

**SUBMITTAL TO THE BOARD OF SUPERVISORS
COUNTY OF RIVERSIDE, STATE OF CALIFORNIA**

883



FROM: Executive Office

SUBMITTAL DATE:
September 6, 2011

SUBJECT: Review of SB 89 Impacts on Newly Incorporated Cities

RECOMMENDED MOTION: That the Board of Supervisors:

1. Receive and file the report on the impacts of SB 89 with regard to the newly incorporated cities; and
2. Provide further direction to staff, if required.

BACKGROUND: On July 14, 2011, the Board of Supervisors directed the Executive Office to review the impacts of Senate Bill 89 (SB 89) on the cities of Eastvale, Jurupa Valley, Menifee and Wildomar.

Continued


TINA GRANDE
Principal Management Analyst

FINANCIAL DATA	Current F.Y. Total Cost:	\$ N/A	In Current Year Budget:	N/A
	Current F.Y. Net County Cost:	\$ N/A	Budget Adjustment:	N/A
	Annual Net County Cost:	\$ N/A	For Fiscal Year:	N/A

SOURCE OF FUNDS: N/A	Positions To Be Deleted Per A-30	<input type="checkbox"/>
	Requires 4/5 Vote	<input type="checkbox"/>

C.E.O. RECOMMENDATION:

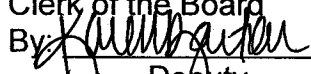
APPROVE

County Executive Office Signature BY: 
Christopher M. Hans

MINUTES OF THE BOARD OF SUPERVISORS

On motion of Supervisor Tavaglione, seconded by Supervisor Buster and duly carried, IT WAS ORDERED that the above matter is approved as recommended.

Ayes: Buster, Tavaglione, Benoit and Ashley
Nays: None
Absent: Stone
Date: September 13, 2011
xc: EO 9011263 1 0111: 13

Kecia Harper-Ihem
Clerk of the Board
By: 
Deputy

Prev. Agn. Ref.: 7/14/11 3.55 | **District:** 1,2,3,5 | **Agenda Number:**

3.16

Departmental Concurrence

Policy
 Policy
 Consent
 Consent
 Dep't Recomm.:
 Per Exec. Ofc.:

Senate Bill 89 (SB 89) signed into law by the Governor modified the funding structure for Vehicle License Fee (VLF) revenue. Prior to SB 89, any city incorporating after 2004 was not entitled to property tax in lieu of VLF. To compensate new cities after 2004, the cities were to receive a new VLF allocation of approximately \$50 per capita in perpetuity. An initial bump was built into the calculation. A new city was to receive a 150% of the actual population in the first year of incorporation, 140% the second year, 130% the third year, 120% the fourth year, and 110% the fifth year. SB 89 eliminates this bump as well as ongoing funding at the \$50 per capita level. Because these cities do not receive property tax in lieu of VLF, revenue levels of the city are significantly reduced. The only cities to incorporate after 2004 in the State of California were Wildomar, Menifee, Eastvale, and Jurupa Valley.

SB 89 Loss

The League of California Cities calculates the total combined SB 89 loss as approximately \$14 million for FY 2011/12. The chart below shows the loss through FY 2016/17.

SB 89 Loss of VLF							
	Date of Incorporation	FY 11/12 Loss	FY 12/13 Loss	FY 13/14 Loss	FY 14/15 Loss	FY 15/16 Loss	FY 16/17 Loss*
Wildomar	07/01/2008	\$ 1,688,311	\$ 1,547,619	\$ 1,406,926	\$ 1,406,926	\$ 1,406,926	\$ 1,406,926
Menifee	10/01/2008	\$ 3,645,994	\$ 3,342,161	\$ 3,038,328	\$ 3,038,328	\$ 3,038,328	\$ 3,038,328
Eastvale	10/01/2010	\$ 2,905,040	\$ 2,697,537	\$ 2,490,034	\$ 2,282,532	\$ 2,075,029	\$ 2,075,029
Jurupa Valley	07/01/2011	\$ 5,756,538	\$ 5,372,769	\$ 4,989,000	\$ 4,605,230	\$ 4,221,461	\$ 3,837,692
Total Loss		\$13,995,883	\$12,960,086	\$11,924,288	\$11,333,016	\$10,741,744	\$10,357,975

*all cities at 100% level (previously in perpetuity)

On July 12, 2011, the Board of Supervisors requested staff to review the impacts of SB 89 with regard to county agreements. The Treasurer-Tax Collector and staff from County Counsel, Executive Office, Economic Development Agency, and Auditor-Controller examined multiple options for the most recently incorporated cities. Although, the Board requested the focus to be on agreements, there were other issues discussed that give a fuller picture of options for each city. Below is a breakdown of the options discussed, and their relationship to existing agreements.

