

FUNDING FIRE PROTECTION

AN OVERVIEW OF FUNDING ISSUES FACING FIRE PROTECTION DISTRICTS



SAN DIEGO LOCAL AGENCY FORMATION COMMISSION

1600 Pacific Highway Room 452
San Diego, California 92101
(619) 531-5400 www.sdlafco.org
Originally Issued: 1999
Updated: November 2003

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LOCAL AGENCY FORMATION COMMISSION

The San Diego Local Agency Formation Commission is responsible for coordinating logical and timely changes in local governmental boundaries, conducting special studies that review ways to reorganize, simplify and streamline governmental structure, and adopting a sphere of influence for each city and special district within the County of San Diego.

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PREFACE

In June 1997, the San Diego Local Agency Formation Commission (LAFCO) assigned a high priority to studying the potential for consolidating fire protection services in San Diego County. To gather information concerning the organization of fire protection services, LAFCO staff, with the assistance of the LAFCO Special Districts Advisory Committee, conducted an extensive survey among the numerous fire protection agencies in the County. The predominant issue to emerge from the survey was the funding of fire protection services—including apparent inequities in the level of funding received by various agencies. After reviewing the survey results in May 1998, the Commission directed staff to conduct a study of all issues impacting fire protection service funding.

San Diego LAFCO approved the report, *FUNDING FIRE PROTECTION*, in February 1999. Following the devastating fires of October 2003, the report was technically updated and reissued. The report contains an examination of the discretionary and mandatory aspects of fire protection funding and a review of the precedents that determine current funding alternatives. The report also presents an analysis of the unintended consequences of state legislation concerning the allocation of property tax revenues. Lastly, the report chronicles the evolution of funding fire protection services in San Diego County.

Closely following the original release of *FUNDING FIRE PROTECTION*, in 1999, the Commission established the *Task Force on Fire Protection and Emergency Medical Services* to examine how recommendations made in the study could be implemented. Fire Chief, Karl Bauer was retained as Executive Director. The Task Force, which is chaired by Supervisor Dianne Jacob, continues to be supported by the San Diego LAFCO and is dedicated to improving all aspects of the region's emergency services.

MICHAEL D. OTT
Executive Officer

SHIRLEY ANDERSON
Chief, Policy Research

CONTENTS

| | |
|--|----|
| 2003 UPDATE | 1 |
| INTRODUCTION | 3 |
| Section One: SOURCES OF FUNDING | 5 |
| PROPERTY TAX | 5 |
| Tax Rate Area is Basis for Property Tax Roll | 5 |
| Property Tax Process Altered by Proposition 13 | 6 |
| Property Tax Revenues Reduced by Proposition 13..... | 7 |
| Allocation of Property Tax Revenue | 8 |
| Development Impacts Property Tax Revenue | 9 |
| Redevelopment Agencies Divert Property Tax Revenue | 9 |
| State Laws Determine Allocation of Property Tax Revenue | 9 |
| Senate Bill 154..... | 10 |
| Assembly Bill 8 | 10 |
| Special District Augmentation Fund..... | 11 |
| Educational Revenue Augmentation Fund | 12 |
| Jurisdictional Boundary Changes and Property Tax Exchange | 13 |
| Implications of Inflexible Property Tax Allocation Formulas..... | 16 |
| Teeter Plan for Property Tax Collection..... | 17 |
| OTHER REVENUE SOURCES | 18 |
| Special Taxes | 18 |
| Fees | 19 |
| Mitigation Fees | 19 |
| Assessments | 19 |
| Bonds | 20 |
| Mello-Roos Community Facilities Act of 1982..... | 20 |
| Local Public Safety Protection and Improvement Act of 1993 | 21 |
| Section Two: FUNDING IN SAN DIEGO COUNTY | 23 |
| County Assistance | 23 |
| Funding Fire Protection Districts After 1978 | 25 |
| Section Three: SUMMARY | 29 |
| Section Four: STRATEGIES TO ENHANCE REVENUES | 33 |
| APPENDICES | |
| A: Negotiated Transfer of ATI | 37 |
| B: County of San Diego Board of Supervisors Policy B-45 | 39 |
| C: Area Not Within a Fire Protection Agency | 43 |
| D: Roster of Local Agencies That Fund Fire Protection | 45 |

2003 UPDATE

San Diego LAFCO established the *Task Force on Fire Protection and Emergency Medical Services* (Task Force) in 1999 to further explore the recommendations contained in the fire funding study. The Task Force, which is comprised of representatives from local fire agencies, labor organizations and special districts, soon evolved into an independent coalition supported by San Diego LAFCO and dedicated to improving all facets of the region's emergency services.

The Task Force has several standing subcommittees that examine issues critical to the region's emergency services. The subcommittees report findings to the Task Force—which in turn makes recommendations to the LAFCO Commission, the County Board of Supervisors and other governmental bodies. Current subcommittees examine issues involving:

- Regionalism;
- Finance and capital needs;
- Communications; and
- Legislation

The Task Force has been responsible for developing a number of funding opportunities that have generated over \$6.6 million for the region's fire and emergency services. Such programs include:

- **Annual Fire and Emergency Services Trust Fund Grant Program:** An annual match between County General Fund money and Community Development Block Grant entitlements. This program assists regional fire agencies, which rely heavily on volunteers for direct delivery of fire protection and emergency medical services, by providing grants for capital needs such as fire engines, rescues and other vital equipment.
- **First-Responder's Reimbursement Pool of Funds:** Annual reimbursement to fire departments in the unincorporated area for response to emergency medical related calls. Includes base funding of \$5,000.
- **Terrorism Preparedness:** A program that provides funding for fire and emergency medical agencies in the unincorporated area to purchase readiness equipment and to train first

responders in the event that they are called to an incident involving weapons of mass destruction.

- **Communications Grant:** A Task Force proposal to the San Diego SAFE, which resulted in reducing by half the rising cost of dispatching for many of the region's rural fire protection agencies.

In 2002, the Task Force assumed additional responsibility, when it undertook the Municipal Service Review and Sphere of Influence Update for San Diego County Fire and Emergency Medical Services. When completed, this project will provide an in-depth analysis of the region's system of fire protection and emergency services.

INTRODUCTION

Currently, 17 cities, 28 special districts¹, and a number of volunteer agencies fund structural fire protection service in San Diego County. The State, through the California Department of Forestry (CDF), funds wildland fire protection for state responsibility areas. With the exception of CDF—which clearly has responsibility for providing wildland fire protection—there is no legal mandate for California’s local governments to provide fire protection; funding and providing fire protection occurs at the discretion of local jurisdictions. Traditionally, as areas of San Diego County have developed to the point where structural fire protection was desirable, communities have incorporated or formed special fire protection districts and taxed themselves to provide fire protection services.

The consequences of Proposition 13 were not restricted to just reducing revenues.

Passage of Proposition 13 in 1978 represented an epochal event for agencies in San Diego County that provide fire protection services. The consequences of Proposition 13 were not restricted to just reducing property tax revenues. Proposition 13 set into motion fundamental changes in the way that property is assessed, taxes are levied, and the manner in which the diminished property tax revenue is distributed among local governments; options for funding, as well as the very organization of fire protection services were transformed.

Prior to 1978, fire protection agencies relied upon property tax as their principal source of revenue. Fire protection budgets were developed according to the level of service that communities demanded and property tax rates were adjusted to generate the necessary revenue. Proposition 13 slashed revenue from property tax and state allocation formulas, which have created inequities in the amount of property tax revenue received by various jurisdictions, have usurped local control. Moreover, the succession of initiatives following in the wake of Proposition 13 diminished the ability of fire protection agencies to utilize alternative sources of revenue.

Proposition 13 also influenced the organization of fire protection providers in San Diego County.

Proposition 13 also influenced how fire protection providers in San Diego County are organized. For a number of years, the County funded a contract with the CDF to provide fire protection to unincorporated communities that were not sufficiently developed

¹ See Appendix D: Roster of Local Agencies that Provide Fire Protection

to organize and pay for structural fire protection. When the contract cost escalated, the Board of Supervisors concluded that fire protection services should not be sustained by the County General Fund; unincorporated communities were encouraged to annex to agencies that provided fire protection or to form volunteer fire companies. The County agreed to provide support to the volunteer companies for a specified period of time. Thereafter, communities were expected to replace the volunteers with public agencies and to tax themselves to pay for fire protection. Two proposals to form a fire protection agency over the unincorporated area were approved by LAFCO. Due to the Proposition 13 constraint on imposing additional property tax, both proposed agencies would have been dependent upon voter-approved benefit fees. Both proposals for benefit fee-funded districts failed to receive voter support.

Unable to garner tax support for a unified fire protection district, proponents ultimately sought formation of eleven smaller fire protection agencies. Again, however, Proposition 13 prohibited these new agencies from receiving property tax revenues. Although the County had no legal obligation to support the new agencies, a portion of the County General Fund was voluntarily transferred to the eleven new agencies to provide minimal levels of funding. It would be left to the local communities to provide additional income through voter-approved taxes.

...a portion of the County General Fund was voluntarily transferred to the eleven new agencies.

From 1979 to 1998, there were 50 elections in San Diego County involving voter approval of assessments, fees or special taxes dedicated to fire protection services. Only 18 of these elections gathered two-thirds approval and today, there is a wide variance in the level of funding that fire protection agencies receive.

Prior to 1978, communities assessed risk and determined how much they were willing to pay for fire protection services; property tax rates were set accordingly. In spite of the increased rigidity that Proposition 13 and successive initiative introduced into the budgeting process, the principle for generating fire protection revenue actually has not changed. Questions concerning risk levels and service levels must still be answered and communities are still obliged to tax themselves to pay for the level of service demanded.

