

March 4, 2013

TO: Local Agency Formation Commission
FROM: Executive Officer
Local Governmental Analyst III

SUBJECT: Final Report: Implementation of Senate Bill No. 244 (Wolk)

EXECUTIVE SUMMARY

Senate Bill No. 244 (Wolk) requires LAFCO to collect information and make determinations about disadvantaged unincorporated communities when updating or establishing spheres of influence for local agencies that provide fire protection, sewer, and/or water services. The Commission approved preliminary SB 244 implementation plans at the December 2011 meeting, and received a progress report on October 1, 2012 that discussed the completed and pending implementation tasks for LAFCO and subject agencies.

This final SB 244 implementation report identifies the local agencies with potentially qualifying disadvantaged unincorporated communities located within or contiguous to their existing sphere of influence, and provides summaries of their 2012-2013 Sphere Questionnaire responses related to SB 244-related planning activities.

A total of 40 local agencies (12 cities and 28 special districts) are identified as having qualifying disadvantaged unincorporated communities located within or contiguous to their existing sphere of influence. These cities and special districts will require commission consideration and preparation of SB 244-related determinations when updating their existing sphere of influence and/or conducting municipal service reviews.

LAFCO implementation of SB 244 may require additional procedural direction by the Commission regarding: the application of certain undefined terms when processing city annexations subject to SB 244 requirements; and, draft sphere of influence and municipal service review determination language for cities and special districts.

Sphere reviews for local agencies subject to the SB 244 requirements are expected to be considered by the Commission in early 2013. As SB 244 creates new planning requirements for the subject local agencies, future sphere reviews will consider the affected agencies' subsequent planning activities related to addressing service needs and deficiencies of the newly identified disadvantaged unincorporated communities. The Commission is requested to accept the final SB 244 implementation report and provide procedural direction for continuing LAFCO implementation.

Background

SB 244 requires the identification and description of all “*disadvantaged unincorporated communities*” located within or contiguous to the existing spheres of influence of cities and special districts that provide fire protection, sewer, and/or water services. Disadvantaged unincorporated communities are defined as inhabited unincorporated areas with an annual median household income that is 80% or less than the statewide annual median household income (equal to \$46,166 or less in 2010). The identified disadvantaged unincorporated communities are required to be addressed by LAFCO when:

- Considering a city annexation proposal involving 10 or more acres with an existing disadvantaged unincorporated community located contiguous to the proposal area; and
- Approving sphere of influence and municipal service review determinations associated with the update or establishment of spheres of influence for local agencies subject to SB 244 requirements.

SB 244 became effective on January 1, 2012, and included specific requirements for LAFCO that began on July 1, 2012. Accordingly, the Commission approved preliminary SB 244 implementation plans for FY2011-2012 and FY2012-2013 at the December 2011 meeting. The preliminary SB 244 implementation plans identified several procedural tasks that were subsequently completed in 2012:

- Development of a Geographic Information System (GIS) base map of all SB 244-qualifying census tracts within San Diego County in coordination with San Diego Association of Governments (SANDAG) census data estimates of annual median household income;
- Identification of all potential SB 244-qualifying disadvantaged unincorporated communities within or contiguous to the existing spheres of influence for the SB 244-subject agencies;
- Confirmation of how the subject agencies are planning for the present and probable needs and deficiencies for fire protection, sewer, and/or water services within the potential SB 244-qualifying disadvantaged unincorporated community; and,
- Outreach and coordination with the subject agencies through the 2012-2013 Sphere of Influence Review Program.

The Commission received a progress report on October 1, 2012 that summarized the completed SB 244 implementation tasks and identified remaining compliance tasks for LAFCO and affected local agencies. Today’s staff report serves as the final SB 244 implementation report to the Commission.

