

S&P's View of Best Practices

California Association of County Treasurers and Tax Collectors
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State and Local Government



Municipal Ratings

- **Ratings opinions and analyses provide a common language for issuers and investors who are interested in the creditworthiness of issues or issuers. Our ratings may be useful to investors as a second opinion as they decide which bonds meet their individual risk tolerance and investment objectives.**
- **Ratings are typically provided upon request.**

Rating Scale – Investment Grade Categories

AAA

AA

A

BBB

With the exception of AAA, standing within these investment-grade categories can be further denoted by a + or –

General Obligation Analysis

- **Key G.O. Ratings Factors:**
 - Economy
 - Finances
 - Management
 - Debt

Economic Factors

- **Demographics**
- **Income/Wealth**
- **Property Valuation**
- **Taxpayer Base**
- **Employment**
- **Enrollment**

Financial Factors

Observing trends across multiple fiscal years

- Year end Financial Position
- Revenue trends and sources
- Reserve Levels
- Liquidity – cash assets
- Investments
- Pensions
- Budgeting

Financial Management Assessment (aka FMA)

- **S&P's analytical methodology that evaluates established and ongoing management practices and policies in the seven areas we see as most likely to affect credit quality.**
- **The FMA measures the presence of policies and whether they are formalized.**

Financial Management Assessment

Strong, Good, Standard, Or Vulnerable Based On:

- **Revenue and expenditure assumptions**
- **Budget amendments and updates**
- **Long term financial planning**
- **Long term capital planning**
- **Investment management policies**
- **Debt management policies**
- **Reserve and liquidity policies**

Structural Balance is Essential

We define structural balance as: recurring revenues that match or exceed recurring expenditures

- **Do you look at historic trends and do you use outside sources of information to ensure your revenue and expense assumptions are sound?**
- **Does your budget rely on non-recurring revenues or debt restructuring to achieve balance?**
- **Is there implementation risk that could affect your budget outcome?**
- **Are you deferring ongoing expenditures?**

Prioritized Spending and Contingency Plans

- **We feel these are good risk management tools that foster financial agility**
- **Allow governments to more easily adapt to changing revenue environments**
- **Appear both on the spending and revenue sides**
- **Should include various scenarios**

Regular Budget Monitoring

Helps identify budget weaknesses early on in the process and allows for a more proactive budget balancing response.

Features:

- **Monthly or quarterly financial updates to the school board**
- **Budget to actuals, budget variances, etc.**

Long-term Financial Planning

- **A key feature of stable financial performance. The earlier weaknesses are identified, the more effective the budget balancing response can be.**
- **Robust plans do not just straight-line revenues and expenditures.**
- **Used as a decision-making tool at budget time and other points in the year**
- **Updated at least annually, and include multiple**

Strong Liquidity Management

- **Policies focus on cash flow management**
- **Liquidity needs identified**
- **Awareness of the weakest cash flow month**
- **Also take into account exposure tied variable rate demand obligations**

Reserve Policies

Your policy should take into account:

- **Cash flow needs within the year**
- **Volatility of revenues and expenditures on a year over year basis**
- **Economic cycles**
- **Susceptibility to natural disasters, where applicable**
- **Is there a mechanism to replenish reserves, if you draw on them?**
- **What actions are you taking to bring the budget back into structural balance?**
- **How long will it take?**

Debt Factors

- **Overall Debt Burden (Past, Present, Future)**
- **Bond Retirement Schedule**
- **Debt Service As A Fixed Cost**
- **Debt Ratios**
- **Future Capital Needs**
- **Contingent Liabilities**

Contingent Liabilities

- **Pension and other postemployment benefit obligations**
- **Variable rate debt or swaps, with payment provisions that accelerate debt payment and/or liquidity needs**
- **Other activities that are accounted for off-balance sheet, or outside the general fund**

Key considerations:

- **The size of the liabilities,**
- **The potential funding challenges, and**
- **Are there long-term plans that address them?**

Debt Management Policies

- **These policies go beyond statutory debt limits**
- **Take into account contingent liabilities**
- **Include affordability measures that may limit annual debt service to a % of expenditures, debt per capita, or even to a tax rate**
- **Establish criteria for how, when, and for what projects the issuer can issue debt**
- **Address variable rate debt and swaps**

Capital Improvement Planning

- **A multi-year plan addressing ongoing maintenance as well as potential new facilities**
- **Needs and priorities are updated annually, and costs are tied into the budget and long-term financial plans**
- **Consists of a combination of pay-as-you-go financing and bonding**
- **Revenue sources are identified throughout all years of the plan**

Printed articles pertaining to this topic are available

RatingsDirect®

The Top 10 Management Characteristics Of Highly Rated U.S. Public Finance Issuers

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Top 10 List

The Top 10 Management Characteristics Of Highly Rated U.S. Public Finance Issuers

(Editor's Note: This is an updated version of an article published July 26, 2010.)

U.S. public finance issuers are a varied group, but the management practices of the strongest borrowers show some distinct commonalities. Standard & Poor's Ratings Services has widely disseminated to investors and issuers its approach for assigning credit ratings in U.S. public finance (see "USPF Criteria: State Ratings Methodology," published Jan. 3, 2011; and "USPF Criteria: GO Debt," published Oct. 12, 2006, on RatingsDirect on the Global Credit Portal). We have also developed representative ranges for key ratios that factor into our analysis of tax-backed credit quality (see "USPF Criteria: Key General Obligation Ratio Credit Ranges – Analysis Vs. Reality," published April 2, 2008). Although these ratios are the foundation of the quantitative measures Standard & Poor's uses when assigning a credit rating, Standard & Poor's also relies on qualitative factors to inform our credit analysis. In 2006, Standard & Poor's released its Financial Management Assessment, which offers a more transparent assessment of a government's financial practices, as an integral part of our credit rating process (see "Financial Management Assessment," published June 27, 2006). Our view of management factors, administrative characteristics, and other structural issues facing a government entity may be an overriding factor in a rating outcome.

(Watch the related CreditMatters TV segment titled, "What Do Highly Rated U.S. Public Finance Issuers Have In Common?", dated Aug. 14, 2012.)