OPTIONS FOR NEW CITIES

	Wildomar	Menifee	Eastvale	Jurupa Valley
Full Restoration (Legislative Remedy)	Applicable	Applicable	Applicable	Applicable
Special Assessment	Applicable	Applicable	Applicable	Applicable
Property Tax Advance	Not Eligible	Not Eligible	Eligible	Not Eligible
Extend Co Repayment	Applicable	Applicable	Applicable	Applicable
Co GF Supported Service to Cities	N/A	N/A	Applicable Now	Applicable FY 12/13
Amend Net Savings Agreements	Applicable	Applicable	N/A	N/A
Amend Revenue Neutrality	N/A	N/A	Applicable	Applicable
Redevelopment	N/A	N/A	N/A	N/A
Line of Credit	N/A	N/A	N/A	N/A
Reduction in Service Levels	Applicable	Applicable	Applicable	Applicable
Loan	N/A	N/A	Applicable	Applicable

Legislative Solution

VLF funding for new cities was previously eliminated as part of the 2004/05 budget agreement. This is when the Legislature enacted the "VLF-property tax swap." Assembly Bill 1602 (AB 1602) was passed, but had a sunset date of July 1, 2009. Senate Bill 301 (SB 301) was passed in 2008, eliminating the sunset date. Currently, the cities' lobbyist and the county's lobbyist have been meeting with members of our delegation as well as key members of the legislature to propose new legislation that would provide for a solution to this revenue loss for the cities. Currently a legislative fix is being sought that would address the revenue loss but would limit the use of the replacement revenue to public safety expenditures. Specifically, the proposed fix would involve increasing the VLF and dedicating the resulting revenue to public safety. This approach is being pursued because both the governor and the Legislature have been advised that a very likely consequence of the SB 89 VLF loss will be the loss (layoffs) of public safety positions -- police officers and firefighters.

Assembly Member Jose Solorio introduced two urgency measures last week to address the loss of VLF revenue. The bills, ABX1 41 and ABX1 43 were introduced on September 1, 2011, and have yet to be assigned to a committee for a hearing. The introduction of the bills comes after weeks of discussions and strategic planning by various law enforcement groups, the League of California Cities and lobbyists for individual cities. ABX1 41 (which helps all cities impacted by passage of SB 89) would increase VLF registration fees due on or after January 1, 2012, by an amount equal to 0.15% of the market value of each vehicle registered. ABX1 41 would require a two-thirds vote for passage because it is a tax levy and an urgency measure. ABX1 43 is intended to address only Orange County and does not provide any relief to other jurisdictions negatively impacted by the enactment of SB 89.

Special Assessment

Each of the cities has the ability to pass special assessments by a simple majority of property owners. Although, these assessments can be levied for services, they are usually levied for capital improvements. Assessments can be short-term or long-term. These assessments need to be approved by a simple majority of the landowners. Even after passage, special assessments are periodically challenged and can be difficult to defend when challenged. The city would have to prove that the special benefit is proportional to and not greater than the special assessment. The cost of the election, likelihood of passage, and the possibility of challenge should all be considered.

Loan/Line of Credit

A temporary loan was made to the City of Eastvale on October 5, 2010 (Item 3.2), which incorporated on October 1, 2010, in the amount of \$100,000 to cover operating expenses. The city repaid the loan in December 2010. The county was approached by the City of Jurupa Valley for a loan in the amount of \$2,000,000 to cover pre-incorporation expenses for consultants and post-incorporation operating expenses as the city did not anticipate sufficient revenue to cover costs for at least three quarters. The Executive Office recommended and the Board approved a temporary loan in the amount of \$1,737,000 on August 16, 2011 (Item 3.111) to cover current operation

expenses. Per Government Code Section 23010.2 (b), the Board has the ability to loan a city incorporated for less than a year up to 85% of a city's anticipated revenue for the year the loan is made. The loan must be repaid within the fiscal year it was made. This option would only apply to the cities of Eastvale and Jurupa Valley, as they have been incorporated for less than a year. Otherwise, the county is not able to provide any line of credit.