Section One SOURCES OF FUNDING

PROPERTY TAX

All property is taxable unless otherwise provided for by the California Constitution or Federal laws. Real property—that is—land and attached improvements and tangible personal property such as boats, portable machinery, and office equipment are subject to annual assessment and taxation. Also subject to annual taxation are: private, possessory interest in publicly owned lands, for example, contractual use of U.S. Forest Service property for ski resorts or cabins; and property owned by local governments but located outside their boundaries—if the property was subject to taxation when acquired by the local government.²

The classification of property as either *real* or *personal* is significant because tax assessment procedures vary depending on the type of classification. The Legislature may exempt personal property from taxation or provide for differential taxation; the Legislature does not have this power over real property. In addition, personal property is not subject to the valuation limitations created by Proposition 13.

Tax Rate Area is Basis for Property Tax Roll

To simplify compilation of the county tax roll, geographic areas that contain specific combinations are grouped together as Tax Rate Areas.

To facilitate compilation of the county tax roll, geographic areas that contain specific combinations of public agencies are grouped together as Tax Rate Areas (TRA). There are approximately 4,700 TRAs in San Diego County, each containing a distinct combination of public agencies. For example, all parcels in TRA 82151 in East County, contains parcels that all receive services from the *County of San Diego, Lakeside Union Elementary School District, Grossmont Union High School District, Grossmont-Cuyamaca Community College District, County Library, Heartland Paramedic District, County Flood Control District, Regional 800 MHz, Lakeside Fire Protection District, Greater San Diego Conservation District, Padre Dam Municipal Water District, the Grossmont Hospital District* and more. TRA 019147 in North County features a different mix of public services including the

² California State Board of Equalization, *California Property Tax: An Overview* (Sacramento, 1998) p.11.

County of San Diego, Encinitas Elementary School District, San Dieguito Union High School District, Mira Costa Community College District, City of Encinitas, San Dieguito Park District, Regional 800 MHz, Greater San Diego Resource Conservation District, Leucadia County Water District, Olivenhain Municipal Water District and others.

Individual jurisdictions generally contain multiple TRAs to reflect the different combinations of public services provided to various areas within each jurisdiction. Property taxes generated within each TRA are allocated to the public agencies within the TRA according to formulas contained in state law.

Prop 13 alters process for allocating property tax revenue

On June 6, 1978, voters overwhelmingly approved the property tax limitation initiative known as Proposition 13. Prior to 1978, local governments in California could set property tax rates independent of the rates set by other agencies; property tax bills reflected the sum of each tax rate levied within the TRA where property was located. Proposition 13 fundamentally changed the manner in which property was assessed, taxes were levied, and property tax revenue was allocated to local governments

Proposition 13:

- Limits the tax on real property to 1 percent of its taxable value plus the rate necessary to fund voter-approved indebtedness;
- Requires that property be valued at 1975 market value, or as of the date the property changes ownership;
- Limits annual assessment increases to 2 percent;
- Prohibits both the state and local governments from imposing any new *ad valorem* taxes on real property or imposing any sale or transaction tax on the sale of real property;
- Requires a two-thirds vote in each house of the Legislature to increase or impose state taxes; and
- Requires that property tax revenues be apportioned to local agencies according to law.

Proposition 13... requires that property tax revenues be apportioned to local agencies according to law.

Proposition 13 did not affect the assessment of all property. Personal property, real property whose valuation method is

otherwise prescribed by the California Constitution, and properties assessed by the State Board of Equalization are not affected by Proposition 13 constraints.³

Property Tax Revenues Reduced by Proposition 13

For fire protection districts, approximately 90 percent of all revenues came from property tax.

Prior to 1978, when local governments had been able to annually adjust their individual property tax rate to accommodate changes in demands for local services, property tax had been the largest single source of local revenue for most local governments. On average, property taxes generated approximately 33 percent of overall revenue for counties. Cities were somewhat less reliant on property tax revenues, having collectively imposed rates that only generated approximately 21 percent of total city funds. Special districts, however, had depended heavily upon property taxes. Prior to Proposition 13, special districts statewide had received approximately 40 percent of total revenues from property tax.⁴ For fire protection districts, dependency had been even higher, with approximately 90 percent of all revenues coming from property tax.⁵

The immediate impact of Proposition 13 was as anticipated; all local governments, which had relied on property tax revenues, had less money. In the year following Proposition 13, property tax revenues statewide dropped from \$10.3 billion to \$5.04 billion.⁶ The impact to various levels of local government is not revealed in the aggregate loss; however, the instantaneous reduction in funds generally created fiscal crisis and most jurisdictions were compelled to pursue alternative revenue sources to replace the lost property tax.

Substituting alternative revenue sources for diminished property tax revenue altered the relative importance of property tax in the total revenue picture. As Figure 1 illustrates, in the decade following the enactment of Proposition 13, property tax declined in importance when compared to alternative sources of revenues.

³ California State Board of Equalization, *California Property Tax: An Overview* (Sacramento, 1998) p. 11.

⁴ Senate Committee on Local Government, *Property Tax Allocation* (Sacramento, 1987) p. 22.

⁵ Office of Supervisor George Bailey, *FIRE AND EMERGENCY SERVICES IN SAN DIEGO COUNTY* (San Diego, 1988) p. 95.

⁶ California State Board of Equalization, *California Property Tax: An Overview* (Sacramento, 1998) p. 1.

| Property Tax Revenue Compared to Total Revenue | | | |
|---|----------------------------|----------------------------|------------------------------|
| | <u>1977-78⁷</u> | <u>1985-86⁸</u> | <u>1999-2000⁹</u> |
| Counties | 33.2% | 20.0% | 12.03% |
| Cities | 21.9% | 8.6% | 6.58% |
| Special Districts | 40.6% | 37.0% | 30.84% |

Figure 1

The decline of property tax as a primary source of funds was echoed in San Diego County. In FY 1978-79 property taxes represented 63 percent of San Diego County’s General Fund receipts.¹⁰ By FY 2003-04, the County’s Final Budget reports that property tax will provide only 55 percent of the General Fund.¹¹ However, fire protection districts in San Diego County—perhaps because they have few alternative sources of revenue—are still highly dependent upon property tax for a significant portion of funding. Half of the County’s 21 independent fire protection districts depend upon property tax revenue for 11 to 100 percent of their total operating budgets.

Unlike income and sales tax, property tax revenue is used exclusively for local purposes.

Allocation of Property Tax Revenue

Statewide, property taxes produce about as much revenue as the state income tax or the combined state and local sales tax. Unlike income and sales tax, property tax revenue is used exclusively for local purposes. All property tax revenue is allocated to the local governments within the county where the tax was collected according to formulas found in state law. In San Diego County, the revenue collected from property tax is allocated to 329 taxing agencies including K-12 school and community college districts, the county, cities, special districts, and redevelopment agencies.

⁷ Senate Committee on Local Government, *Property Tax Allocation* (Sacramento, 1987) p. 22.

⁸ Senate Committee on Local Government, *Property Tax Allocation* (Sacramento, 1987) p. 22.

⁹ State Controllers 1999-2000 Counties Annual Reports for Counties, Cities, and Special Districts.

¹⁰ Office of Supervisor George Bailey, *FIRE AND EMERGENCY SERVICES IN SAN DIEGO COUNTY* (San Diego, 1988) p. 97.

¹¹ County of San Diego CAO Proposed Operational Plan, FY 2003-04—2004-05, pg. 35.

The amount of property tax revenue that individual local governments receive differs significantly throughout the state and even within communities.

Some local governments receive more property tax revenues than do others. As a result of Proposition 13, the property tax rate and assessment practices are uniform statewide; nevertheless, there is considerable variation in the distribution of property tax revenue among local governments. The amount of property tax revenue that individual local governments receive differs significantly throughout the state and even within communities. Generally, the extent of the variation can be attributed to three factors: the level and extent of development within local jurisdictions; the existence of redevelopment agencies; and perhaps most importantly, state laws governing the allocation of property tax revenues. Individual local governments have little influence over the amount of property tax revenue that is generated. This is especially true for fire protection districts—which unlike counties or cities—do not have authority over land use.

Development Impacts Property Tax Revenue

Individual local governments have little influence over the amount of property tax revenue that is generated.

Generally, high property values yield high property tax revenues. Market forces, government infrastructure investments, natural geography, and local land use choices act together to create diversely valued communities. Additionally, some communities are extensively developed with high-value homes and business, while others have little development. The differences in the extent and value of land development affect the amount of property tax revenue a community generates.

Redevelopment Agencies Divert Property Tax Revenue

Redevelopment activities may reduce the flow of property tax revenue to cities, counties, special districts, and school districts. When a local government creates a redevelopment project area, most of the growth in property tax revenue from this area goes to the redevelopment agency rather than being shared by other local jurisdictions. Redevelopment agencies use the revenue from property tax growth to finance improvements to revitalize the project area. After the redevelopment work is complete—typically in 30 to 40 years—the redevelopment agency’s property tax revenues are reallocated to the other local governments in the area. During the lifetime of the redevelopment agency, however, growth income is diverted to the redevelopment agency.

State Laws Determine Allocation of Property Tax Revenue

Proposition 13 limited the total property tax rate to a constitutional maximum of 1 percent of assessed value and assigned the

responsibility for allocating property tax revenue to the State. In the immediate aftermath of Proposition 13, the Legislature attempted to mitigate the loss of revenue and to create a process for dividing the significantly reduced property tax pie among local jurisdictions by adopting a series of implementing acts.