On September 28, 2012, the Governor’s Office of Planning and Research (OPR) released a draft technical advisory for guidance to local agencies on implementation of SB 244, and a final SB 244 technical advisory on February 15, 2013. The SB 244 Technical Advisory provides background and guidance for the implementation of the SB 244 requirements for LAFCOs and affected local agencies. San Diego LAFCO developed local SB 244 implementation methodology in advance of the July 1, 2012 deadline for LAFCOs and utilized household income data estimates produced in coordination with SANDAG. This local implementation approach was previously authorized by the Commission and is consistent with OPR’s 2013 Technical Advisory to achieve compliance with SB 244 requirements.

SB 244 Affected Agencies

San Diego LAFCO is required no less than every five years, to review and update, as necessary, all adopted spheres of influence for public agencies in San Diego County (Government Code Section 56425(g)). As part of LAFCO’s 2012-2013 Sphere of Influence Review Program, sphere questionnaires were distributed to all local agencies to obtain the necessary general and service-specific data to perform a review of existing spheres. SB 244-related questions were integrated within the sphere questionnaires for all 18 incorporated cities and the 57 special districts that provide fire, sewer, and/or water services.

The sphere questionnaire responses and sphere maps for the cities and special districts were reviewed by LAFCO staff to confirm which local agencies have existing disadvantaged unincorporated communities within or contiguous to their sphere of influence, and to determine how

the affected agencies were planning for the present and probable needs and deficiencies of the identified disadvantaged unincorporated communities.

The 75 subject local agencies were further requested to review LAFCO's sphere map for any unincorporated areas within or contiguous to their sphere of influence that contain disadvantaged unincorporated communities, and to confirm how services are presently provided and planned for in those areas.

A total of 40 local agencies (12 cities and 28 special districts) were identified as having qualifying disadvantaged unincorporated areas located within or contiguous to their existing sphere of influence. The following discussion identifies the subject cities and special districts by jurisdiction and primary type of service provision, and summarizes the 2012-2013 Sphere Questionnaire responses related to their SB 244-related planning activities.

Cities

All of the 18 incorporated cities in San Diego County provide one or more of the services subject to SB 244 (fire protection, sewer, and/or water service); however, some of the designated services are provided to incorporated territory by overlapping special districts. A total of 12 of the incorporated cities are specifically subject to SB 244 requirements due to the presence of potentially qualifying disadvantaged unincorporated communities located within or contiguous to their existing sphere of influence:

- Carlsbad
- Chula Vista
- El Cajon
- Escondido
- Lemon Grove
- National City
- Oceanside
- Poway
- San Diego
- San Marcos
- Santee
- Vista

The remaining six incorporated cities (Coronado; Del Mar; Encinitas; Imperial Beach; La Mesa; and, Solana Beach) are not subject to SB 244 because they either have no potentially qualifying disadvantaged unincorporated communities within their existing sphere of influence or are surrounded by incorporated territory and/or the Pacific Ocean.

The cities of Escondido, San Diego, San Marcos, and Vista have been identified as having potentially qualifying disadvantaged unincorporated communities both within and contiguous to their existing sphere of influence. National City has potentially qualifying disadvantaged unincorporated communities only within its sphere; the other seven cities (Carlsbad, Chula Vista, El Cajon, Lemon Grove, Oceanside, Poway, and Santee) only have potentially qualifying disadvantaged unincorporated communities located contiguous to their sphere.

City Responses to Sphere Questionnaire

The cities' 2012-2013 Sphere Questionnaire responses indicated whether the city was or was not planning for any SB 244-related disadvantaged unincorporated communities within or contiguous to their sphere, and when the city anticipated being in compliance with the SB 244 requirements. Seven of the 12 subject cities indicated that they were not currently planning for any identified disadvantaged unincorporated communities within or contiguous to their sphere: Chula Vista, El Cajon, Escondido, Lemon Grove, Oceanside, Poway, and San Diego.

The City of Escondido indicated that it was not planning for the identified disadvantaged unincorporated communities, but stated that it would be in compliance with SB 244 "within 5 years."