Property Tax Advancement

The advancement of property tax falls under the same restrictions as a loan. The law allows for an advance of property tax for Eastvale, as they have been incorporated for less than a year (since October 1, 2010). However, during the transition period a city does not receive property tax; therefore, Jurupa Valley is not eligible to request an advance. A property tax advance is only a cash flow solution and does not represent new revenue.

Extend County Repayment of Transition Year Costs

The cities are obligated to reimburse the county within five years of the effective date of incorporation the net cost of services provided by the county during the transition period. Per Government Code Section 57384 (b), the Board can agree that repayment for initial year services can be spread out over more than five years. This is not an immediate solution for any of the cities. Wildomar and Menifee have until July 1, 2013, and October 1, 2013, respectively, to repay the transition year costs to the county. Any net cost of service for Eastvale is due prior to October 1, 2015. Jurupa Valley has nearly five years to repay the transition year costs as their date of incorporation was on July 1 of this year.

No Cost Services to the Cities Supported by the County General Fund

Government Code Section 23008 requires payment in full for services provided to municipalities. Government Code Section 57384 (c) allows a city council to request the Board of Supervisors to furnish without charge all or a portion of services furnished to the area prior to incorporation for "an additional period of time after the end of the fiscal year during which the incorporation became effective." Considered together, it appears

that the county cannot provide service to Menifee or Wildomar, but can provide no cost service to Eastvale and Jurupa Valley. (See Net Savings Agreement section for options for Wildomar and Menifee.)

The city councils would need to adopt resolutions requesting the County provide services at no charge and in turn the county could consider adoption of a resolution agreeing to provide services at no cost to the cities. The individual resolutions by the cities and county would need to detail the specific services. Subsequent agreements would need to be adopted by the parties detailing the terms. Funding would be from fund balance or county reserves.

Amend Net Savings Agreements

On July 31, 2007 (Item 3.2), the Board approved the recommended motion to allocate the net savings calculations to the proposed new cities in the areas of Menifee and Wildomar, and to give consideration to any future proposed new cities the same consideration if the incorporation was deemed revenue neutral or resulted in a reduction of net county cost. A legal challenge was brought against the county entitled *Ste. Marie v. County of Riverside*. A Notice of Settlement was filed. In compliance with the terms of the settlement, the cities of Wildomar and Menifee adopted resolutions requesting the Board of Supervisors provide no cost law enforcement service based on the net savings calculations reflected in the Comprehensive Fiscal Analysis (CFA) for each city. The agreements are through FY 2017/18, but will terminate sooner if the individual city ceases to contract with the Sheriff's department. In FY 2010/11, the county provided a credit of \$252,048 towards law enforcement to the city of Wildomar, and a credit of \$881,018 towards law enforcement to the City of Menifee. This is a general fund obligation.

As stated in the previous section (No Cost Services to the Cities Supported by the County General Fund) Government Code Section 23008 requires payment in full for services provided to municipalities. However, the net savings agreement may allow the county to provide additional credit for law enforcement services, funded by the county's general fund.

The city councils would need to request through a resolution for this additional credit. The county in response would have to adopt a resolution agreeing to the request and then subsequently enter into amended or new agreements.

Amend Revenue Neutrality

State law prohibits the Local Area Formation Commission (LAFCO) from approving incorporation if it has a negative fiscal effect on the county, unless the county agrees to the transfer of revenue or a revenue neutrality agreement is entered into to mitigate the loss to the county. The incorporations of Eastvale and Jurupa Valley were determined to negatively impact the county fiscally and the Board chose to enter into revenue neutrality agreements with the respective incorporation proponents to alleviate some but not all of the loss to the county.

The revenue neutrality agreements with Jurupa Valley and Eastvale expressly provide for the mutual amendment of the agreement and further provide that in case of a passage of a statute that materially alters the manner in which revenues of the City are allocated, the parties will engage in good-faith negotiations to amend the agreement. The loss of the VLF revenue would qualify as a reason to negotiate an amendment.

Per previous stated government code sections and in light of the recent litigation, it does not appear the county can waive payment or pay the cities money in the revenue neutrality agreement; however, the County could reduce the amount owed to the County or delay the timing of the payments to the County. In the case of Eastvale, the tax revenue payments are already being deferred through FY 2012/13. The Jurupa Valley agreement defers the payment for FY 2011/12 only. Due to the deferments, a change to the respective revenue neutrality agreements would not provide an immediate solution for either city.