- **Senate Bill 154:** Three weeks after the passage of Proposition 13—in what became known as the *bailout*—the Legislature adopted SB 154. Under SB 154, property tax revenues were allocated to counties, cities and special districts on a *pro-rata* basis. Generally, each local government that had imposed a property tax rate prior to Proposition 13 was awarded a proportional *share* of the decreased post-Proposition 13 revenue (averaged over the preceding three years). For example: if a special district had imposed an individual tax rate which generated 25 percent of total property tax revenues within a TRA then, following Proposition 13, it would continue to receive 25 percent of the reduced revenue in the TRA as its *share* of property tax revenue.

Under SB 154, property tax revenues were allocated to counties, cities and special districts on a pro-rata basis.

Senate Bill 154 also provided \$848 million in state funds to counties, cities and special districts to ensure that they would not fall below 90 percent of what their budgets would have been had Proposition 13 failed. Counties were given a block grant of \$436 million, allocated proportionately, based on the net county property tax loss, less one-third of county revenues in excess of 5 percent. The state additionally assumed county costs for Medi-Cal, SSI-SSP, AFDC and food stamp programs at a cost of \$1.04 billion. Cities received \$250 million. Special districts originally received \$125 million. Subsequent legislation (SB 2212) supplied an additional \$37 million to special districts to help with their unmet needs.

- **Assembly Bill 8:** A year after enacting SB 154, the Legislature adopted AB 8 as a permanent solution for distributing property tax revenues and to provide some fiscal relief to local governments. AB 8 adopted the allocation formula contained in SB 154; however, rather than providing bailout block grants, AB 8 increased the *share* of property tax revenue allocated to counties, cities, and special districts by shifting property tax revenue from schools. School losses were back-funded from the State General Fund.

AB 8 increased the share of property tax revenue allocated to counties, cities, and special districts by shifting property tax revenue from schools.

Since 1979, there have been two significant changes to the allocation formulas contained in AB 8. Legislation was enacted to aid cities that receive no, or very low, property tax revenues;

and in 1992-93 and 1993-94, property tax revenues were shifted from counties, cities, and special districts back to schools in roughly the same proportion as the benefit received under AB 8. Despite these changes, the system developed in 1979 continues as the basis for allocating property tax revenues among local governments.

- **Special District Augmentation Fund (rescinded 1993):** Under AB 8, the property tax revenue shifted from schools was dispersed directly to cities and counties. Because of the large number of special districts, however, direct distribution would have been prohibitive. Instead, special districts that received SB 154 bailouts and a subsequent apportionment of property tax revenues shifted from schools under AB 8, had a portion of their property tax revenue transferred to a Special District Augmentation Fund (SDAF) in each county. County supervisors were given discretion in distributing the fund to eligible special districts. Creation of the SDAF was an attempt to restore local control that had been transferred to the State under Proposition 13 by allowing local officials some flexibility in distributing property tax revenues.

Not every special district was compelled to contribute property tax revenues to the SDAF. Special districts that did not exist prior to Proposition 13 and districts that had not imposed a property tax levy (neither would have received a SB 154 bailout) were exempt from contributing to the SDAF. Moreover, jurisdictional changes made subsequent to 1979, which created a subsidiary district, merged a district with a city, or consolidated special districts, created new public agencies that did not exist prior to Proposition 13. Again, these new public agencies had received neither SB 154 bailouts nor AB 8 property tax shifts, and accordingly, were not required to contribute to the SDAF. For example, in 1987, the Spring Valley FPD and the Grossmont-Mt. Helix FPD consolidated into the San Miguel Consolidated FPD. Under state law, the San Miguel Consolidated FPD was able to retain the property tax revenue that both consolidating agencies would have transferred to the SDAF.

Interestingly, special districts that were not required to contribute to the SDAF were eligible to receive disbursements from the fund.

Interestingly, special districts that were not required to contribute to the SDAF were eligible to receive disbursements from the fund. In San Diego County, SDAF funds were originally allocated to four types of districts: fire protection, libraries, flood control and lighting. As contributing agencies withdrew and the SDAF dwindled, the Board of Supervisors

adopted Board Policy B-61 to restrict further disbursement to only fire protection districts and the Library District. Subsequently, if non-contributing fire protection districts were to qualify to receive an SDAF allocation, they were required to adopt fire mitigation fees and to match 100 percent of the SDAF allocation with revenues from sources other than property tax.

Between 1981 and 1988, six new county service areas and four new fire protection districts requested and received augmentation funds without contributing to the fund itself.¹² Just as the withdrawal of contributing special districts was depleting the SDAF, the number of districts eligible to receive SDAF distributions was increasing. Predictably, the size of allocations decreased. The SDAF was rescinded in June 1993 as part of legislation that shifted property tax revenues from local jurisdictions to schools.

- **Educational Revenue Augmentation Fund (ERAF):** In 1992-93 and 1993-94, as the State faced severe budget deficits, the Legislature shifted approximately \$3.6 billion in property tax revenues away from counties, cities, special districts and redevelopment agencies to schools. The property tax shift was a strategy to reduce demands upon the State General Fund. Constitutionally mandated levels of spending for schools are financed with local property taxes and State General Fund monies. The State provides General Fund revenues to school districts sufficient to close any gap between the amount of local property taxes and mandated levels of school spending. With the property tax shift, county auditors are required to deposit into a county-wide fund for schools—the Educational Revenue Augmentation Fund (ERAF)—portions of local property tax revenue that had previously been allocated to non-school local agencies. ERAF monies are subsequently distributed to local schools, thereby offsetting the need for state aid. Shifting property tax revenues from local governments to schools did not affect the overall level of school funding; however, the State’s General Fund obligation to schools was diminished.

Constitutionally mandated levels of spending for schools are financed with local property taxes and State General Fund monies.

Property tax revenues were shifted from local governments to schools roughly in proportion to the aid that local agencies had received under AB 8. Because each local agency’s share of the property tax shifts generally reflected its share of AB 8 benefits, there is considerable variation among local agencies

...each local agency’s share of the property tax shifts generally reflected its share of AB 8 benefits...

¹² Office of Supervisor George Bailey, *FIRE AND EMERGENCY SERVICES IN SAN DIEGO COUNTY* (San Diego, 1988) p.109.

in the amount of revenue shifted. If an agency did not receive AB 8 benefits, it is not subject to the tax shift. Conversely, many agencies have lost significant amounts of property tax revenue because they benefited disproportionately from AB 8.

| Value of Property Tax Shifts¹³ (in millions) | | | |
|---|----------------|----------------|----------------|
| | <u>1992-93</u> | <u>1993-94</u> | <u>Ongoing</u> |
| Counties | \$585 | \$2,023 | \$2,616 |
| Cities | 240 | 313 | 571 |
| Special Districts | 375 | 244 | 489 |
| Redevelopment | 200 | 65 | --- |

Figure 2

As Figure 2 indicates, more than two-thirds of the revenue is shifted from counties, however, cities and special districts that received benefits under AB 8 are also affected by the ongoing diversion of revenue. Property tax contributions from special districts, which were formerly sequestered in the SDAF, are subject to the shift and the SDAF was accordingly rescinded as part of the ERAF legislation.

Jurisdictional Boundary Changes and Property Tax Exchange

State law determines the exchange of property tax revenues among local agencies in conjunction with jurisdictional boundary changes.

State law determines the exchange of property tax revenues among local agencies in conjunction with jurisdictional boundary changes. Fire protection districts are involved in four types of boundary changes: (1) detachment of territory from a district and annexation to a city; (2) detachment from one district and annexation to another district; (3) annexation of unserved territory; and (4) formation of fire protection districts in unserved areas.

Revenue and Taxation codes stipulate that the Board of Supervisors will negotiate an exchange of property tax revenue *on behalf of districts* if a jurisdictional change would affect the service area of one or more special districts—situations 1 and 2 above. In such cases, state law allows for the adoption of a master agreement to automatically determine the property tax exchange.

The County of San Diego has two master agreements in effect. A *Master Property Tax Transfer Agreement* with all cities in San

¹³ Legislative Analyst Office, *Policy Brief: Reversing the Property Tax Shifts* (Sacramento, 1996) p. 4.

Diego County except the Cities of Encinitas and Solana Beach provides for cities to receive an agreed upon percentage of the property tax and ATI from the special districts that are detaching territory. The balance of the property tax revenue is transferred to the County General Fund. Detaching special districts forfeit all property tax as well as the responsibility for providing services to the detaching area. The second Master Agreement concerns annexations of unserved territory to sewer and water districts. These enterprise districts generally do not receive property tax revenues so no property tax is exchanged. Because state law demands the adoption of a property tax exchange resolution for each boundary change—even if no property tax is exchanged—adoption of a master agreement eliminates the need for the County to docket a resolution each time that an applicable boundary change is filed with LAFCO.

When a jurisdictional change will result in a special district providing services to an area where services have not been previously provided (situation 3) districts may negotiate on their *own behalf*. The exchange is limited to revenue from the annual increase in assessed value that is attributable to the affected TRA—referred to as the annual tax increment (ATI). The base property tax is not at issue for two reasons: State law limits negotiations to ATI; and because nearly all annexations of unserved territory involve undeveloped property, base property tax revenues are insignificant.

Negotiating ATI for fire protection agencies varies depending upon whether the district was formed before or after the imposition of Proposition 13. Fire protection agencies formed *after* Proposition 13 were granted a share of property tax and 2 percent of ATI from the County General Fund. Subsequent annexations result in ATI being transferred in accord with the original allocation from the County.

