during the most recent fiscal year, divided by the actual
8 population, as defined in subdivision (e) of Section 11005.3, of
9 all cities in the 2004–05 fiscal year.

10 (2) The actual population, as defined in subdivision (e) of
11 Section 11005.3, residing in areas annexed after August 5, 2004,
12 ~~but before July 1, 2014~~, as of the date of annexation.

13 (e) Fifth, to the cities and cities and counties of this state in the
14 proportion that the population of each city or city and county bears
15 to the total population of all cities and cities and counties in this
16 state, as determined by the Demographic Research Unit of the
17 Department of Finance. For the purpose of this subdivision, the
18 population of each city or city and county shall be determined in
19 accordance with Section 11005.3.

20 SEC. 2. Section 11005.3 of the Revenue and Taxation Code
21 is amended to read:

22 11005.3. (a) In the case of a city that incorporated on or after
23 January 1, 1987, and before August 5, 2004, the Controller shall
24 determine that the population of the city for its first 10 full fiscal
25 years, and any portion of the first year in which the incorporation
26 is effective if less than a full fiscal year, is the greater of either:

27 (1) The number of registered voters in the city multiplied by
28 three. The number of registered voters shall be calculated as of the
29 effective date of the incorporation of the city.

30 (2) The actual population, as defined in subdivision (e).

31 (b) In the case of a city that incorporated on or after January 1,
32 1987, and before August 5, 2004, and for which the application
33 for incorporation was filed with the executive officer of the local
34 agency formation commission pursuant to subdivision (a) of
35 Section 56828 of the Government Code on or after January 1,
36 1991, the Controller shall determine that the population of the city
37 for its first seven full fiscal years, and any portion of the first year
38 in which the incorporation is effective if less than a full fiscal year,
39 is the greater of either:

1 (1) The number of registered voters in the city multiplied by
2 three. The number of registered voters shall be calculated as of the
3 effective date of the incorporation of the city.

4 (2) The actual population, as defined in subdivision (e).

5 (c) In the case of a city that was incorporated from
6 unincorporated territory after August 5, 2004, and before July 1,
7 2014, the Controller shall determine the population of the city as
8 follows:

9 (1) For its first 12 months, 150 percent of the city's actual
10 population.

11 (2) For its 13th through 24th months, 140 percent of the city's
12 actual population.

13 (3) For its 25th through 36th months, 130 percent of the city's
14 actual population.

15 (4) For its 37th through 48th months, 120 percent of the city's
16 actual population.

17 (5) For its 49th through 60th months, 110 percent of the city's
18 actual population.

19 (6) After its 60th month, the city's actual population.

20 (d) In the case of a city that was incorporated from
21 unincorporated territory on or after July 1, ~~2009~~ 2014, the city's
22 population shall be its actual population.

23 (e) For purposes of this section, "actual population" means the
24 population determined by the last federal decennial or special
25 census, or a subsequent census validated by the Demographic
26 Research Unit of the Department of Finance or subsequent estimate
27 prepared pursuant to Section 2107.2 of the Streets and Highways
28 Code.

29 (f) In the case of unincorporated territory being annexed to a
30 city, during the 10-year, seven-year, or five-year period following
31 incorporation, as the case may be, subsequent to the last federal
32 census, or a subsequent census validated by the Demographic
33 Research Unit of the Department of Finance, the unit shall
34 determine the population of the annexed territory by the use of
35 any federal decennial or special census or any estimate prepared
36 pursuant to Section 2107.2 of the Streets and Highways Code. The
37 population of the annexed territory as determined by the
38 Demographic Research Unit shall be added to the city's population
39 as previously determined by the Controller pursuant to paragraph

1 (1) or (2) of subdivision (a), paragraph (1) or (2) of subdivision
2 (b), or subdivision (c), as applicable.

3 (g) After the 10-year, seven-year, or five-year period following
4 incorporation, as the case may be, the Controller shall determine
5 the population of the city as the city's actual population, as defined
6 in subdivision (e).

7 (h) The amendments made to this section by the act adding this
8 subdivision shall not apply with respect to either of the following:

9 (1) Any city that has adopted an ordinance or resolution,
10 approved a ballot measure, or is subject to a consent decree or
11 court order, that annually limits the number of housing units that
12 may be constructed within the city.

13 (2) Any city that has not prepared and adopted a housing element
14 in compliance with Section 65585 of the Government Code.

15 (i) This section shall become operative July 1, 1991.

COMPLETE BILL HISTORY

BILL NUMBER : S.B. No. 301
AUTHOR : Romero
TOPIC : Local government finance.

TYPE OF BILL :

Active
Non-Urgency
Non-Appropriations
Majority Vote Required
Non-State-Mandated Local Program
Fiscal
Non-Tax Levy

BILL HISTORY

2008

Jan. 30 In Assembly. Read first time. Held at Desk.
Jan. 30 Read third time. Passed. (Ayes 38. Noes 1. Page 2891.) To
Assembly.
Jan. 28 Read second time. To third reading.
Jan. 24 From committee: Be placed on second reading file pursuant to Senate
Rule 28.8.
Jan. 18 Read second time. Amended. Re-referred to Com. on APPR. Set for
hearing January 24.
Jan. 17 From committee: Do pass as amended, but first amend, and re-refer
to Com. on APPR. (Ayes 5. Noes 0. Page 2838.)
Jan. 9 Re-referred to Com. on L.GOV.
Jan. 7 From committee with author's amendments. Read second time.
Amended. Re-referred to Com. on RLS. Set for hearing January 16
in L.GOV. pending receipt.

2007

Feb. 22 To Com. on RLS.
Feb. 16 From print. May be acted upon on or after March 18.
Feb. 15 Introduced. Read first time. To Com. on RLS. for assignment. To
print.

CURRENT BILL STATUS

MEASURE : S.B. No. 301
AUTHOR(S) : Romero (Coauthors: Assembly Members Dymally and Laird).
TOPIC : Local government finance.
HOUSE LOCATION : ASM
+LAST AMENDED DATE : 01/18/2008

TYPE OF BILL :

Active
Non-Urgency
Non-Appropriations
Majority Vote Required
Non-State-Mandated Local Program
Fiscal
Non-Tax Levy

LAST HIST. ACT. DATE: 01/30/2008
LAST HIST. ACTION : In Assembly. Read first time. Held at Desk.
COMM. LOCATION : SEN APPROPRIATIONS
COMM. ACTION DATE : 01/24/2008
COMM. ACTION : Senate Rule 28.8.

TITLE : An act to amend Sections 11005 and 11005.3 of the
Revenue and Taxation Code, relating to local government
finance.

UNOFFICIAL BALLOT

MEASURE: SB 301
AUTHOR: Romero
TOPIC: Local government finance.
DATE: 01/30/2008
LOCATION: SEN. FLOOR
MOTION: Senate 3rd Reading SB301 Romero
(AYES 38. NOES 1.) (PASS)

AYES

Aanestad Ackerman Alquist Ashburn
Battin Calderon Cedillo Cogdill
Corbett Correa Cox Denham
Dutton Florez Harman Hollingsworth
Kehoe Kuehl Lowenthal Machado
Maldonado Margett Migden Negrete McLeod
Oropeza Padilla Perata Ridley-Thomas
Romero Runner Scott Simitian
Steinberg Torlakson Vincent Wiggins
Wyland Yee

NOES

McClintock

ABSENT, ABSTAINING, OR NOT VOTING

Ducheny