The City of Vista stated that it was planning for the identified disadvantaged unincorporated communities and submitted its 2008 Sewer Master Plan and its FY 2012-2013 Capital Project Budget. The City of Vista also indicated an anticipated SB 244 compliance date of January 1, 2014. The cities of Carlsbad, National City, San Marcos and Santee either did not provide a response to the SB 244 question, or indicated that no identified disadvantaged unincorporated communities exist within or contiguous to their sphere.

Special Districts

A total of 28 of the 57 special districts providing fire protection, sewer, and/or water services in San Diego County have been identified as being directly subject to SB 244 requirements due to the presence of potentially qualifying disadvantaged unincorporated communities located within or contiguous to their existing sphere of influence.

Special district service providers typically coordinate the identification of their projected service needs with SANDAG population projections and the land use planning documents of local governments within their respective service areas. While special districts generally engage in long-range infrastructure and/or service planning such as master plans and capital improvement programs, SB 244 requires that LAFCO determine whether district planning efforts address disadvantaged unincorporated communities.

Special districts may provide one or more of the services subject to SB 244 depending on the type of district and the service(s) the agency is currently authorized to provide; therefore, the following discussion is categorized by the type of special district or primary authorized service.

Fire Protection

A total of 18 special districts in San Diego County (including Fire Protection Districts and County Service Areas) primarily provide structural fire protection services (and emergency medical services in some cases) within their respective service areas. Many fire protection districts participate in automatic aid agreements with adjacent fire protection agencies to maximize service coverage and emergency response through pooling of resources and personnel. The automatic aid agreements specify that all participating fire agencies will respond to emergency service calls based on the first available agency regardless of service area boundaries.

Of the 18 local fire protection districts, 13 are subject to SB 244 requirements due to the presence of potentially qualifying disadvantaged unincorporated communities located within or contiguous to their existing sphere of influence:

- Bonita-Sunnyside FPD
- CSA No. 107 (Elfin Forest)
- CSA No. 115 (Pepper Drive)
- CSA No. 135 (Fire LP)
- Lakeside FPD
- Lower Sweetwater FPD
- North County FPD
- Rancho Santa Fe FPD
- San Diego Rural FPD
- San Marcos FPD
- San Miguel Consolidated FPD
- Valley Center FPD
- Vista FPD

Eight of the 13 subject fire protection districts have potentially qualifying disadvantaged unincorporated communities located both within and contiguous to their existing sphere of influence: CSA No. 107 (Elfin Forest), CSA No. 115 (Pepper Drive), CSA No. 135 (Fire LP), Lakeside FPD, Rancho Santa Fe FPD, San Marcos FPD, San Miguel Consolidated FPD, and Valley Center FPD.

Four of the remaining five subject fire protection districts only have a potentially qualifying disadvantaged unincorporated communities located within their existing sphere: Lower Sweetwater FPD, North County FPD, San Diego Rural FPD, and Vista FPD; the Bonita-Sunnyside FPD only has potentially qualifying disadvantaged unincorporated communities located contiguous to its sphere.

The Alpine FPD, Borrego Springs FPD, Deer Springs FPD, Julian-Cuyamaca FPD, and Pine Valley FPD are not subject to SB 244 requirements because they have no potentially qualifying disadvantaged unincorporated communities located within or contiguous to their existing sphere of influence.

Fire District Responses to Sphere Questionnaire

The fire protection districts' 2012-2013 Sphere Questionnaire responses identified whether the agency was or was not planning for any potentially qualifying disadvantaged unincorporated communities within or contiguous to their sphere, and if the agency participated in automatic aid agreements that provide fire protection services to the identified disadvantaged unincorporated communities.

Seven of the 13 subject fire protection districts indicated that they were not currently planning for any identified disadvantaged unincorporated communities within or contiguous to their sphere; however, most of the fire protection districts indicated that their automatic aid agreements cover all disadvantaged unincorporated communities for fire and emergency medical services.

The remaining six fire protection districts either did not provide a response to the SB 244 question, or indicated that no identified disadvantaged unincorporated communities exist within or contiguous to their sphere.