We view management as contributing significantly to many of the individual credit ratios, which can positively affect ratings in a number of ways. On the whole, state and local governments have made many improvements to budget structure, reserve policies, and debt management during prior periods of budget stress. Whether these practices are developed as part of a comprehensive risk management plan or individually, they have, in our view, generally enhanced government's ability to manage through downturns and have contributed to credit stability over time. Conversely, we believe that the lack of strong management can be a significant factor in a weak credit profile. In our opinion, while the economy remains a key factor in assigning a rating level, our view of management and the institutional framework is usually one of the deciding factors in fine-tuning the rating.

Overview

- Our view of a government entity's management and administrative characteristics, along with other structural issues it faces, can move a rating up or down more significantly and swiftly than any other element of a credit review.
- We've observed some distinct commonalities in the management practices of highly rated U.S. public finance issuers over the years.
- Proactive budget and liability planning, strong liquidity management, and the establishment of reserves are among the factors the strongest issuers share.

When assessing management, Standard & Poor's analyzes the political and fiscal framework that governs it, as well as

the day-to-day management procedures and policies. There could be a strong management team in place, but if there is political instability or lack of political will to make difficult decisions, we have found that management could be ineffective in many cases. Standard & Poor's also focuses on the "whole of government." Our view of oversight and management controls covering the disparate operations of a government with a focus on accountability at each department or function is critical to strong credit ratings.

The following "Top 10" list of management characteristics associated with Standard & Poor's highly rated issuers is generally applicable to state and local governments as well as to other enterprise operations of government such as water, sewer, or solid waste. The relative importance of these factors may vary from issuer to issuer. Our view of credibility is an important part of a rating review process and management assessment. Every government has challenges, but we believe that identifying problems or issues and detailing how these will be addressed establish credibility and greater transparency in the rating process.

Top 10 List

1. Focus on structural balance

In our view, a structurally balanced budget is an essential characteristic of highly rated credits. There are many views of what constitutes a balanced budget. For some governments, a budget is balanced if current revenues plus available reserves match or exceed current expenditures. From Standard & Poor's standpoint, a budget is balanced if recurring revenues match recurring expenditures. In evaluating whether or not a budget is balanced, we analyze the underlying revenue and expenditure assumptions. We might not have a positive view of a budget that relies on optimistic revenue assumptions relative to the current economic environment to meet recurring expenditures. We consider recurring expenditures all of those that are typically incurred year after year and are required as part of a government's normal ongoing operations. This includes salaries, debt service, and pension payments among others. Consistent with our analysis of revenues, expenditure assumptions that rely on debt restructuring for budgetary savings, deferral of ongoing expenditures, and saving assumptions that have significant implementation risks could also color our view of whether a budget is balanced or not.

A government's ability to maintain or quickly return to structural balance during a period of economic weakness can lead us to affirm or raise an issuer credit rating. The opposite is also true. Reliance primarily on one-time measures without the appropriate re-alignment of revenues and expenditures could cause us to lower the ratings.

2. Strong liquidity management

An additional credit quality factor is management's ability to manage its cash flow and identify potential issues, internal or external, that could lead to a liquidity crunch. Potential for inadequate liquidity serves as a bellwether to the risk of immediate and potentially severe credit deterioration, particularly for those with significant budget misalignments and issuers of certain types of variable-rate debt, in our view. Ultimately, the possibility of having insufficient money to meet debt obligations is at the heart of our credit analysis. In the few instances where state or local governments may encounter genuine credit distress, it is likely accompanied and possibly exacerbated by problems with liquidity. Access to additional sources of internal or external liquidity and a plan on how, when, and in what amounts to access these, are a credit positive. However, just having access to additional liquidity, either through

pooled cash or loans from other funds, is not enough. The absence of clear accountability as to where the cash is coming from or when it will be paid back could create uncertainty about the sustainability of the cash flow and the potential implications of reallocating the cash from one use to the other.

In addition, some obligors' debt profiles include liquidity risk exposure tied to variable-rate demand obligations, alternative financing products, and other debt instruments. Under some of these structures, the potential for accelerated repayment causing sudden and significant demands on an issuer's liquidity could have credit implications (see "The Appeal Of Alternative Financing Is Not Without Risk For Municipal Issuers," May 17, 2011). We have found that management teams of highly rated credits are able to limit, mitigate, or develop a careful plan to manage the potential exposure to these liquidity demands.

3. Regular economic and revenue updates to identify shortfalls early

In our experience, having a formal mechanism to monitor economic trends and revenue performance at regular intervals is a key feature of stable financial performance. This is particularly true in the case of states, which we have observed tend to exhibit revenue declines during economic downturns because they rely on personal income tax, sales tax, corporate income tax, and other economically sensitive sources. We believe that evaluating historical performance of certain revenues is important to this analysis because each government will have different leading or lagging economic indicators that signal potential revenue variance issues based on its economic structure. The earlier revenue weakness is identified in the fiscal year, the more effective, in our view, the budget balancing response can be. We think it is important to monitor upside growth as well. In our opinion, it is also important to understand a surge in revenues to determine if the trend is an aberration or something that is likely to sustain.

4. An established rainy day/budget stabilization reserve

A formalized financial reserve policy is a consistent feature of most of Standard & Poor's highly rated credits. For some governments, such a policy has been standard operating procedure for decades. Others focused attention on this as a risk management tool following the recessions of the early 1990s, 2001, and especially the Great Recession when the country experienced sustained revenue weakness that required severe budget reduction measures. In our view, reserves provide financial flexibility to react to budget shortfalls or other unforeseen circumstances in a timely manner. No one level or type of reserve is considered optimal from Standard & Poor's perspective. We have seen many different types of reserves factor into an improved government credit profile. In our view, some important factors government officials generally consider when establishing a reserve are:

- The government's cash flow/operating requirements;
- The historical volatility of revenues and expenditures through economic cycles;
- Susceptibility to natural disaster events;
- Whether the fund will be a legal requirement or an informal policy;
- Whether formal policies are established outlining under what circumstances reserves can be drawn down; and
- Whether there will be a mechanism to rebuild reserves once they are used.

