

ACWA's Proposition 1A (2004) Property Tax Borrowing FAQ Sheet

Created on 7/27/09

The State Legislature voted to suspend Proposition 1A (2004) and borrow property tax funds from local government to help solve the 2009-'10 state budget crisis. ACWA has put together this question-and-answer FAQ sheet to help educate your Board of Directors, agency staff, and customers about what to expect:

When will the state begin to borrow our property tax dollars?

The state will collect the 8% in property tax dollars from cities, counties, and special districts beginning December 1, 2009. The County Auditors who will collect the borrowed funds will give the 8% across the board property tax money to the state in two fund shifts: January 15, 2010 and May 1, 2010.

How will the state decide what is 8% of our individual water district's share of the property tax funds that we receive?

According to the budget trailer bill that implements the borrowing details, the Auditor within each county will work from the 2008-'09 total property tax revenue amount received by each city, county, and special district within that county.

Does the state have to repay with interest, and if so, how much?

The state must repay local government with interest. As soon as we hear definitively about what that interest rate will be we will update it here.

When does the state have to repay local government?

The state must repay local governments for the 8% borrowed plus interest no later than June 30, 2013 (end of the third fiscal year following the year of the reduction).

Are there any exemptions to the 8% across the board borrowing?

The language of AB 15 4X (fourth extraordinary legislative session) calls for a narrow exemption with an accompanying high threshold. It was dubbed the "extreme hardship" provision and would allow local agencies (including cities and special districts) that are in bankruptcy or unable to provide basic core services to apply to the Governor's Department of Finance (DOF) for a reduction or elimination of their 8% borrowing requirement. Here is the

specific language contained within the budget trailer bill: *“Upon written request by a local agency that is received no later than October 15, 2009, the Director of the Department of Finance may, on the basis of extreme hardship, decrease the reduction amount that would otherwise be applied to that local agency. In evaluating a written request for a decrease, the Director of Finance may consider factors including, but not limited to, all of the following: (A) Whether the requesting local agency is the subject of a current bankruptcy proceeding, or whether incurring the full reduction amount otherwise required would likely cause the local agency to seek bankruptcy protection and (B) Whether the requesting local agency has any financial reserves, and whether incurring the full reduction amount otherwise required would impair the ability of the local agency to provide a basic level of core public services. If the Director of DOF approves a request he shall certify by November 15, 2009 to the auditor of that county the amount of a decrease in the reduction. The amount of the decrease shall be applied in proportionate shares to increase the reduction amounts of all other local agencies within that county. The DOF may not grant decreases to local agencies within a single county that in the aggregate total more than 10% of the combined total of the reduction amounts for all local agencies within that county.”* ACWA was relieved that the arbiter of any exemptions to the 8% across-the-board borrowing is the Governor’s Department of Finance (DOF) and not the Legislature.

How are these potential exemptions different from the last raid?

The Legislature itself drafted the language in 2004 allowing the multiple exemptions that took additional money away from enterprise water and wastewater special districts and took much less from non-enterprise special districts like parks, mosquito and vector, and fire districts. The “hardship exemption” contained in this year’s budget trailer bill was written by DOF staff and it is a high standard that will be very difficult to meet greatly reducing the actual number of exemptions. DOF also wrote language that caps the amount of hardship exemptions granted to 10% out of the total of 8% within each county. Any hardship exemption dollars lost will be reallocated within that particular county amongst all other local entities (cities and special districts). There is no hierarchy of special districts – they will all be treated the same and required to share the same borrowing burden.

What are the options to turning over the 8% borrowing if our district would be irreparably harmed?

Your district may write a letter to the Director of the Department of Finance Mr. Mike Genest, State Capitol, Sacramento, CA 95814 no later than October 15, 2009 requesting an exemption on the basis of extreme hardship to the 8% across-the-board borrowing. The DOF will consider bankruptcy or verge of bankruptcy and whether the borrowing would impair the ability of the local agency to provide a basic level of core public services as well as your district's financial reserves in their decision making process. They will determine eligibility for any hardship exemption requests no later than November 15, 2009.

What has the state done to help local agencies if they can't meet the hardship exemption standard but need to replace the 8% borrowed property tax revenue and don't have reserves to dip into?

The state created a securitization mechanism intended to help local governments avoid actual reductions in revenues this year. Under the mechanism, a joint powers authority will issue notes backed by the state's repayment obligation and use the proceeds to replace the diverted property taxes of local agencies that choose to participate in the securitization. As soon as ACWA receives more details on the actual joint powers authority we will update you here.

What is the SRAF?

The newly created Supplemental Revenue Augmentation Fund (SRAF) will collect the 8% from each county and be used not only to fund education but also help the state pay costs of Medi-Cal.

How is the SRAF different from ERAF?

The SRAF funds education as well as health care costs through the Medi-Cal program. ERAF still continues to only fund K-12 and community colleges. If your district pays into ERAF now arising from the original 1992 raid, this budget bill and budget trailer bill will unfortunately not change that.

Additional Information Updates

The Governor's Department of Finance website will soon have information regarding the Prop 1A borrowing, exemption processes, and other pertinent information to help special districts better understand the implementation of the state's borrowing of property tax revenues. Please also check back with ACWA's website for updated information as soon as it becomes available.