Sewer Service

A total of 12 special districts in San Diego County (including Sanitation Districts and Community Service Districts) primarily provide sewer service within their respective service areas:

- Buena (County) SD
- Fairbanks Ranch CSD
- Jacumba CSD
- Julian CSD
- Lemon Grove (County) SD
- Leucadia Wastewater
- Majestic Pines CSD
- Morro Hills CSD
- Pauma Valley CSD
- Rancho Santa Fe CSD
- San Diego County SD
- Whispering Palms CSD

The San Diego County Sanitation District (SD) is the only sewer agency subject to SB 244 requirements due to the presence of potentially qualifying disadvantaged unincorporated areas located within or contiguous to its existing sphere of influence.

County Sanitation District Response to Sphere Questionnaire

The San Diego County SD's 2012-2013 Sphere Questionnaire response indicated that the district was currently planning for the identified disadvantaged unincorporated communities within or contiguous to their sphere through local Sewer Master Plans for the sewer service areas of Alpine, Campo, Lakeside, Julian, Pine Valley, Spring Valley, and Winter Gardens. The remaining 11 sewer districts are not subject to SB 244 requirements because there are no potentially qualifying disadvantaged unincorporated areas within or contiguous to their existing spheres of influence.

Water Service

A total of 27 special districts in San Diego County (including Irrigation Districts, Municipal Water Districts, Water Districts, and a Public Utilities District) primarily provide water service within their respective service areas; however, several of the water districts are also authorized to provide other SB 244-subject services such as fire protection and/or sewer service.

The San Diego County Water Authority (CWA) and the Metropolitan Water District of Southern California (MET) have adopted spheres of influence that are coterminous with the individual member water agencies' spheres. While CWA plans for its regional imported water needs through its 2010 Urban Water Management Plan, the SB 244-related planning activities are locally coordinated through the individual member agencies based upon the presence of any potentially qualifying disadvantaged unincorporated communities located within or contiguous to the respective agency's sphere of influence.

Of the 27 water districts, a total of 14 are subject to SB 244 requirements due to the presence of potentially qualifying disadvantaged unincorporated communities located within or contiguous to their existing sphere of influence:

- Carlsbad MWD
- Fallbrook PUD
- Helix (Irrigation) WD
- Lakeside (Irrigation) WD
- Olivenhain MWD
- Otay (Municipal) WD
- Padre Dam MWD
- Questhaven MWD
- Ramona MWD
- Rincon Del Diablo MWD
- South Bay ID
- Vallecitos (County) WD
- Valley Center MWD
- Vista ID

Eight of the 14 subject water districts have been identified as having potentially qualifying disadvantaged unincorporated communities both within and contiguous to their existing sphere of influence: Helix (Irrigation) WD, Lakeside (Irrigation) WD, Olivenhain MWD, Otay (Municipal) WD, Padre Dam MWD, Questhaven MWD, Ramona MWD, Rincon Del Diablo MWD, South Bay ID, Vallecitos (County) WD, Valley Center MWD, and Vista ID.

The Fallbrook PUD only has a potentially qualifying disadvantaged unincorporated community located within its existing sphere; the Carlsbad MWD only has a potentially qualifying disadvantaged unincorporated community located contiguous to its sphere.

A total of 13 of the 27 water districts are not subject to SB 244 requirements because they have no potentially qualifying disadvantaged unincorporated communities within or contiguous to their existing sphere of influence:

- Borrego (California) WD
- Canebrake County WD
- Coachella Valley WD
- Cuyamaca (Calif.) WD
- Descanso (CSD) WD
- Mootamai MWD
- Pauma MWD
- Rainbow MWD

- San Dieguito WD
- San Luis Rey MWD
- Santa Fe ID
- Wynola (California) WD
- Yuima MWD

Water District Responses to Sphere Questionnaire

The water districts' 2012-2013 Sphere Questionnaire responses identified if the agency was or was not planning for any potentially qualifying disadvantaged unincorporated communities within or contiguous to their sphere. The water districts submitted copies of their 2010 Urban Water Management Plans and their respective Water Master Plan/Capital Improvement Programs dated from 2008-2012.