In our view, the use of budget stabilization reserves is not in and of itself a credit weakness. The reserves are in place to be used. However, we believe that a balanced approach to using reserves is important in most cases, because full depletion of reserves in one year without any other budget adjustments creates a structural budget gap in the following year if economic trends continue to be weak. As they've done in the past, state and local governments are

re-examining their fund balance reserve policies to determine their adequacy and, in many cases, have adjusted their funding targets.

5. Prioritized spending plans and established contingency plans for operating budgets

We have found that contingency planning is an ongoing exercise for most highly rated governments. Prioritized spending and contingency plans have always been important risk management tools that allow state and local governments to adjust to changes in the economic and revenue environment. In our analysis, we consider whether a government has contingency plans and options to address changing economic conditions, intergovernmental fund shifts, and budget imbalance when it occurs. This would include an analysis of the following:

- What part of the budget is discretionary;
- What spending areas can be legally or practically reduced;
- The time frame necessary to achieve reductions of various programs;
- Where revenue flexibility exists; and
- An analysis of revenue under varying economic and policy scenarios.

6. Strong long-term and contingent liability management

In our view, recognition and management of long-term and contingent liabilities are characteristics of highly rated credits. We continue to incorporate governmental liability management into our rating analysis, as we have for decades, with an emphasis on how liabilities are managed over time (see "Contingent Liquidity Risks In U.S. Public Finance Instruments: Methodology And Assumptions," March 5, 2012). In particular, Standard & Poor's views pension and other postemployment benefit obligations as long-term liabilities (see "The Decline In U.S. States' Pension Funding Decelerates, But Reform And Reporting Issues Loom Large," June 21, 2012; and "The OPEB Burden Varies Widely Among U.S. States," published Sept. 22, 2011). While the funding schedule for pension and OPEB can be more flexible than that for a fixed-debt repayment, it can also be more volatile and may cause fiscal stress if not managed, in our opinion. The size of the unfunded liabilities and the annual costs associated with funding them, relative to the budget, are important credit factors in our review of state and local governments. Currently, pension systems are undergoing the most significant level of reform in decades, which we view as a credit positive and highlights the importance of managing these liabilities. We will continue to differentiate credits where these long-term liabilities are large and growing, contributions are less than required, and there has been limited action on reform initiatives.

Non-essential areas of government operations and services that may fall out of the traditional general fund focus could also result in contingent liabilities and create budget pressures, if not properly managed. Stadiums, convention centers, and health care entities, as well as various other enterprise operations, could also cause funding challenges at the local level, even when there is no clear guarantee or legal responsibility for the government to provide funding. At the state level, we believe that local government fiscal difficulties can increase and become a funding and policy challenge for the state.

7. A multiyear financial plan in place that considers the affordability of actions or plans before they are part of the annual budget

In our analysis, we consider whether this plan is comprehensive. During a sustained economic recovery, we see program enhancements and tax reductions as typical. We believe that pension funds that performed at record levels provided incentive to expand or enhance benefits. Elected officials will be ultimately responsible for the decisions

necessary to restore out-year budget balance. In our view, even when there is legal authority to raise taxes, there may not be a practical ability to do so because it can be politically unpopular. Having detailed information on costs associated with various policy decisions can provide greater transparency to the budget process, in our view. We consider multiyear planning as an important part of this process. Standard & Poor's realizes that the out-years of a multiyear plan are subject to significant change. They provide a model to evaluate how various budget initiatives affect out-year revenues, spending, and reserve levels. These plans will often have out-year gaps projected, which we believe allows governments to work out, in advance, the optimal method of restoring fiscal balance.

8. A formal debt management policy in place to evaluate future debt profile

In the past decade, many states and local governments have developed debt affordability guidelines or models, which we regard as a positive development. This affordability analysis generally includes a systematic review of existing and proposed debt, and how they will affect a government's future financial profile. In many cases, these policies address exposure to variable-rate debt, swaps, and other contingent liabilities. They can also include criteria for when refunding bonds are allowed, amortization periods, and what types of projects can be funded through debt issuance. The affordability measures are typically tied to a government's revenues or expenditures, debt per capita, and debt per capita as a percent of either gross state product (states) or market value (local governments). The impact of these policies on a long-term credit rating will depend on our view of how the government establishes and uses the policies, and the track record in adhering to the affordability parameters established in the policies, especially during economic downturns. We believe the process enhances the capital budgeting and related policy decisions regarding debt issuance and amortization. In our view, these policies have moderated leverage at the state and local level.

9. A pay-as-you-go financing strategy as part of the operating and capital budget

In our opinion, pay-as-you-go financing can be a sound financing policy. Not only does it lower debt service costs, but it also provides operating budget flexibility when the economy or revenue growth slows. We see the use of pay-as-you-go financing as a more significant funding option when tax revenue growth is uncertain, given the fact that pay-as-you-go financing may provide additional budget flexibility in an uncertain revenue environment. Depending on the government's overall balance-sheet profile, we believe that the government can achieve a better match between nonrecurring revenues and nonrecurring expenditures if it uses this type of financing.

10. A well-defined and coordinated economic development strategy

In addition to historical economic trends, we consider each government's economic development initiatives and future growth prospects as they are likely to affect future revenue-generating capacity. Effective economic development programs typically take a long time to implement. We believe that the question for many state and local governments now is not whether there should be a formal economic development program, but rather how significant a resource commitment should be dedicated to running these programs and offering incentives. These are government policy decisions involving cost benefit analysis that are generally outside the credit rating process. However, if these economic development programs and strategies create employment, enhance diversification, and generate solid income growth, they could have a positive effect on a government credit rating over the long term. To the extent that there is a net revenue benefit to a government, this could also be a positive credit factor. We have seen economic development programs expand in the past 20 years with strategies increasingly becoming regional in nature, with a more coordinated approach between state and local governments.