The basis for transferring ATI to a district that was formed *prior* to Proposition 13 is the County's willingness to reduce its share of ATI within the annexing tax rate area. The amount of the transfer is determined by identifying the tax rate area within the district that is geographically nearest to the annexing territory. The difference between the County's share of ATI in this adjacent tax rate area and the County's share of ATI in the annexing parcel is calculated; the County *negotiates* to transfer the difference to the annexing district. Fire protection districts may legally represent themselves in negotiations with the County, when annexing unserved territory,

The basis for transferring ATI to a district, which was formed prior to Proposition 13, is the County's willingness to reduce its share of ATI...

although in effect, districts have little negotiating leverage other than to refuse to annex the territory.

...the County's share decreases in proportion to the amount transferred to the FPD.

Through practice, the County has established a range between 2 percent and 8 percent that it “negotiates.” Please refer to Appendix A for a summary negotiated ATI in San Diego County. If the County’s share of ATI is less than 2 percent, the County has offered to transfer 2 percent; if the difference is greater than 8 percent, the County offer has been 8 percent. Figure 3 illustrates how the negotiation process might affect the ATI shares of agencies within the TRA. As can be seen, the County share decreases in proportion to the amount transferred to the FPD; all other taxing agencies in the tax rate area are unchanged.

| Annexation of Unserved Territory and Transfer of Negotiated ATI | | |
|--|-------------------------------|------------------------------|
| <u>Local Agency</u> | <u>ATI Before Negotiation</u> | <u>ATI After Negotiation</u> |
| County General Fund | .18420174 | .13670174 |
| Pre-Proposition 13 FPD | 0 | .0475000 |
| All Other Taxing Agencies | <u>.81579826</u> | <u>.81579826</u> |
| TOTAL | 1.00000000 | 1.00000000 |

Figure 3

The County of San Diego has adopted Board Policy B-45, *Property Tax Exchanges Resulting From Jurisdictional Changes*, to implement the applicable sections of state law concerning property tax transfer (Appendix B). Policy B-45, which is to be reviewed for continuance by 12-21-01, contains procedures for engaging in property tax negotiations; however, the practice of restricting ATI negotiations to 8 percent or under is not memorialized as policy.

Annexation of unserved territory to fire protection districts has an extremely low activity level. Because, on average, only one or two annexations within the entire County are completed annually, the transfer of property tax or ATI to annexing fire districts has not been a substantial issue. Nevertheless, future annexation activity may invoke interest. SANDAG publishes statistical information for that portion of San Diego County that is not within an agency that provides fire protection. Population and housing estimates for 2003 (see Appendix C) indicate that 5,549 housing units are located in unincorporated areas that are not included in an agency providing

fire protection services—an increase of approx 5 percent over 2000. It is reasonable to assume that growth will continue to occur in unserved areas. Whether it will become necessary to provide fire protection services to unserved areas in the future and whether property tax revenues to support the services will be available may become an issue.

Implications of Inflexible Property Tax Allocation Formulas

Under the allocation formulas of AB 8, jurisdictions that had levied high property tax rates prior to 1978 receive a proportionately larger share of post-Proposition 13 revenues than do local governments that had levied low property tax rates. Conversely, jurisdictions that had been conservative in applying tax rates are permanently locked into receiving comparatively smaller shares of the property tax pie – in essence are penalized for their frugality. Figure 4 illustrates allocation of the property tax revenue pie among different categories of local government in San Diego County.

...jurisdictions that had been conservative in applying tax rates are permanently locked into receiving comparatively smaller shares of the property tax pie

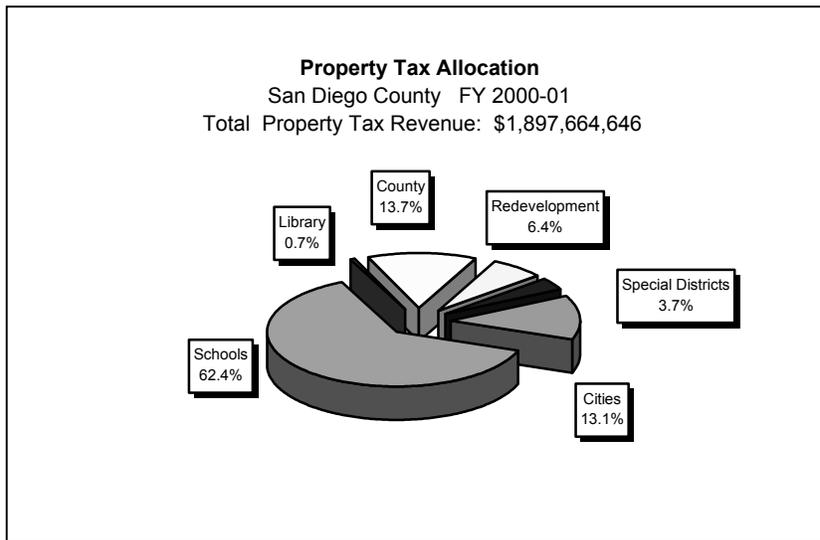


Figure 4

It should be noted that Figure 4 conceals the variance of distribution among local agencies within categories. For example, special districts collectively receive 3.7 percent of total property tax receipts; however, individual special districts receive property tax revenues that are widely different.

... for each share increase that one local government might gain—some other jurisdiction must decrease its share.

Over time, as assessed values grow, the dollar amount of property tax revenue increases. However, in compliance with the allocation formulas, an agency's *share* of the property tax revenue never changes. Inflexible allocation ratios mean that for each share increase that one local government might gain—some other jurisdiction must decrease its share. This model, a classic example of what economists call a zero-sum game, fails to accommodate growth. The property tax pie has been completely apportioned among existing jurisdictions; if an additional jurisdiction were to be included in the mix of agencies receiving a portion of the pie, other jurisdictions would receive a proportionate reduction in their revenue shares.

For fire protection districts, evidence of the allocation formula's failure to accommodate growth occurs in two areas. First, fire protection agencies formed after 1978 were not permitted—under state law—to share in the property tax pie. In San Diego County, eleven fire protection service agencies have formed since 1978; four independent fire protection districts and seven County Service Areas (CSA). The Board of Supervisors conveyed a portion of County property tax revenue to the new districts to ensure that each would have, at least, a minimum source of revenue. However, without the voluntary action of the County, none of the newly formed agencies would be receiving property tax revenue.

...fire protection agencies formed after 1978 were not permitted—under state law--to share in the property tax pie.

Secondly, the expansion of district boundaries to provide fire and emergency services to unserved territory does not generally result in a transfer of property tax to the annexing agency because no other public agency will realize a reduction in property tax revenues. Accordingly, when new development in the unincorporated area annexes into a fire protection district, the district does not receive a share of property tax for providing service to the annexed area. It should be noted that provisions in state law permit fire protection districts to refuse to annex new territory; however, it has always been assumed that districts will comply with annexation requests and absorb the cost of providing service to additional territory. The districts generally receive a negotiated portion of the revenue from the annual growth in property valuation for annexed territory.

Teeter Plan for Property Tax Collection

In 1949 a Contra Costa Auditor named Teeter, devised an alternative procedure for distributing secured property tax and assessment revenues. Under the *Teeter Plan*, counties allocate 100 percent of property tax, debt service and assessment revenues to

participating local governments without regard to delinquent accounts. In return for advancing funds, counties collect and retain delinquent property tax and interest revenue. Although the counties lose short-term interest on monies advanced to local agencies, this is outweighed by the interest earned on delinquencies.

San Diego County adopted the Teeter Plan in 1993. Fire protection districts that make use of the County treasury are required to be in the Plan. These districts receive the aggregate amount of their annual property tax and assessment revenues without concern for delinquent collections. The County pursues delinquencies—currently running about 18 percent—and retains earned interest.

OTHER REVENUE SOURCES

Fire protection districts, whether dependent or independent, have the ability to supplement their funding with alternative revenue from special taxes and assessments and fees. Fees are restricted in their use, and can be utilized only for specific purposes, for example, capital facilities or equipment. Generally, revenue sources that can be broadly used to augment property tax revenues are classified as special taxes and must be approved by two-thirds of the voters.

Special Taxes

After the property tax, special taxes are the principal revenue source for funding fire protection operations. Section 4, Article XIII A of the California Constitution authorizes cities, counties, and special districts to impose non-ad valorem special taxes with a two-thirds approval of the electors. Through a series of court cases, the California Supreme Court found all taxes levied by special purpose districts to be special taxes—even if proceeds are used for general purposes. Accordingly, the primary alternative that fire protection districts can use to generate revenue requires two-thirds approval of the voters. The two-thirds requirement was reinforced in 1986 by Proposition 62, (a statutory initiative intended to close Proposition 13 loopholes) and again in 1996, by Proposition 218, the *Right to Vote on Taxes Act*.

After the property tax, special taxes are the principal revenue source for funding fire protection operations.

Experience has shown the two-thirds approval requirement to be a major hurdle in attempts to raise additional revenues. Since 1979, there have been 50 proposals for new or increased revenues placed on local ballots by San Diego County fire protection agencies.

Only 18 of the 50 proposals have received the necessary two-thirds voter support.

Fees

Fire districts impose fees for a variety of services including issuing service availability letters and plan checks. The California Constitution defines fees as charges that do not exceed the reasonable cost by local governments in providing the regulation, product or service for which they are charged. Proposition 218 introduced procedural requirements on fees that are imposed as an incident of property ownership.

- **Mitigation Fees:** The County has adopted an ordinance establishing a mitigation fee program for the unincorporated area. The ordinance establishes a fee amount that can be adjusted for inflation on an annual basis. Fees are to be used exclusively for capital facilities and equipment. To qualify for the program, a fire district adopts a resolution certifying that it desires to participate in the program and agrees to use fee proceeds only to serve new development. Fees are collected by the County during the building permit process. Revenue from mitigation fees depends upon growth and development—areas where fire protection agencies do not have regulatory authority.