Only six of the 14 subject water districts indicated that they were planning for any identified disadvantaged unincorporated communities within or contiguous to their sphere: Fallbrook PUD; Olivenhain MWD; Otay WD; Vallecitos WD; Valley Center MWD; and Vista ID. The remaining eight water districts either indicated that they were not currently planning for any identified disadvantaged unincorporated communities within or contiguous to their sphere, or indicated that no such communities exist.

Commission Procedural Direction

SB 244 contains certain undefined terms that need to be considered during LAFCO processing of qualified city annexation proposals. SB 244 also adds new determination requirements that apply when the Commission updates or establishes spheres of influence and conducts associated municipal service reviews for affected local agencies.

When implementing new statutory requirements, codified bill language may not provide the clarity needed for effective application in all local circumstances and conditions. In cases where additional procedural direction is necessary to facilitate the processing of jurisdictional change proposals, LAFCO staff prepares draft procedures for consideration by the Commission. The following discussion provides draft procedures and determination language that may be applied for local agencies that are subject to SB 244 requirements.

City Annexations with a Contiguous Disadvantaged Community

In the consideration of city annexation proposals of greater than 10 acres, SB 244 requires LAFCO to review the proposal for the presence of any disadvantaged unincorporated community located *contiguous* to the proposal area. California Government Code Section 56375(a)(8) states:

- (A) *Except for those changes of organization or reorganization authorized under Section 56375.3, and except as provided by subparagraph (B), a commission shall not approve an annexation to a city of any territory greater than 10 acres, or as determined by commission policy, where there exists a disadvantaged unincorporated community that is contiguous to the area of proposed annexation, unless an application to annex the disadvantaged unincorporated community to the subject city has been filed with the executive officer.*
- (B) *An application to annex a contiguous disadvantaged community shall not be required if either of the following apply:*
- (i) *A prior application for annexation of the same disadvantaged community has been made in the preceding five years.*
 - (ii) *The commission finds, based upon written evidence, that a majority of the registered voters within the affected territory are opposed to annexation.*

While SB 244 specifies the characteristics of a disadvantaged unincorporated community, the extent of the term *contiguous* is undefined. To provide clarity for subject agencies and property owners in determining the affected area, implementation of the requirement (or exemption) related to the

submittal of a second proposal to annex a *contiguous* disadvantaged community should receive additional procedural direction from the Commission.

For practical purposes, *contiguous* territory can be understood as the property immediately adjacent to the perimeter of the subject proposal area, meeting the contiguity requirements in Government Code Section 56031. Thus, when considering SB 244-qualifying city annexation proposals, a potential procedural approach to determine the extent of a *contiguous* disadvantaged unincorporated community may be to consider all qualifying unincorporated parcels immediately bordering the perimeter of the proposal area as the *contiguous* affected territory.

Written Evidence

When an affected city annexation proposal is required to submit a second proposal to annex a contiguous disadvantaged unincorporated community, SB 244 specifies that the second proposal requirement may be waived if a majority of the registered voters within the affected territory provide *written evidence* to the Commission of their opposition to annexation. SB 244 does not provide a definition for the term *written evidence*.

Prior to submittal for LAFCO consideration, cities are typically directed to survey the properties adjacent to the proposal area to determine respective interest or opposition in joining the proposed annexation proceedings. The survey results assist the Commission when considering potential modifications of submitted proposal areas to create more logical and orderly boundaries following the proposed jurisdictional change.

For these types of surveys of adjacent property owners, a non-response is usually interpreted as a non-interest in annexation; however, because SB 244 requires *written evidence* of the will of the registered voters in a second proposal area, a non-response does not comply with this statutory requirement. Accordingly, it is recommended that the Commission require signed and dated statements, including signatures of the registered voters within the affected contiguous area, be provided to the Commission to satisfy the *written evidence* provision.

Because the second proposal is required by statute to be submitted unless written evidence of opposition is provided, the annexing city should survey the affected registered voters and disclose any assessments or fees charged to annexing territory, along with any terms and conditions associated with the annexation.