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CACTTC Education Conference

FitchRatings

Rating Appropriation-Backed Municipal Debt

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October 10, 2012

As Shaky Stockton Leads the Way,
California Cities See Lease-Revs Slip

-BondBuyer, 5/10/12

S&P cuts San Bernardino, Calif.
lease revs to C

-Reuters, 8/3/12

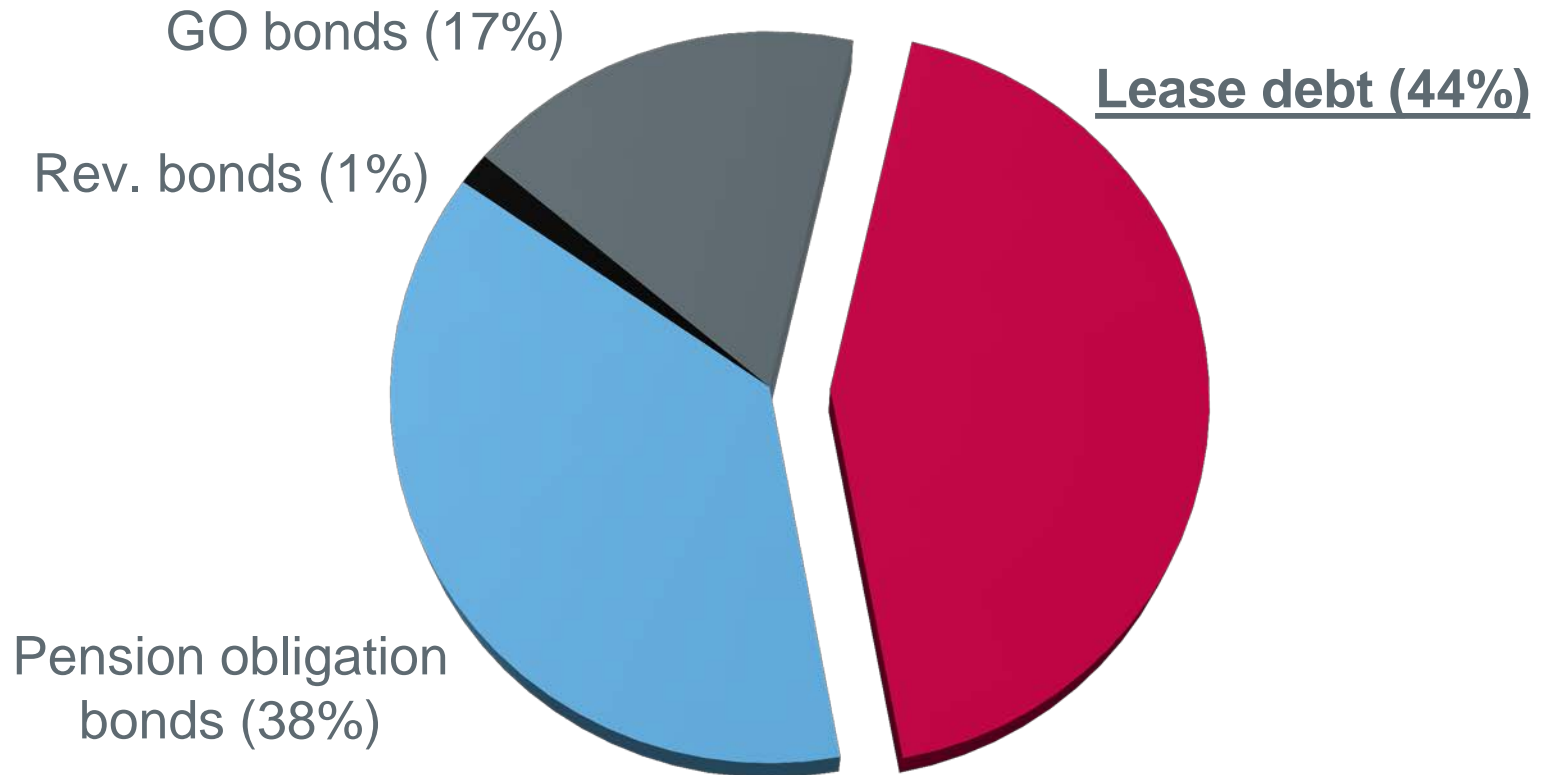
Moody's will consider a further lowering of the
ratings on lease-backed appropriations