Assessments

Proposition 218 introduced extensive substantive and procedural requirements for imposing new or increasing assessments...

Assessments are levies against real property, based on special benefit conferred upon the property. Proposition 13 restrictions concerning voter approval of taxes do not apply to special assessments; indeed, in 1979, the California Supreme Court found that “A special assessment is charged to real property to pay for benefits that property has received from a local improvement and, strictly speaking, is not a tax at all” (*County of Fresno v. Malmstrom*, (1979) 94 Cal. App 3d 983-984). However, in 1996, Proposition 218 introduced extensive substantive and procedural requirements for imposing new or increasing assessments and for continuing some existing assessments. Several fire protection agencies returned to the voters and requested that existing assessments be replaced with fees. Under the new requirements, it is unclear if fire protection agencies will continue to use assessments.

Bonds

Bonds are used to finance the acquisition and construction of public facilities and real property and may *not* be used for equipment purchases or to pay for operations and maintenance. Until 1978, local agencies had the ability – with two-thirds voter approval – to issue general obligation bonds to finance public facilities and impose property tax rates to discharge the bond debt. Proposition 13 restricted the imposition of additional property tax rates and effectively terminated the use of general obligation bonds. In 1986, California voters approved Proposition 46, a constitutional amendment that restored the authority of local government to issue general obligation bonds. Each bond measure requires the approval of two-thirds of a jurisdiction’s voters.

Mello-Roos Community Facilities Act of 1982

The 1982 Mello-Roos Community Facilities Act enables cities, counties, special districts and school districts to establish community facilities districts (CFD) and to levy special taxes to fund a wide variety of facilities and services. Under the Fire Protection District Law of 1987, fire protection districts are specifically authorized to finance any capital facility or pay for fire protection services with a special tax under the Mello-Roos Act. A Mello-Roos allows fire protection agencies to issue bonds, backed by voter-approved special taxes. A Mello-Roos tax is not affected by the requirements of Proposition 218; however, the Act has its own specific requirement for two-thirds voter approval.

The Community Facilities District Act was designed to facilitate passage of the two-thirds special tax. A CFD can overlay an entire jurisdiction or it may be limited to a specific area; however, if there are fewer than 12 registered voters in the area, only landowners vote. Upon formation of the Community Facility District and levy of special tax, a lien is recorded against all eligible properties in the district. Accordingly developer/owners can finance public facilities and subsequent home purchasers will pay the special tax.

Community facilities districts (CFD) are not widely used by fire protection agencies in San Diego County. During the mid eighties, landowner-developers in the San Marcos FPD sponsored several CFDs for fire protection facilities. The San Diego Rural FPD has a CFD covering one geographically small zone within the District and the Valley Center FPD has been successful in gaining voter support for a district-wide CFD.

Community facilities districts have not been widely used by fire protection agencies in San Diego County.

Local Public Safety Protection and Improvement Act of 1993

The Local Public Safety Protection and Improvement Act of 1993 (Proposition 172) placed an additional one-half percent state sales and use tax rate in the State Constitution effective January 1, 1994. Revenues from the additional tax are to be used exclusively for local public safety activities, including police and sheriff departments, fire protection, county district attorneys, county probation and county jail operations. Counties are eligible to participate if boards of supervisors adopted a resolution in support of the measure by August 1, 1993, or alternatively, if a majority of voters have approved the measure.

Revenue from the one-half percent tax is intended to offset part of the revenue loss that cities and counties experienced from the shift of property tax to schools.¹⁴ Implementing legislation provides specific criteria for how the revenues will be allocated to cities and counties. Briefly, funds are deposited to a Public Safety Augmentation Fund in each county and distributed to eligible cities that provide public safety, based on the amount of revenue that each city shifted to the ERAF. Monies not distributed to cities are allocated to the county.

Mechanisms in the law distribute funds exclusively to cities and counties to compensate for the erosion to city and county budgets from ERAF shifts

Although the Legislature specifically recognized fire protection as critically important to public safety [Govt. Code § 30052(b)(1)], the State law implementing Proposition 172 does not include all units of local government that provide fire protection. Mechanisms in the law distribute funds exclusively to cities and counties to compensate for the erosion to city and county budgets from ERAF shifts. No similar provision is made to allocate funds to fire protection districts, even though their budgets were also affected by ERAF shifts.

In San Diego County, Proposition 172 gained majority approval in the November 2, 1993 election; the County and eligible cities receive proceeds from the one-half percent sales tax (\$191,944,107 in FY 02-03). Representatives of fire protection districts requested that fire protection districts be included in the distribution, citing evidence that public support of Proposition 172 had been directed towards fire protection; however, the fund has been allocated among the County and 14 eligible cities. The Cities of Encinitas, Solana Beach, Poway and Santee, having incorporated after 1978, were not affected by ERAF and therefore are not eligible to receive Proposition 172 funds.

¹⁴ Legislative Analyst Office, *Policy Brief: Reversing the Property Tax Shifts* (Sacramento, 1996) p. 6.

Section Two FUNDING IN SAN DIEGO COUNTY

Funding fire protection services in San Diego County is vested in a number of jurisdictions. Seventeen cities fund their own fire protection through city fire departments and one maintains a subsidiary fire protection district. In specific unincorporated communities, structural fire protection is funded through 16 fire protection districts, 5 municipal water districts and 7 county service areas (CSA). The State, through the California Department of Forestry and Fire Protection (CDF), funds the provision of wildland fire protection to 1,234,551 acres of state responsibility area within the County.

...funding fire protection is not a requirement of local government

With the exception of CDF, which has clear statutory and financial responsibility for providing wildland fire protection to state responsibility areas (Public Resources Code § 4102), funding fire protection is not a requirement of local government, although many jurisdictions include fire protection in their repertoire of services. Cities and counties are compelled to provide certain services including law enforcement, animal control and planning. Remarkably, fire protection is not mandatory; without a legal mandate to provide service, there is no obligation for counties or cities to divert scarce public resources to fund fire protection.

...communities have incorporated or formed special districts and taxed themselves to pay for fire protection services.

In San Diego County, funding fire protection has traditionally been considered a local issue. As areas of the County developed to the point where structural fire protection was desirable, communities have incorporated or formed special districts and taxed themselves to pay for fire protection services. The willingness of communities to financially support fire protection has determined the level of service—or whether fire protection service is provided at all.

County Assistance

During the 1920s, the Board of Supervisors began contracting with the State to bring CDF coverage to the unincorporated area during the non-fire season. In 1973, the scope of the CDF contract was expanded to provide structural fire protection to development outside of fire protection districts. The expanded service tripled the cost of the CDF agreement to \$960,000.¹⁵ In 1974, after funding

¹⁵ Office of Supervisor George Bailey, *FIRE AND EMERGENCY SERVICES IN SAN DIEGO COUNTY* (San Diego, 1988) p. 3.

the expanded CDF contract for one year, the Board of Supervisors concluded that the contract was too costly and moved to phase out support for fire protection over a five-year period ending June 30, 1980. Unincorporated communities were encouraged to annex to cities or special districts or to form volunteer companies to guarantee continued fire protection services.

By 1980, over 90 square miles of unincorporated territory had undergone annexation in order to obtain fire protection and the number of volunteer fire companies grew from 5 to 35.¹⁶ Volunteer companies are not public agencies—they are autonomous organizations authorized to adopt bylaws and elect officers according to Health and Safety Codes but are unable to generate public funds. The County assisted the volunteer companies with start-up grants and provided centralized dispatching through a contract with the City of El Cajon. County General Services maintained and repaired volunteer equipment and the County provided public liability and worker’s compensation insurance to the volunteers.

Throughout the assistance period, the County maintained the position that funding structural fire protection was the function of cities, special districts and volunteer organizations. Board Policy I-61 (adopted February 1976; rescinded May 1983) stated, “*No Fire Department will be formed or otherwise established by the County.*”¹⁷ Policy I-61 established guidelines for developing the volunteer programs and emphasized that assistance would not exceed five years, whereupon responsibility for funding local fire protection was to be transferred to the local community. It was anticipated that volunteer companies would annex to existing fire protection districts or form new districts to generate revenues.

Fire protection districts have only the revenue raising authority explicitly granted by the state laws under which they are formed, principally property tax and special taxes. Districts have generally relied upon property tax revenues for 90-to-100 percent of their funding. The 1978 passage of Proposition 13 curtailed the ability of special districts to collect property tax revenues, and efforts of the volunteer companies to gain financial independence were stalled.

Fire protection districts have only the revenue raising authority explicitly granted by the state laws under which they are formed...

¹⁶ Office of Supervisor George Bailey, *FIRE AND EMERGENCY SERVICES IN SAN DIEGO COUNTY* (San Diego, 1988) p. 4.

¹⁷ County of San Diego, *Board of Supervisors Policy I-61* (San Diego, 1976).

Funding Fire Protection Districts After 1978

Following the passage of Proposition 13, County assistance to the volunteer companies—originally to have ended on June 30, 1980—was extended for two years. By December 1982, the County Office of Fire Services was closed, the Board had rescinded the County Uniform Fire Code and all financial support for the volunteer fire protection program had been withdrawn.

...the major source of revenue would have come from voter-approved benefit fees – not property tax.

During the closing months of 1981, the Board filed an application with LAFCO to form a special district to consolidate the volunteer companies within one agency. The proposal for the Consolidated Rural FPD included approximately 2,838 square miles—all the unincorporated territory in the County that was outside of existing fire protection districts—plus the dissolution of the Rainbow, Del Dios, and Jacumba CSAs. Dissolution of the CSAs would have transferred all county fire protection activities to the new FPD. The proposal was unique for several reasons: the district would have encompassed large amounts of geographically diverse territory; the independent district board would have governed a virtually county-wide agency; district service staff would have been strictly volunteer; and the major source of revenue would have come from voter-approved benefit fees—not property tax.