Process for Determining Contiguous Disadvantaged Community

A city annexation proposal subject to SB 244 requirements will need special processing to identify any disadvantaged unincorporated communities located contiguous to the proposal area, and to establish limits to define the extent of the affected area subject to a second annexation proposal.

This procedural approach would identify the first layer of qualifying unincorporated parcels surrounding the proposed annexation area as being subject to a potential second proposal for annexation; however, a qualifying disadvantaged unincorporated community must be *inhabited* (contain 12 or more registered voters). In addition, all proposed city annexation boundaries are reviewed for the creation of a logical and orderly incorporated boundary following the proposed jurisdictional change.

Accordingly, the Commission may consider modification of a proposed city annexation area to accumulate the minimum number of registered voters necessary to constitute an inhabited community of qualified disadvantaged unincorporated properties, or to include additional contiguous territory (such as roadways or adjacent qualified unincorporated properties) to achieve a more logical and orderly jurisdictional boundary. The following is a draft procedure for LAFCO processing of SB 244-affected city annexations:

Special Provisions for SB 244-Qualifying City Annexations

1. If a city annexation proposal involves 10 or more acres with a disadvantaged unincorporated community located contiguous to the proposal area, the registered voters within the

contiguous affected area should be surveyed by the subject city to provide written evidence to the Commission regarding their support or opposition for annexation. The written evidence should include statements signed and dated by the registered voters within the affected area.

2. All qualifying unincorporated parcels immediately adjacent to the subject proposal area will constitute the contiguous disadvantaged unincorporated community. If the adjacent unincorporated parcels do not contain a minimum of 12 registered voters, additional qualifying adjacent parcels will be added to the affected area until the threshold for inhabited territory is achieved.
3. Additional contiguous territory (such as roadways or adjacent qualified unincorporated properties) may be added to the affected contiguous area to achieve a more logical and orderly jurisdictional boundary.
4. The subject city should identify all related city annexation fees or charges and disclose any terms and conditions associated with annexation when surveying the affected registered voters.
5. If a second proposal to annex a contiguous disadvantaged unincorporated community is not opposed by written evidence of a majority of the affected registered voters, the Commission should consider a reduction or waiving of the associated LAFCO processing fees for the secondary proposal.
6. When determining the presence of a qualifying contiguous disadvantaged unincorporated community for SB 244-affected city annexations, San Diego LAFCO will utilize the current statewide annual median household income figure produced by the Census Bureau's American Community Survey 1-year estimates for California. As of July 1, 2012, the most recent statewide annual median household income was \$57,708 for 2010.

Sphere and MSR Determinations

Sphere of Influence

SB 244 added specific language addressing disadvantaged unincorporated communities to the required written statement of determinations LAFCO must prepare and consider when updating a sphere of influence:

- *For an update of a sphere of influence of a city or special district that provides public facilities or services related to sewers, municipal and industrial water, or structural fire protection, that occurs pursuant to subdivision (g) on or after July 1, 2012, the present and probable need for those public facilities and services of any disadvantaged unincorporated communities within the existing sphere of influence. (Government Code Section 56425(e)(5))*

The SB 244-related determination is required to be prepared when LAFCO updates the sphere for any of the 18 cities or the 57 special districts in San Diego County that provide either fire protection, sewer, and/or water service(s). As stated previously, a total of 12 cities and 28 special districts are confirmed to have disadvantaged unincorporated communities located within or contiguous to their existing sphere of influence.

Municipal Service Review

SB 244 also added new language to the written statement of determinations that LAFCO is required to prepare when conducting a municipal service review in association with a sphere establishment or update. The SB 244-related determinations are required to be prepared and considered when LAFCO establishes or updates the sphere of a city or a special district that provides fire protection, sewer, and/or water service(s).