-Moody's, 8/17/12

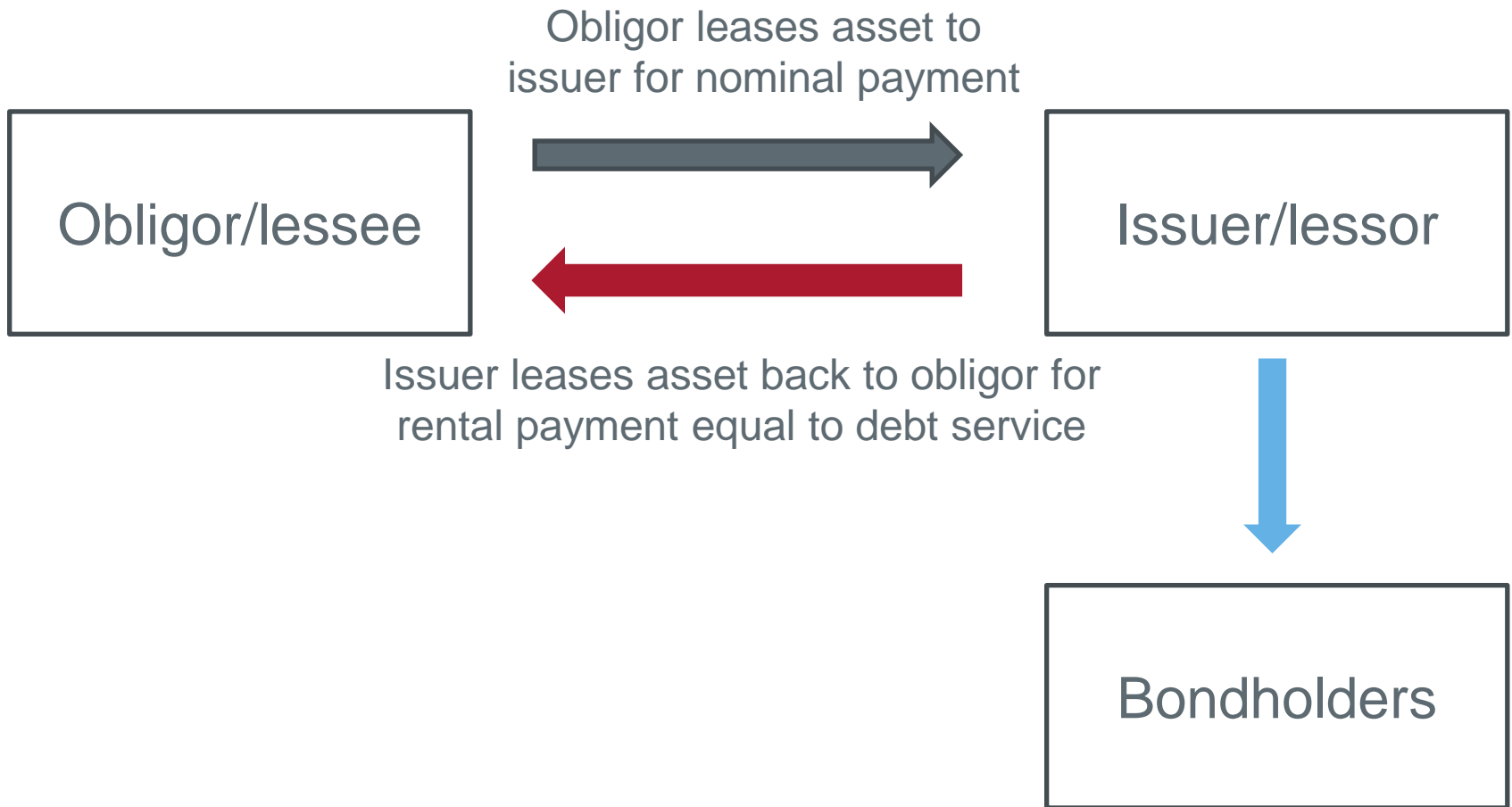
Willingness to Pay Questioned

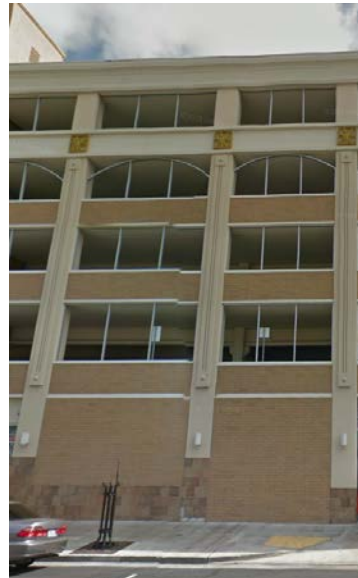
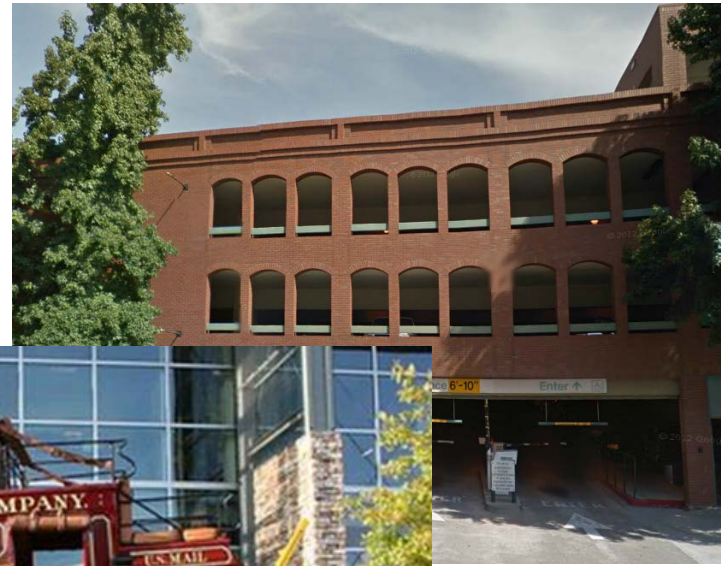
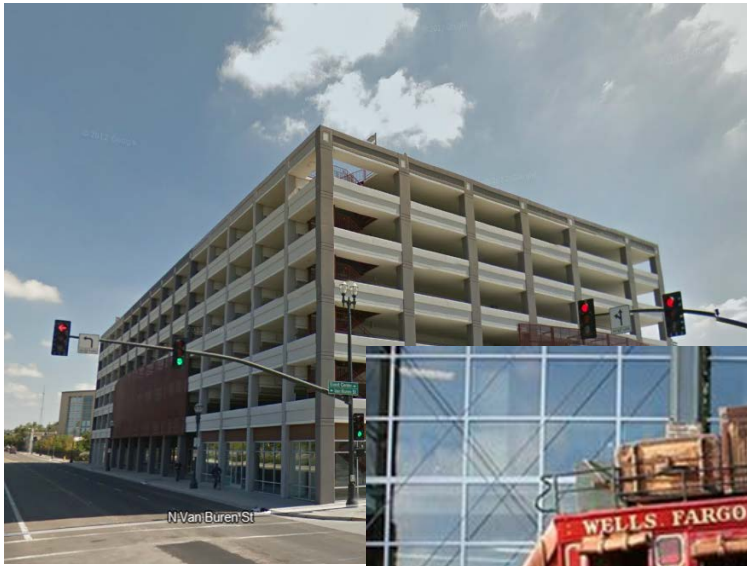
-Fitch Ratings, 9/19/12

Long-Term General Fund Obligations for Fitch-Rated California Counties



Basic Lease Structure for Appropriation-Backed Debt





Old Worry: Abatement Risk



City Hall Tower before and after the Quake.