...the Board agreed to voluntarily transfer \$379,250 to the proposed FPD to ensure, at least, a minimum level of funding.

As part of LAFCO review, the County Counsel issued an opinion concluding that the County, although financially assisting volunteer companies, was not engaged in providing fire protection service. A subsequent opinion concluded that, since the County did not provide fire protection, there was no legal obligation for the County to transfer property tax revenue to the new fire protection district. While the County was not *required* to transfer revenues, the Board agreed to *voluntarily* transfer \$379,250 to the proposed FPD to ensure, at least, a minimum level of funding. No transfer of annual tax increment was proposed. The transfer amount was calculated using a formula in state law, which determines how property tax is transferred when responsibility for a public service is ceded from one public agency to another.

The transferred property tax revenue would represent approximately 22 percent of the estimated budget for the proposed Consolidated Rural FPD; miscellaneous revenues and mitigation fees were to contribute another 26 percent. All capital acquisitions were to be financed by developer fees. The majority of the budget—52 percent—was to come from benefit fees that would require approval by two-thirds of the voters. Local residents

defeated the proposal 66 percent to 44 percent at the June 1982 election.

Following defeat at the polls, the Board submitted a second proposal to LAFCO for a Consolidated Rural FPD. The new proposal was significantly different from the first proposal in several aspects. The Valley Center area, which in the interim period had formed a separate FPD and voted to establish a benefit fee, was removed from the boundary; watershed management was eliminated from the functions to be assumed by the new district; the proposed district budget was significantly reduced; and benefit fees were revised downward.

The amount of property tax revenue, which the County proposed to transfer to the second Rural Consolidated FPD, was reduced to reflect an amount that was granted to the new Valley Center FPD. Again, there was no allocation of the annual tax increment. Benefit fees, although reduced, would have to generate 61 percent of the FPD budget and would again require approval by two-thirds of the voters. The proposal, which appeared on the November 1982 election, received only 56 percent approval.

Benefit fees, although reduced, would have to generate 61 percent of the FPD budget and would again require approval by two-thirds of the voters.

After the two Consolidated Rural FPD proposals failed to receive voter approval, the San Diego County Fire Chief's Association decided to try once again to consolidate a number of volunteer companies under one agency. A third, scaled-down district was proposed for only the southeastern portion of the County. The proposed district included 814 square miles—about one-third of the area of the previous two proposals, but encompassed a majority of the volunteer companies. Proponents requested that the district be formed without an election in order to reduce the time required for establishing the district and minimize the time that volunteer companies were without financial support. The Board of Supervisors would appoint the district's initial board of directors.

As with previous proposals, the Board of Supervisors approved a voluntary transfer of property tax from the County General Fund—reduced to reflect the amount conveyed to other newly formed districts that absorbed volunteer companies. The Board also agreed to transfer 2 percent of the annual tax increment to the new district if formed and resolved to transfer 2 percent of the ATI to agencies that absorbed the volunteer companies.

It was estimated that an annual budget of approximately \$500,000 would be necessary to fund an adequate level of service. Anticipated revenues from property tax would only provide 39 percent of the

proposed budget. Proponents intended for the property tax revenue to be supplemented by voter-approved fees; however, the compressed schedule for forming the district without an election would mean that approval of benefit fees would not be a condition of formation. An election seeking voter approval could not occur until after the district was formed. Subsequent elections have approved fees at various levels of assessment within seven zones; however, the voters have never approved a district-wide special tax.

The third Rural FPD proposal would consolidate fourteen fire companies and was preferable to forming many smaller districts to oversee the activities of individual volunteer fire companies. Property tax revenues—although small—would give the volunteers a base to provide at least a minimum level of service, which is more than would have been possible if no agency were established. LAFCO approved the formation of the San Diego Rural FPD on April 4, 1983.

Following the failure of the first two elections for a countywide fire protection district, a number of rural communities and volunteer companies began to pursue various alternatives to ensure the continuation of funding to the volunteers. The Board of Supervisors agreed to fund the dispatching contract until June 30, 1983 and workers' compensation and liability insurance until September 1983, while the rural communities determined how their volunteer companies could be funded. By the Spring of 1984, the Valley Center, Deer Springs and Julian-Cuyamaca FPDs and the Elfin Forest, Mount Laguna, Boulevard, Palomar Mountain, San Pasqual, and Campo CSAs had been formed – in addition to the San Diego Rural FPD – to provide governmental structure and property tax revenue to the volunteer companies. Other areas served by the volunteers had been annexed to the Pine Valley FPD and the Ramona MWD. The County voluntarily conveyed a share of property tax and 2 percent of the annual increment to each of the new agencies.

Fire protection districts in San Diego County are part of a dynamic organizational structure.

Fire protection districts in San Diego County are part of a dynamic organizational structure. Since 1978, the Poway, Montgomery, Santee, and Lemon Grove FPDs have merged into city fire departments. The Solana Beach and Encinitas FPDs became subsidiary to, and then merged with their respective cities. The Ramona FPD was dissolved and latent power for fire protection service was granted to the Ramona MWD. The Del Dios CSA and Rancho Santa Fe FPD were dissolved and reemerged as a second generation Rancho Santa Fe FPD. The Spring Valley and Grossmont-Mt Helix FPDs consolidated into the San Miguel

Consolidated FPD. The Rainbow CSA and Fallbrook FPD reorganized as the North County FPD; and most recently, the Crest and Bostonia FPDs consolidated into the East County FPD.

Consolidated or merged agencies inherit the property tax allocation of their parent district(s). Accordingly, a consolidated or merged agency with a pre-Proposition 13 lineage receives a property tax allocation based upon pre-1978 property tax rates. If a reorganization of fire protection districts formed after 1978 were to occur, the reorganized agency would continue to receive the property tax legacy voluntarily transferred from the County.

Consolidated or merged agencies inherit the property tax allocation of their parent district(s).

Section Three SUMMARY

In San Diego County, funding fire protection has traditionally been considered a local issue.

There is no state mandate to provide structural fire protection; consequently, there is no obligation for local governments to divert scarce public resources to fund structural fire protection. In San Diego County, funding fire protection has traditionally been considered a local issue. When communities incorporated or as areas of the County developed to the point where structural fire protection was desirable, communities have incorporated or formed special districts and taxed themselves to provide fire protection services.

Prior to 1978, jurisdictions generally relied upon the property tax to generate revenues for fire protection services.

Prior to 1978, jurisdictions generally relied upon the property tax to generate revenues for fire protection services. Cities and special districts established fire protection budgets according to the level of service demanded by the community and property tax rates were adjusted to generate the necessary revenues. In the aftermath of Proposition 13, existing property tax revenues contracted and local agencies lost their ability to set tax rates that would have adequately funded fire protection services. Fiscal impacts varied, but were greatest for jurisdictions that had relied on property taxes for a majority of their revenues and for those public agencies with few alternative revenue sources to replace lost funds.

The consequences of Proposition 13 were not restricted to just reducing revenues. Proposition 13 set into motion fundamental changes in the way that property is assessed, taxes are levied and the manner in which property tax is distributed among local governments. Local control over property tax revenues has been sharply curtailed and usurped by state control and state-mandated allocation formulas create inequities in the amount of property tax revenues that various jurisdictions receive.

Fire protection agencies have only the revenue raising authority explicitly granted by the Legislature and California Constitution, principally, property tax, special taxes, assessments and fees. Moreover, fire protection agencies are controlled in their efforts to generate additional funds from these sources by various levels of authority. State laws determine the rate and allocation of property tax; other local jurisdictions determine the level and extent of development, which drive increases in property tax revenues; and attempts to impose or increase special taxes must be supported by two-thirds approval of the community.

For a number of years, culminating in 1983, the County financially assisted unincorporated communities that were not developed sufficiently to organize and pay for structural fire protection. Initially, the County underwrote a contract with CDF for coverage over the four-month, non-fire season. The contract was expanded in 1974 to include structural fire protection and the resulting increased cost prompted the Board of Supervisors to conclude that the County General Fund should not sustain fire protection services. Over the next few years communities were encouraged to annex to districts or cities or to establish volunteer fire companies in order to secure fire protection service. The County provided financial grants, dispatching and maintenance services to the volunteers. Throughout this period, county policy consistently stated that voluntary county assistance was temporary and did not indicate intent to provide fire protection services.

As the end of the established period for county support approached, volunteers were encouraged to organize into public agencies and eleven new fire protection agencies emerged to continue the service of the volunteer companies. Under state law, these eleven agencies were not able to establish their own property tax rate or to share in the revenues generated from the constitutionally set 1 percent levy. The County voluntarily granted General Fund start-up monies to the new districts to guarantee a minimal level of funding. The districts, however, were expected to rely on the financial support of their communities to provide the level of services that the communities demanded.

Under state law, these eleven agencies were not able to establish their own property tax rate or to share in the revenues generated from the constitution-ally set 1 percent levy.

In spite of the increased rigidity that Proposition 13 and successive initiatives introduced into the budgeting process, the principle for generating fire protection revenues actually hasn't changed. Prior to 1978, communities answered questions concerning risks the community was willing to accept; what level of service was desired; and how much the community was willing to pay for fire protection services. Property tax rates were set according to the community's responses. Following Propositions 13 and the initiatives that followed in its wake, the questions concerning risk levels and service levels must still be answered and the principle for funding fire protection service is unchanged – the community is still obliged to tax itself to pay for the level of service demanded.