These new determinations require identification and discussion of the service needs and deficiencies of any disadvantaged unincorporated communities within *or contiguous* to the subject agency's

existing sphere of influence. The SB 244-related municipal service review determinations are required to be prepared in respect to the following information:

- *The location and characteristics of any disadvantaged unincorporated communities within or contiguous to the sphere of influence.*
- *Present and planned capacity of public facilities, adequacy of public services, and infrastructure needs or deficiencies including needs or deficiencies related to sewers, municipal and industrial water, and structural fire protection in any disadvantaged unincorporated communities within or contiguous to the sphere of influence. (Government Code Sections 56430(a)(2 and 3))*

Because SB 244 creates new planning requirements for the affected agencies, it is anticipated that the initial implementation of the bill will confirm that many local agencies are not currently planning for the newly identified disadvantaged unincorporated communities. The following draft determinations are intended to facilitate the sphere reviews for the SB 244-subject agencies. Future sphere reviews will measure any planning activities established by the affected local agencies in compliance with SB 244.

Draft SB 244 Determinations

As stated previously, a total of 12 cities and 28 special districts are confirmed to have disadvantaged unincorporated communities located either within or contiguous to their existing sphere of influence. The local agencies subject to SB 244 that do not have disadvantaged unincorporated communities located within their existing sphere of influence will receive the following standardized sphere and municipal service review determination language:

- *As of July 1, 2012, no disadvantaged unincorporated communities have been identified within or contiguous to the (subject agency's) sphere of influence; therefore, the SB 244-related determinations do not apply.*

For the local agencies subject to SB 244 that are confirmed as having identified disadvantaged unincorporated communities within or contiguous to their sphere of influence:

- *As of July 1, 2012, disadvantaged unincorporated communities have been identified within or contiguous to the (subject agency's) sphere of influence. The (subject agency) has planned for the needs and deficiencies related to (fire protection, sewer, and/or water) services in the identified disadvantaged unincorporated communities through its relevant planning documents (master service plan/capital improvement program, auto-aid agreements, etc.).*

For the local agencies subject to SB 244 that are confirmed as having identified disadvantaged unincorporated communities within or contiguous to their sphere of influence, but the agency has not planned for the service needs and deficiencies of the identified disadvantaged unincorporated communities:

- *As of July 1, 2012, disadvantaged unincorporated communities have been identified within or contiguous to the (subject agency's) sphere of influence. The (subject agency) has not planned for the needs and deficiencies related to (fire protection, sewer, and/or water) services in the identified disadvantaged unincorporated communities; however, the (subject agency) states that it will be in compliance with SB 244-requirements by (date).*

In order to facilitate the timely processing of SB 244-affected city annexation proposals and subject agency sphere updates, it is recommended that the Commission approve the above standardized sphere and municipal determination language for the SB 244-subject agencies.

Conclusion

San Diego LAFCO's implementation of the SB 244-related statutory requirements has been successful in ensuring compliance within the mandated deadlines and by creating a baseline of current agency planning and service delivery information to be used for ongoing compliance. LAFCO staff has identified a total of 40 (12 cities and 28 special districts) of the 75 subject local agencies as

having qualifying disadvantaged unincorporated communities located within or contiguous to their existing sphere of influence. The affected agencies will require Commission consideration and preparation of SB 244-related determinations when updating their existing sphere of influence and/or conducting municipal service reviews.

Additional procedural direction by the Commission is expected to provide clarity for processing and consideration of SB 244-affected city annexation proposals. The Commission should consider modification of a proposed city annexation area to accumulate the minimum number of registered voters necessary to constitute an inhabited area of qualified disadvantaged unincorporated properties, or to include additional contiguous territory (such as roadways or adjacent qualified unincorporated properties) to achieve a more logical and orderly jurisdictional boundary. If a second proposal to annex a contiguous disadvantaged unincorporated community is not opposed by written evidence of a majority of the affected registered voters, the Commission should consider a reduction or waiving of the associated LAFCO processing fees for the secondary proposal.

For city annexation surveys of adjacent properties, a non-response is usually interpreted as a non-interest in annexation; however, because SB 244 requires *written evidence* of the will of the registered voters in a second proposal area, a non-response does not comply with this statutory requirement. Accordingly, it is recommended that the Commission require signed and dated statements, including signatures of the registered voters within the affected area, be provided to the Commission to satisfy the *written evidence* provision.