Addressing Abatement Risk

- Value and condition of asset
- Potential hazards
- Insurance and debt service reserves
- Right to re-let & re-enter

New Worry: Willingness to Pay

“The City’s obligation to pay Lease Payments under the Lease Agreement shall be absolute and unconditional subject only to abatement”

(City of Stockton, 2007 Official Statement)

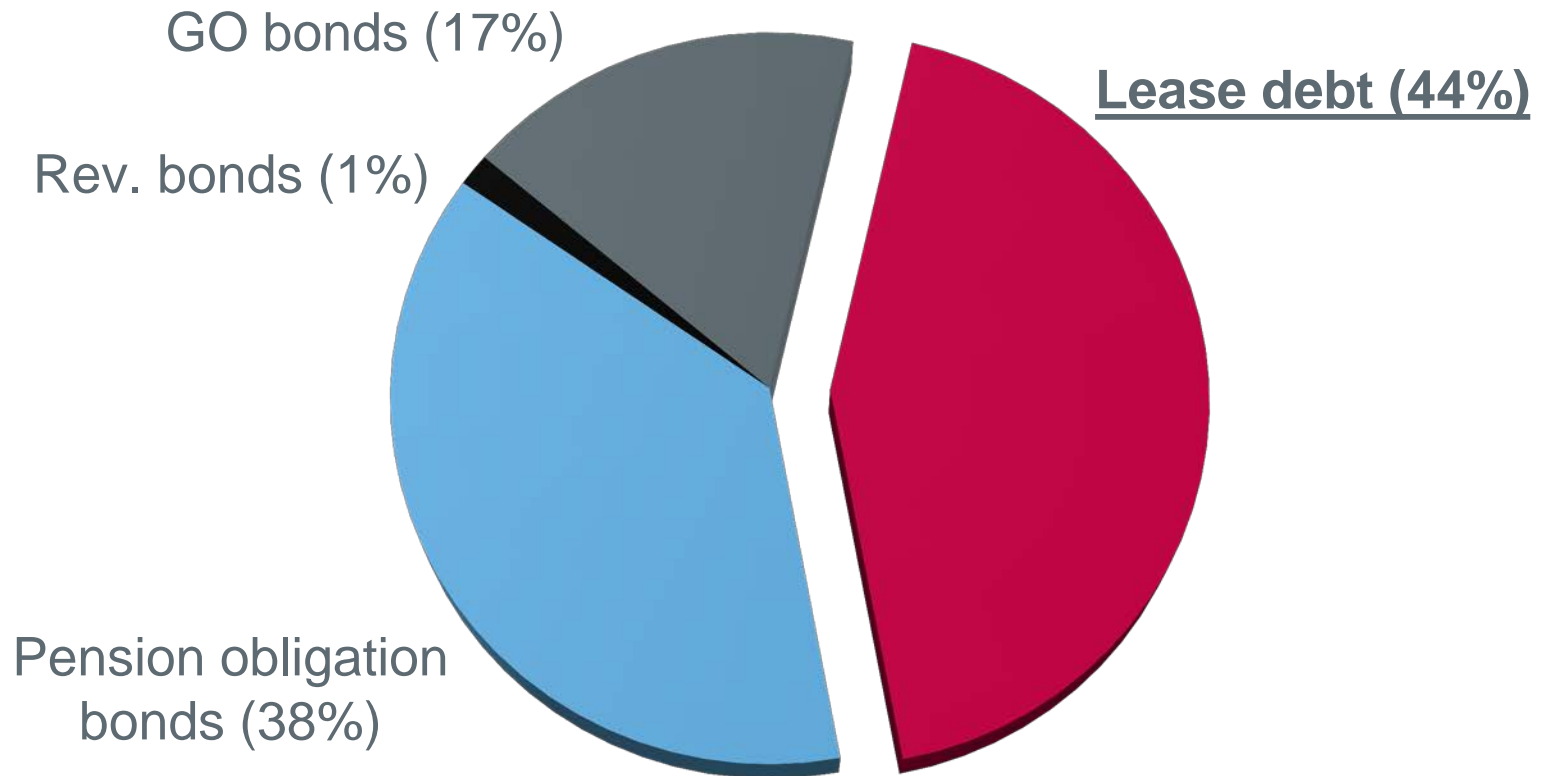
“The City covenants to take such action as may be necessary to include all Lease Payments...in each of its budgets...and it shall be the duty of each and every public official...to carry out and perform the covenants and agreements in the Lease Agreement”

(City of Stockton, 2007 Official Statement)

“This bankruptcy risk was fully disclosed in the Official Statements and agreements between the City and the bond insurers. The insurers were compensated for covering this risk when the bonds were sold.”

(City of Stockton, 2012 Open Letter to the Community)

Long-Term General Fund Obligations for Fitch-Rated California Counties



Looking Ahead

- Ongoing scrutiny of current bankruptcies and AB506 proceedings--any change in incentives for local governments?
- Renewed focus on essentiality of leased assets
- Greater differentiation between GO and other types of debt
- More attention to commitments to labor and residents



California Association
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School Finance Handbook for TTCs

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Attachments *(click on link)*

- [GFOA Best Practices Related to Debt Issuances](#)
 - [LA County White Paper](#)
 - [SD GO bond issuance GC and Ed code sections in detail](#)
-

Summary of School Debt Financings and Legal Authority

General Obligations Bonds -

California Constitution, Article XIII
A, Section 1 and
Article XVI, Section 18

Gov't Code § 53506 and following

Education Code § 15000 and
following

Lease Financing
(Certificates of Participation or COPs) -

California Constitution Article XVI,
Section 18

Mello Roos Tax Bonds -

Govt Code, The Mello Roos
Act, § 53311 and following

Tax and Revenue Anticipation Notes (TRANS) -

Govt Code § 53820
through 53859.09 (generally issued under 53850 and
following)