From 1979 to 1998, local fire protection agencies asked voters to approve assessments, fees or special taxes 50 separate times. Two-thirds approval has been gathered only 18 times. Today, there is a wide variance in the property tax revenues received by the 16 districts with pre-Proposition 13 property tax shares and the 11

districts with post-Proposition 13 property tax shares. Additionally, there is a wide variance in the level of support that communities grant to fire protection agencies through voter-approved taxes and assessments.

Section Four

STRATEGIES TO ENHANCE REVENUES

The following suggested strategies for addressing fire protection funding issues generally fall into two broad categories: (1) strategies to redirect existing revenues, at either the State or local level; and (2) strategies primarily related to increasing local funding.

Implementing the suggestions would be outside of LAFCO's authority; however, other public agencies should be given the opportunity to review and possibly implement the suggestions. The actions and programs described would require the involvement of—and sometimes cooperation among—multiple units of local government. Some suggestions are not readily identified with any specific agency and could appropriately be carried out by numerous jurisdictions.

1. Encourage fire protection agency officials to investigate voter-approved special taxes.

This is a seemingly obvious suggestion, but one that probably needs to be reinforced. Fire protection agencies that are under-funded may want to pursue special taxes as a viable revenue alternative.

2. Develop a program to provide information to the unincorporated community about the many restrictions and few alternatives for funding fire protection services.

This suggestion would provide basic education concerning public finance. Information could be dispersed through printed materials or at community forums. This program would be purely educational; not a campaign to lobby support for a specific revenue raising issue.

3. Publish and distribute information about the property tax allocation process.

There appears to be a particular need to demystify the property tax allocation system. The allocation process is generally obscure and unknown to the public and sometimes misunderstood by public servants. Information explaining the allocation process and its inequities might

be helpful to agencies attempting to gather two-thirds voter support for alternative revenues.

4. Review County policies regarding development in unincorporated areas to determine if development, whether within or outside of fire protection districts, negatively impacts fire protection service.

County policy determines the level of development in areas outside of fire protection agencies and also implements building requirements to minimize fire hazards. As discussed in this report, future development in the unserved areas may have increasingly negative impacts on fire protection districts. Review of development policies could provide quantitative information concerning levels of anticipated negative impacts and initiate policy reform to mediate service impacts.

5. Work with appropriate officials to revise state laws mandating the allocation of local property tax to local jurisdictions.

Efforts to persuade the Legislature to reengineer the allocation of sales tax and property tax revenues could be joined and reinvigorated.

6. Review County policy B-45, "Property Tax Exchanges Resulting from Jurisdictional Changes."

Determine if amendments could be made to Policy-45 to clarify the property tax negotiation process (e.g., establish the negotiating range for ATI, provide justification for the ranges, etc.).

7. Investigate if agencies in San Diego County would voluntarily reapportion their property tax revenue to fully or partially equalize their property tax share and/or annual tax increment with other agencies.

There is little reason to believe that agencies would be able to voluntarily decrease their property tax share to fully equalize revenues among local jurisdictions. However, as a pilot project, some small increment might be voluntarily shared to demonstrate that local government has the leadership to resolve its own problems.

8. Encourage fire protection providers to investigate increased cooperative arrangements (e.g., functional consolidations, JPAs for specific functions such as training), if doing so would produce efficiencies that could decrease dependence on property tax-supported operating budgets.

The fire protection community provides some of the best examples of cooperation and resource sharing among local agencies. There are, however, still 28 separate special districts, 16 cities and a number of volunteer companies providing structural fire protection service to the County of San Diego. A permanent across-agency committee could continually focus on reducing costs through consolidation. Local jurisdictions could support the effort by loaning analytical and administrative staff.

9. Investigate alternatives for restructuring delivery of fire protection services including the Los Angeles, Orange, Kern, and Riverside County models; privatization; Amador Plan; and Regional CSA.

Fire protection service in San Diego County has evolved over the years without a comprehensive service plan. Lack of a coordinating structure has caused duplications and even occasional conflict among service providers. Fire protection services in other counties are delivered through numerous permutations of service organizations, which meet distinct local needs; their commonality is in providing structure to guide the overall organization of fire protection services. The arrangement suggested in item 8 above could be used to investigate service alternatives for application in San Diego County.

10. Investigate if Proposition 172 revenues could fund enhancements to the County's Fire Services Coordination Program.

The County's Fire Services Program is a discretionary activity that was authorized in 1990 and charged with "...coordinating fire services in the County and resolving fire protection issues."¹⁸ The program's current budget funds one staff year. Many of the activities suggested above might be administered through the Fire Services Program if additional funding were available. Proposition 172

¹⁸ County of San Diego, 1998-99 CAO Proposed Program Budget (San Diego) p. 9-5.

receipts are distributed to the County and eligible cities to augment local public safety activities, including fire protection services. Accordingly, it might be possible to allocate a portion of the County's 172 receipts to a County program that oversees fire protection issues.

APPENDIX A

NEGOTIATED TRANSFER OF ATI¹ resulting from annexation of unserved territory to fire protection agencies

| | | |
|----------|-------------------------|-----------|
| DA 82-13 | Alpine FPD | .05417753 |
| DA 82-15 | Pine Valley FPD | .03358665 |
| DA 82-30 | Alpine FPD | .04451420 |
| DA 82-33 | Bostonia FPD | .03845995 |
| DA 82-40 | Pine Valley FPD | .02000000 |
| DA 82-47 | North County FPD | .08847118 |
| DF 82-3 | San Diego Rural FPD | .02000000 |
| DF 82-4 | Julian-Cuyamaca FPD | .02000000 |
| DA 83-1 | Deer Springs FPD | .02000000 |
| DA 83-7 | Alpine FPD | .03879504 |
| DA 83-9 | CSA No. 89 (Del Dios) | .02000000 |
| DA 83-14 | Rancho Santa Fe FPD | .04263321 |
| DA 83-35 | Lakeside FPD | .03645002 |
| DA 83-36 | Rancho Santa Fe FPD | .02744391 |
| DA 83-37 | Rancho Santa Fe FPD | .02839999 |
| DA 83-45 | Julian-Cuyamaca FPD | .02000000 |
| DA 83-46 | Rancho Santa Fe FPD | .02000000 |
| DA 83-51 | Encinitas FPD | .05494564 |
| DA 83-70 | Solana Beach | .03677184 |
| RO 83-2 | Rancho Santa Fe FPD | .06956495 |
| RO 83-6 | CSA No. 111 (Boulevard) | .02000000 |
| RO 83-10 | CSA No. 111 (Boulevard) | .02000000 |
| RO 83-17 | Rancho Santa Fe FPD | .02000000 |
| RO 83-19 | North County FPD | .07901807 |
| DA 84-16 | Lakeside FPD | .03155039 |
| DA 84-20 | Solana Beach FPD | .03641008 |
| DA 84-28 | Rancho Santa Fe FPD | .02655440 |
| DA 84-31 | Spring Valley FPD | .02000000 |
| DA 84-46 | Encinitas FPD | .05971017 |
| DA 84-58 | Encinitas FPD | .05581845 |

¹ SOURCE: County of San Diego – Department of Planning and Land Use

APPENDIX A (continued)

NEGOTIATED TRANSFER OF ATI resulting from annexation of unserved territory to fire protection agencies

| | | |
|----------|-----------------------------|------------------|
| RO 84-1 | San Marcos FPD | .06483431 |
| RO 84-31 | Rancho Santa Fe FPD | .02000000 |
| RO 84-33 | Rancho Santa Fe FPD | .07670521 |
| DA 85-2 | Rancho Santa Fe FPD | .03718093 |
| DA 85-14 | North County FPD | .08000000 |
| DA 85-24 | Rancho Santa Fe FPD | .02655440 |
| DA 85-31 | Lakeside FPD | .03715343 |
| DA 85-41 | Rancho Santa Fe FPD | .02655440 |
| DA 85-55 | Rancho Santa Fe FPD | .02727101 |
| RO 85-9 | Encinitas FPD | .04000000 |
| DA 86-4 | Rancho Santa Fe FPD | .02967969 |
| DA 86-8 | CSA No. 107 (Elfin Forest) | .02000000 |
| DA 86-13 | CSA No. 7 (Rainbow) | .05229759 |
| DA 86-24 | North County FPD | .08000000 |
| DA 86-32 | Bonita-Sunnyside FPD | .06121023 |
| DA 86-37 | Rancho Santa Fe FPD | .02000000 |
| DA 86-38 | Rancho Santa Fe FPD | .02974975 |
| RO 86-19 | Rancho Santa Fe FPD | .02000000 |
| DA 87-9 | Rancho Santa Fe FPD | .05210185 |
| DA 87-51 | North County FPD | .06771257 |
| RO 88-30 | Bonita Sunnyside FPD | .06084916 |
| RO 88-30 | Bonita Sunnyside FPD | .06375667 |
| DA 89-5 | Rancho Santa Fe FPD | .02050000 |
| DA 89-11 | Alpine FPD | .04506769 |
| DA 89-19 | Rancho Santa Fe FPD | .02050000 |
| RO 89-12 | North County FPD | .06300000 |
| RO 89-13 | Lakeside FPD | .06258610 |
| DA 90-32 | Rancho Santa Fe FPD | .02904311 |
| RO 93-7 | Rancho Santa Fe FPD | .06000000 |
| | Average ATI transfer | .40637013 |

APPENDIX B



CLERK OF THE BOARD

COUNTY OF SAN DIEGO WEB SITE

B-45

Property Tax Exchanges Resulting from Jurisdictional Changes

Purpose

To establish guidelines for negotiating the exchange of property tax when exchanges are warranted as a result of jurisdictional changes.