Sphere reviews for the local agencies subject to the SB 244 requirements are expected to be considered by the Commission in early 2013. As SB 244 creates new planning requirements for local agencies, future sphere reviews will consider the affected agencies' subsequent planning activities related to addressing the present and probable service needs and deficiencies of any disadvantaged unincorporated communities located within or contiguous to their existing sphere of influence.

Therefore it is

REQUESTED: That your Commission:

1. Review and accept the SB 244 implementation progress report; and,
2. Discuss and accept the following procedural direction to staff for SB 244-qualifying city annexations and overall SB 244 compliance:
 - a. If a city annexation proposal involves 10 or more acres with a disadvantaged unincorporated community located contiguous to the proposal area, the registered voters within the contiguous affected area should be surveyed by the subject city to provide written evidence to the Commission regarding their support or opposition for annexation. The written evidence should include statements signed and dated by the registered voters within the affected area.
 - b. All qualifying unincorporated parcels immediately adjacent to the subject proposal area will constitute the contiguous disadvantaged unincorporated community. If the adjacent unincorporated parcels do not contain a minimum of 12 registered voters, additional qualifying adjacent parcels will be added to the affected area until the threshold for inhabited territory is achieved.
 - c. Additional contiguous territory (such as roadways or adjacent qualified unincorporated properties) may be added to the affected contiguous area to achieve a more logical and orderly jurisdictional boundary.
 - d. The subject city should identify all related city annexation fees or charges and disclose any terms and conditions associated with annexation when surveying the affected registered voters.
 - e. If a second proposal to annex a contiguous disadvantaged unincorporated community is not opposed by written evidence of a majority of the affected registered voters, the Commission should consider a reduction or waiving of the associated LAFCO processing fees for the secondary proposal.

- f. When determining the presence of a qualifying contiguous disadvantaged unincorporated community for SB 244-affected city annexations, San Diego LAFCO will utilize the current statewide annual median household income figure produced by the Census Bureau's American Community Survey 1-year estimates for California. As of July 1, 2012, the most recent statewide annual median household income was for 2010 (\$57,708).
3. Discuss and accept the following procedural direction to staff for SB 244 Sphere and MSR Determinations
- a. The SB 244-subject local agencies that do not have disadvantaged unincorporated communities located within or contiguous to their existing sphere of influence will receive the following standardized sphere and municipal service review determination language:
As of July 1, 2012, no disadvantaged unincorporated communities have been identified within or contiguous to the (subject agency's) sphere of influence; therefore, the SB 244-related determinations do not apply.
 - b. For the SB 244-subject agencies that are confirmed as being affected by SB 244 requirements because disadvantaged unincorporated communities are identified within or contiguous to their sphere of influence:
As of July 1, 2012, disadvantaged unincorporated communities have been identified within or contiguous to the (subject agency's) sphere of influence. The (subject agency) has planned for the needs and deficiencies related to (fire protection, sewer, and/or water) services in the identified disadvantaged unincorporated communities through its relevant planning documents (master service plan/capital improvement program, auto-aid agreements, etc.).
 - c. For the SB 244-subject agencies that are confirmed as being affected by SB 244 requirements because disadvantaged unincorporated communities are identified within or contiguous to their sphere of influence, but the agency has not planned for the service needs and deficiencies of the identified disadvantaged unincorporated communities:
As of July 1, 2012, disadvantaged unincorporated communities have been identified within or contiguous to the (subject agency's) sphere of influence. The (subject agency) has not planned for the needs and deficiencies related to (fire protection, sewer, and/or water) services in the identified disadvantaged unincorporated communities; however, the (subject agency) states that it will be in compliance with SB 244-requirements by (date).

Respectfully submitted,

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MDO:RB:ra

Attachments: 1) SB244
2) Sphere maps of SB 244-affected agencies
3) SB244 Local Agency Matrix

[Link to Attachments: file is large so be patient](#)