School District Guidance for G.O. Bond Issuance

PHASE I: Pre-Ballot Bond Evaluation and Community Outreach

1. Completion of a facility master plan identifying capital facility needs for new construction, expansion, modernization and major deferred maintenance with projected cost estimates. ***The purpose of this study is to ensure that the Proposition 39 Project List is thoughtful and complete. The District may need to hire a facility consultant or architect to assist in this process.***
Responsible Party: District Chief Business Official (CBO) and/or Director of Facilities
2. Clear documentation of eligibility for State school construction/modernization grants and status and expected timing of State funds. ***This ensures that the taxpayers bond dollars are leveraged with available grant dollars to maximize the amount of projects that can be completed or to minimize the size of the bond, depending on the specifics of the District's needs. The District may need to hire a facility consultant or architect to assist in this process.***
Responsible Party: District CBO and/or Director of Facilities.
3. Thorough reporting of all local facilities funding options, including developer fees, redevelopment pass-through, special taxes, etc.; ***This ensures that the taxpayers bond dollars are leveraged with other local sources to maximize the amount of projects that can be completed and/or to minimize the size of the bond, as above, as well as to ensure that projects are properly related to restricted revenues, and to identify issues of fairness in terms of the distribution of financial responsibility. The District may need to hire a mitigation consultant to assist in this process.***
Responsible Party: District CBO and/or Director of Facilities
4. Development of an expenditure schedule based on project budgets and a cash flow analysis which relates the timing of revenue and expenditures (including adjustments for inflation). This cash flow analysis will allow for insight into when bond issuance is needed and confirmation of the risks in the plan that bonds will be able to be issued efficiently and in a timely manner. This will also allow for the iterative analysis of project expenditures and facilities revenue sources, so that a feasible plan can be established at the outset, as well as adjusted in response to actual experience. ***When the bond amount is determined, and the timing of each issuance, it should be checked to ensure compliance with limitations on***

the maximum projected tax levy and the district's expected bonding capacity.
Responsible Party: District CBO

5. Contact with the County Assessor's and County Auditor-Controller's office to review assessed valuation trends and determine appropriate assumptions for projections. Every County can provide historical assessed value information, by assessed value category for several years (usually a minimum of 10 years, and in many counties 20 or more years). In general, assessed valuation projections should not exceed the average of the most recent 20 years of historical data; ***This ensures that the tax rate pledge and projections are reasonable and acts as a safeguard to prevent excessive taxes and loss of bonding authority caused by exceeding the Proposition 39 tax rate promises and legal limits, respectively.***

Responsible Party: District CBO, Financial Advisor.

6. Acquire Single family housing AV data table showing how many homes are assessed at various values from Assessor or where commercially available. This table of data is often a valuable tool in establishing the average and or/median tax per single family residence. This data is also utilized to determine the appropriate AV growth rate projections that might be influenced by "unlocked" Proposition 13 property value to be realized when homes are sold in the future; ***This is an additional method of cross-checking AV growth assumptions for reasonableness by evaluating the potential for AV growth from existing homes.***

Responsible Party: District CBO, Financial Advisor.

7. An open process whereby the public and other interested parties have ample opportunity to understand the facility master plan and financial implementation plan (including bond measure information) and provide comments and input prior to the Board decision to call for a bond measure to be placed on the ballot; ***This process is necessary under the Brown Act for the Board to understand the details of the plan and to consider the reaction of the community to the bond proposal.***

Responsible Party: District Governing Board, Superintendent, CBO, Director of Facilities.

8. Consideration of an independent, statistically valid community/voter opinion survey that identifies voter support for specific projects, tax thresholds, bond authorization and bond repayment term prepared by a professional polling firm with a statistically determined margin of error of less than 5%; ***This survey allows the District and the Board to understand community sentiment related to the tax, the projects and the bond beyond the small subset of citizens who may address the Board as part of the process and allows the Board to consider whether the expenditure of staff time in preparing bond materials, District funds spent on objective communications with the public and County election costs should be incurred based on a reasonable expectation of community support. This survey should be conducted by a firm that will not financially benefit from the passage of a bond or requires that a bond be attempted and/or succeed in order to be paid for their effort and expense in preparing the community opinion survey. The survey firm should be selected through a competitive and open process, such as a Request for Proposal.***

Responsible Party: District CBO, Financial Advisor, Public Opinion Survey Firm.

9. The Governing Board members should lead a community engagement effort involving stakeholder groups, which may include taxpayers, voters, citizens, District employees etc.,. Expenses related to the preparation of impartial information can be paid for by the District to ensure public input during Phase I. ***Because parents of school age children are often a minor percentage of the population, the District should develop a communication strategy to reach out and explain its intentions and rationale to the rest of the community as part of educating the public prior to the Board's decision to order the election in order to make sure that any concerns that may exist are aired prior to the adoption of the order of election.***

Responsible Party: District Governing Board and Superintendent.

PHASE II: Preparing to place a Bond on the Ballot

1. Contracts with an independent financial advisor and bond counsel firm should be in place prior to ordering the election. A competitive RFP process to select a financial advisor and/or bond counsel is recommended consistent with recommended best practices of the GFOA. Additionally, RFPs should not specify that bonds will be sold on either a negotiated or competitive basis in order to maintain flexibility to achieve the lowest interest rate on any particular bond issuance. Since the negotiated bond sale method is specifically not recommended for school district general obligation bonds, a decision to utilize this method should be well-justified and documented by the District's independent financial advisor. If a negotiated sale is determined to be best, a Request for Proposal process should be utilized to select an underwriter(s). Conflicts of interest by and among bond professionals should be explored, and eliminated. ***A great deal of work and advice often occurs prior to the drafting of the resolution ordering an election. Bond sizing scenarios, project list development, legal advice on restrictions on use of bond proceeds, expenditure tests and statutory deadlines and activities are often occurring months prior to the beginning of the bond election campaign. While these professionals can be paid on a contingent basis, their contracts should clearly state their compensation and services to be rendered prior to the ordering of an election. Issues regarding expenditures and contributions can be discussed with bond counsel to ensure that the District is making the proper legal distinctions and following legal restrictions contained in the Education Code and Government Code.***

Responsible Party: District CBO, District General Counsel, Bond Counsel

2. A school district cannot engage a campaign consultant as campaign activities are prohibited by school employees as part of their job duties, on district property, or using district equipment. However, a campaign committee can engage a consultant. Should a campaign consultant be engaged, this campaign consultant must be supervised by the campaign committee. This consultant should be asked to provide a timeline, list of key activities and a budget for election activities taking into consideration the projects, costs and tax rates that were presented to the public as part of the public outreach process, including the community opinion survey. Because the cost of a campaign consultant is prohibited from being funded from public funds including bond funds, an arrangement where an underwriter, financial advisor or any other bond team consultant provides such services for "free" or at a reduced cost in expectation of future compensation for services related to selling the bonds is unethical conduct on the part of school district officials. Furthermore, there is an obvious conflict of interest arising from a contingent fee recipient advising the District or community as to the viability of pursuing a bond measure. ***Further, though District funds may not be spent on the campaign, the cost of***

the campaign should be considered because communities have other fundraising related to schools (PTA, sports and club boosters, educational foundations, and campaign committees for parcel tax measures), and generally all fundraising for the benefit of schools should be consistent with district policy and reflect the priorities of the district.