Redevelopment

The use of redevelopment funds is pursuant to California Health and Safety Code §33000 et seq. Redevelopment includes a combination of activities with the ultimate

purpose of removing physical and economic blight in project areas through public participation and assistance in financing the acquisition of land, in planning, design, re-design, reconstruction, rehabilitation, land assembly, public and private improvements and affordable housing. Use of redevelopment funds for provision of general government services, including normal maintenance and operation of public facilities, is prohibited through California Health and Safety Code Section 33445.

Summary/Recommendation

The cities are all affected by the loss of VLF; however, the county's ability to assist is different for each city. Some of the potential solutions only solve a cash flow issue; whereas, some of the solutions may be more long term. Some may benefit from renegotiation of their revenue neutrality agreement with the county, some may benefit from a decision by the Board to provide services at no additional cost. However, the essential issue with any of the solutions, outside of a legislative fix, is whether the county at a time of severe economic pressure should transfer services from the unincorporated area in order to reduce the revenue loss to the cities. The county has taken severe cost cutting measures to balance to available revenues. These cities also may be at a critical point in their development where they must also make these decisions. We note that some have taken these steps already. Other than consideration of short-term cash flow assistance, the prudent course of action is to maintain existing agreements, help seek a legislative solution for the cities, and continue to budget conservatively in all jurisdictions to balance services against available revenues.

Request

The City of Eastvale submitted a request (Attachment A) to use Structural Fire Tax money it holds in reserves to pay for contract law enforcement services and to negotiate an amendment to the revenue neutrality agreement with the county. The Executive Office has notified the city that the county cannot accept restricted structural fire tax money to off-set contract law enforcement services, as these funds are for the distinct purpose of paying for fire protection. A meeting with the city on revenue neutrality is pending schedule coordination. The Executive Office will report to the board if the

RE: Review of SB 89 Impacts on Newly Incorporated Cities

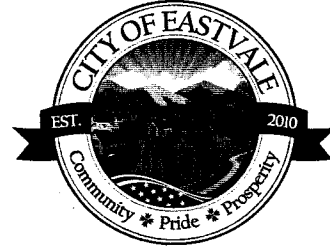
September 6, 2011

Page 9

meeting results in an outcome that differs from the previously stated recommendation, which in part is to maintain existing agreements. To date, the Executive Office has not received any requests for assistance from the City of Menifee or the City of Wildomar.

City of Eastvale

12363 Limonite Ave., Suite 910
Eastvale, CA 91752
(951) 361-0900
(951) 361-0888 fax
www.ci.eastvale.ca.us



August 9, 2011

Tina Grande
Principal Management Analyst
Riverside County Executive Office
4080 Lemon Street, 4th Floor
Riverside, CA 92501

Re: Structural Fire Fund Transfer Allocation to City General Fund

Dear Ms. Grande:

The current fiscal crises facing the newly incorporated cities in Riverside County, including the City of Eastvale, has made it deeply challenging to meet the financial demands to provide needed law enforcement services to the citizens of Eastvale. As you may know, the City's provision of public safety services to Eastvale residents accounts for approximately 48% of the City's General Fund. The unanticipated change in the state's fiscal complexion has and will continue to negatively impact the City of Eastvale which will further erode the City's General Fund revenues which is the sole source of law enforcement payments.

In this regard, our review of the Eastvale CFA shows there are sufficient amounts within the City's Structural Fire Fund Operating Revenue account which can provide valuable assistance to meet the City's needs for local law enforcement payments. Our assessment reveals there is approximately \$3,233,000 in the Fire Fund account with total anticipated expenses of approximately \$1,861,696.

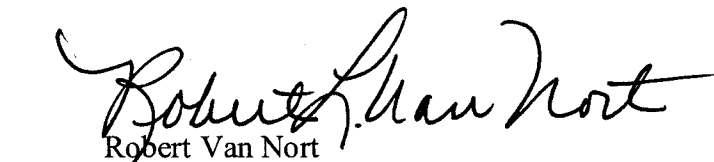
We would request that an amount of \$500,000 be shifted from the Structural Fire Fund account to the City's General Fund for the provision of law enforcement services with the County of Riverside Sheriff's Department. This will alleviate the financial burden of the City's General Fund. Should the time arise where these funds are needed for the provision of additional fire services and infrastructure, the City can re-allocate these amounts back into the Fire Fund.