Background:

Revenue and Taxation (R&T) Code Section 99, enacted July 24, 1979, amended September 29, 1979, provides that before most jurisdictional changes (city incorporation, district formations, annexations, detachments, etc.) can occur, a determination must be made concerning the amount of property tax to be exchanged between the affected local governments.

In the event of a city incorporation or a district formation effective after July 24, 1979, the Local Agency Formation Commission (LAFCO) has the responsibility for determining the amount of property tax to be exchanged based on the formula provided in Section 56842 of the Government Code.

Before a jurisdictional change (other than a city incorporation or a district formation) can become effective, those agencies whose service areas or service responsibilities would be altered by such change shall determine the amount of property tax to be exchanged between them. For annexations, detachments, etc., effective after July 24, 1979, R&T Code 99 provides, in the event that such a jurisdictional change would affect the service area or service responsibility of one or more special districts, the board of supervisors of the county or counties in which the districts are located shall, on behalf of the district or districts, negotiate any exchange of property tax revenue [R&T Code 99 (b)(5)] (underlining added for emphasis). Local agencies will represent themselves in negotiations concerning jurisdictional changes which become effective prior to July 24, 1979.

APPENDIX B (continued)

According to R&T Code Section 99.1, in the case of a jurisdictional change which will result in a special district providing one or more services to an area where such services have not been previously provided by any local agency ... the exchange of property tax among such local agencies shall be limited to property tax revenue from the annual tax increment generated in the area ... [and] any special district affected by the jurisdictional change may negotiate on its own behalf, if it so chooses.

Negotiation of property tax revenues is a requirement retroactive to jurisdictional changes, which became effective since July 1, 1978.

The negotiated property tax exchange, even when zero, must be documented by resolution of the County and any affected cities.

POLICY:

It is the policy of the Board of Supervisors that:

1. Acting on behalf of the Chief Administrative Officer the Department of Planning and Land Use shall represent the County in negotiations to determine the amount of property tax to be exchanged as a result of jurisdictional changes.
2. When negotiating or establishing the amount of property tax to be exchanged, the County shall attempt to maintain an equitable balance between transfers of cost and transfers of revenue. Generally, jurisdictional changes which result in the introduction of a new service to an area will not involve a property tax exchange since no existing agency will realize a reduction in cost. In annexations to a fire district or a lighting district, the County will consider the appropriateness of a property tax transfer.
3. The County will not support an exchange of property tax when the administrative cost of implementing the exchange exceeds twice the annual amount of property tax in question.
4. Adoption of a Board resolution establishing the negotiated property tax exchange does not necessarily imply Board support of the jurisdictional change proposal.

Process

1. When an application for a jurisdictional change is submitted, the agency receiving the application shall notify the Assessor, the Auditor and the Department of Planning and Land Use by forwarding a copy of the application to those offices.
2. The Assessor shall prepare a report listing the parcels, their current market assessed value and the taxing agencies within the area proposed for jurisdictional change and

APPENDIX B (continued)

forward a copy of that report with a map of the area to the Auditor and to the Department of Planning and Land Use (DPLU).

3. The Auditor shall determine the amount of prior year property tax received by each taxing agency within the area proposed for jurisdictional change and submit this information to the DPLU.

4. The Department of Planning and Land Use shall determine, in accordance with this policy, the amount of property tax revenue if any, to be exchanged between jurisdictions or, where appropriate, shall negotiate with jurisdictions whose service responsibilities are affected, for an equitable exchange of property tax.

5. In the event property tax negotiations between the DPLU and one or more affected jurisdictions reaches impasse, the DPLU will advise the Board of the situation and seek additional guidelines or direction.

6. Master tax exchange resolutions will be used for routine cases to save administrative costs. For other cases, the DPLU shall docket a Board resolution, which is approved as to form and legality by County Counsel, agreeing to accept the negotiated exchange of property tax revenue.

7. A copy of the Board resolution will be sent to the affected agencies, the Auditor and to LAFCO.

Sunset Date

This policy will be reviewed for continuance by 12-31-01.

References

Revenue & Taxation Code Section 99

Board Policy I-47, Detachments from Special Districts

Board Policy I-55, Annexation/Incorporation Policy

Previous Board Action

10-30-79 (27)

11-23-82 (12)

11-6-84 (18)

1-31-89 (28)

11-29-94 (40)

CAO Reference

1. Department of Planning and Land Use

2. County Counsel

3. Auditor and Controller

4. Assessor

APPENDIX C

Area Not Within a Fire Protection Agency

| Population and Housing Estimates for San Diego County | | | | |
|--|------------|-----------|--------------------|---------------|
| | April 2000 | Jan. 2003 | <u>2000 – 2003</u> | <u>Change</u> |
| TOTAL POPULATION | 13,227 | 13,886 | 659 | 5.0% |
| Household Population | 13,009 | 13,681 | 672 | 5.2% |
| Group Quarters Population | 218 | 205 | -13 | -6.0% |
| TOTAL HOUSING UNITS | 5,293 | 5,549 | 256 | 4.8% |
| Single Family | 3,656 | 3,912 | 256 | 7.0% |
| Multiple Family | 52 | 52 | 0 | 0.0% |
| Mobil Home and Other | 1,585 | 1,585 | 0 | 0.0% |
| OCCUPIED HOUSING UNITS | 4,280 | 4,419 | 139 | 3.2% |
| Single Family | 3,088 | 3,219 | 131 | 4.2% |
| Multiple Family | 26 | 28 | 2 | 7.7% |
| Mobile Home and Other | 1,166 | 1,172 | 6 | 0.5% |
| VACANCY RATE | 19.1% | 20.4% | 1.3% | 6.8% |
| PERSONS PER HOUSEHOLD | 3.04 | 3.10 | 0.06 | 2.0% |

Household Income Estimates

Households by Income Range

| | 2000 Census | Percent |
|--------------------------------|----------------|---------|
| Total Households | 4,280 | |
| Less than \$10,000 | 266 | 6% |
| \$10,000-\$19,999 | 478 | 11% |
| \$20,000-\$29,999 | 559 | 13% |
| \$30,000-\$39,999 | 427 | 10% |
| \$40,000-\$49,999 | 414 | 10% |
| \$50,000-\$59,999 | 421 | 10% |
| \$60,000-\$74,999 | 476 | 11% |
| \$75,000-\$99,000 | 526 | 12% |
| \$100,000-\$149,999 | 419 | 10% |
| \$150,000 or more | 294 | 7% |
| Median Household Income | \$49,883 | |

Source: SANDAG, constructed from U.S. Census Bureau's 2000 Census: Current estimates, August 2003

APPENDIX D

Roster of Local Agencies that Fund Fire Protection¹⁹

| | Funding Agency | Fire Service Provided By |
|----|--|--|
| | INDEPENDENT SPECIAL DISTRICTS | |
| 1 | Alpine Fire Protection District | District plus contract for admin/San Miguel Consolidated FPD |
| 2 | Bonita-Sunnyside Fire Protection District | District |
| 3 | Borrego Springs Fire Protection District | District |
| 4 | Deer Springs Fire Protection District | Contract/ CDF |
| 5 | East County Fire Protection District | District |
| 6 | Julian-Cuyamaca Fire Protection District | District |
| 7 | Lakeside Fire Protection District | District |
| 8 | Lower Sweetwater Fire Protection District | Contract/ City of National City |
| 9 | North County Fire Protection District | District |
| 10 | Pine Valley Fire Protection District | District |
| 11 | Rancho Santa Fe Fire Protection District | District |
| 12 | San Diego Rural Fire Protection District | District |
| 13 | San Miguel Consolidated Fire Protection District | District |
| 14 | Valley Center Fire Protection District | District |
| 15 | Vista Fire Protection District | Contract/City of Vista |
| 16 | Mootamai Municipal Water District | Contract/ CDF |
| 17 | Pauma Municipal Water District | Contract/ CDF |
| 18 | Ramona Municipal Water District | Contract/CDF |
| 19 | Rincon Municipal Water District | Contract/City of Escondido |
| 20 | Yuima Municipal Water District | Contract/CDF |
| | DEPENDENT SPECIAL DISTRICTS | |
| 1 | San Marcos Fire Protection District | District |
| 2 | County Service Area 107 (Elfin Forest) | District |
| 3 | County Service Area 109 (Mt. Laguna) | District |
| 4 | County Service Area 110 (Palomar Mountain) | District |
| 5 | County Service Area 111 (Boulevard) | District |
| 6 | County Service Area 112 (Campo) | District |
| 7 | County Service Area 113 (San Pasqual) | District |
| 8 | County Service Area 115 (Pepper Drive) | Contract/City of Santee |

November 2003

¹⁹ Roster includes local agencies that provide structural fire protection and emergency medical services as of November 2003. The State and Federal agencies, Indian Tribal Governments, and volunteer agencies that participate in various levels of mutual aid agreements for fire protection, do not fall under the definition of *local government*.

APPENDIX D (continued)

Roster of Local Agencies that Fund Fire Protection

| Funding Agency | Fire Service Provided By |
|--------------------------|---------------------------------|
| CITY FIRE DEPARTMENTS | |
| 1 City of Carlsbad | City |
| 2 City of Chula Vista | City |
| 3 City of Coronado | City |
| 4 City of Del Mar | City |
| 5 City of El Cajon | City |
| 6 City of Encinitas | City |
| 7 City of Escondido | City and Rincon MWD |
| 8 City of Imperial Beach | City |
| 9 City of La Mesa | City |
| 10 City of Lemon Grove | City |
| 11 City of National City | City |
| 12 City of Oceanside | City |
| 13 City of Poway | City |
| 14 City of San Diego | City |
| 15 City of Santee | City |
| 16 City of Solana Beach | City |
| 17 City of Vista | City |