We also wish to set a date and time within the next thirty (30) days to meet with you to negotiate an amendment to the terms and conditions of the Revenue Neutrality Agreement entered into between the City and the County of Riverside on January 11, 2010.

Riverside County Executive Office
August 9, 2011
Page 2

It is always a pleasure to work with you and we look forward to meeting with you to discuss these important issues affecting the City of Eastvale.

Very Truly Yours,


Robert Van Nort
City Manager

MINUTES OF THE BOARD OF SUPERVISORS
COUNTY OF RIVERSIDE, STATE OF CALIFORNIA



3.7

On motion of Supervisor Buster, seconded by Supervisor Stone and duly carried by unanimous vote, IT WAS ORDERED that the recommendation from Executive Office regarding Receive and File of Report on SB 89 Impacts on Newly Incorporated Cities, 1st, 2nd, 3rd & 5th Districts is continued to Tuesday, September 13, 2011 at 9:00 a.m.

I hereby certify that the foregoing is a full true, and correct copy of an order made and entered on August 16, 2011 of Supervisors Minutes.

WITNESS my hand and the seal of the Board of Supervisors
Dated: August 16, 2011
Kecia Harper-Ihem, Clerk of the Board of Supervisors, in
and for the County of Riverside, State of California.

(seal)

By: [Signature] Deputy

AGENDA NO.
3.7

xc: EO, COB



MEMORANDUM

EXECUTIVE OFFICE, COUNTY OF RIVERSIDE

Bill Luna

County Executive Officer

Jay E. Orr

Assistant County Executive Officer

TO: Kecia Harper-Ihem, COB

FROM: Bill Luna, CEO

DATE: August 9, 2011

RE: **CONTINUANCE – Review of SB 89 Impacts on Newly Incorporated Cities**

Given the legislature reconvening on August 15 and with the political dynamics of a legislative solution for the newly incorporated cities still uncertain, I recommend this matter be continued to September 13, 2011.

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September 12, 2011

Wallace W. Edgerton
Mayor

John V. Denver
Mayor Pro Tem

Darcy Kuenzi
Councilmember

Thomas Fuhrman
Councilmember

Sue Kristjansson
Councilmember

County of Riverside, Executive Offices
ATTN: Supervisor Ashley
4080 Lemon Street, 4th Floor
Riverside, CA 92501

Supervisor Ashley,

As you know the City of Menifee was incorporated on October 1, 2008. From October 1, 2008 through June 30, 2009 the County continued providing services to our citizens at a net cost of \$1,057,615.03, which the City must repay to the County by June 30, 2013.

Per government code section 57384.b "The city shall be obligated to reimburse the county within five years of the effective date of the incorporation or for a period in excess of five years, if the board of supervisors agrees to a longer period."

In light of the June 20, 2011 State Budget cuts to the City of Menifee's Motor Vehicle License Fees in the amount of approximately \$3,900,000, the City of Menifee must now make significant budget reductions to its operating budget. As such, the City respectfully requests that the Riverside County Board of Supervisors consider deferring our repayment obligation of \$1,057,615.03 to the County until June 30, 2018. This will allow the City more time and greater flexibility in crafting a solution to its budget reductions.

Thank you for your willingness to bring this forward for consideration by the Board of Supervisors.

Sincerely,

William A. Rawlings
City Manager

29714 Haun Road
Menifee, CA 92586
Phone 951.672.6777
Fax 951.69.3843
www.cityofmenifee.us

**Riverside County Board of Supervisors
Request to Speak**



Submit request to Clerk of Board (right of podium),
Speakers are entitled to three (3) minutes, subject
Board Rules listed on the reverse side of this form.

SPEAKER'S NAME: BEN BENOIT

Address: _____
(only if follow-up mail response requested)

City: WILDOMAR **Zip:** 92595

Phone #: _____

Date: 9/13/11 **Agenda #** 3.16

PLEASE STATE YOUR POSITION BELOW:

Position on "Regular" (non-appealed) Agenda Item:

 X **Support** _____ **Oppose** _____ **Neutral**

Note: If you are here for an agenda item that is filed
for "Appeal", please state separately your position on
the appeal below:

_____ **Support** _____ **Oppose** _____ **Neutral**

I give my 3 minutes to: _____