Responsible Party: District Governing Board, Superintendent, General Counsel, and Campaign Consultant

3. Projects need to be selected and described for the bond resolution and Voter Handbook/Voter Pamphlet description of the measure. Depending on the nature of the projects, a construction contingency and a detailed cost estimate should be included prior to finalizing the project list to ensure that sufficient funds will be available to complete all projects; ***Districts may choose to create a tiered priority list of projects to balance the interest of completing as many projects as possible with the need to contain expectations given that projects often have unanticipated additional costs.***

Responsible Party: District CBO

4. Prior to Board action, it is recommended that the District consult with the County Treasurer's Office regarding the proposed bond structure, bond planning process, and expected bond sale approach, including whether bonds are expected to be sold under the Government Code or Education Code authority and why. ***The Treasurer's office can provide assistance and/or feedback on AV projections, bond structure, etc.***

Responsible Party: District CBO, Financial Advisor.

5. A board presentation clearly laying out the assumptions included in the bond plan including the AV growth rates by year (and on average), projected interest rates, projected term of each issuance, expected use of CABs and long-term CABs, proposed uses of bond premium (if any) and issuance costs; ***With the project list, tax rate and AV projections finalized, the projected schedule of issuance of bonds can be finalized and presented to the Board and community including number, timing and amount of each bond series, debt structure (including final maturity and financing costs associated with each issuance as well as interest rate and investment assumptions).***

Responsible Party: District CBO, Financial Advisor.

6. A preliminary Resolution ordering the election should be drafted for the Board and should be accompanied by a staff report that formally documents the research and decision making process and includes information as to amount of the bonds, timing and number of series of bonds, final maturity, intention to issue under the Government Code or the Education Code and a suggested project list; ***This formally documents all of the work described above and includes the legally and politically binding key elements of the capital facility and bond plan and will become the core document for the Citizen's Oversight Committee's work and the District staff's reference document for project selection and debt and tax rate monitoring.***

Responsible Party: District CBO, Bond Counsel, Financial Advisor.

7. A Tax Rate Statement is statutorily required which describes the expected tax levy after the first and last series of bonds are issued, and the expected maximum. The assumptions and analysis of the data presented in the Tax Rate Statement should be kept readily available. This Statement should accompany the District resolution and the Voter Handbook that includes total

bond authorization, number of bond series, projected maximum and average tax rates and final year tax levy estimates. This document will be provided at the same time as the election resolution -- usually 7 to 10 days in advance of the Board meeting. Changes can be made up to the time the Board votes on the resolution to order the election, if necessary; ***This is the politically (and at maximum Proposition 39 tax rates) legally binding projection of tax rates that taxpayers will base their voting decision on. Future objections to the bond program, if any, are best addressed by referring to this document which is the single most important financial disclosure made to taxpayers in the conduct of the bond.***

Responsible Party: District CBO, Financial Advisor.

PHASE III: Following Bond Approval and/or Prior to Each Bond Sale

1. Prior to and in between bond sales, annually monitor tax rate setting to ensure that tax rates are reasonably tracking projections and will remain below the maximum Proposition 39 statutory rate of \$25, \$30 and \$60 per \$100,000 of AV for community colleges, elementary/high school districts and unified districts, respectively; ***Monitoring of tax rates ensures that the District positions itself to accelerate or postpone bond issuances and the related projects and is an internal warning system for the potential to have issuing authority temporarily suspended when the maximum Proposition 39 tax rates are breached.***

Responsible Party: District CBO and Financial Advisor.

2. Prior to and in between bond sales, annually provide continuing disclosure documentation, calculate arbitrage rebate (as required), provide documentation to credit enhancers (if any and as required), provide updates and information to rating agencies (as requested) and track opportunities to refinance bonds at lower interest rates for the benefit of taxpayers; ***The continuing disclosure and rating surveillance activities ensure continued access to the capital markets at the lowest possible cost to taxpayers while the refunding monitoring ensures that taxpayers can further improve their tax rates by periodically refinancing existing bonds and reducing interest cost. For refunding bonds, the rule of thumb is that for a bond issuance to be worth refunding there should be a Net Present Value savings of at least 3%-5% per the GFOA recommended best practice. Make sure costs of issuance are included when calculating the NPV savings.***

Responsible Party: District CBO, Financial Advisor.

3. Prior to the first bond sale and until the final bond proceeds are spent, meet quarterly (or more often if necessary) with the Citizen’s Oversight Committee (COC) to provide ongoing information on project construction and bond related expenditures; ***The COC will continue to meet for so long as there are remaining bond proceeds to spend or unissued but authorized bonds to be sold. The COC is the internal control that ensures that expenditures are undertaken on approved projects and that cost saving construction methodologies are considered.***

Responsible Party: Director of Facilities.

4. In accord with the Education Code, conduct annual financial and performance audits of the bond program; ***These two audits support and document the representations made to and the findings of the COC in their monitoring function over the bond proceeds expenditures.***

Responsible Party: District CBO, District Auditor.

5. Annually present the results of the performance and financial audits to the Citizen’s Oversight Committee and provide staff assistance in the development of the annual report of the Committee; ***All findings of the performance and financial audit are presented to the COC and the District Board ensuring that the appointed committee, the elected representatives and the public itself can independently verify compliance with the terms of the bond and the project list.***

Responsible Party: District CBO, District Auditor.

6. Prior to each bond sale, contact the Treasurer-Tax Collector and Auditor-Controller to make them aware of the planned issuance of debt and discuss the mechanics and level of County assistance and involvement that both parties expect as the financing process progresses. ***Each County has differing expectations for District communications, financing materials, pricing calls, legal document review and tax rate setting information. It is best to clearly communicate with the County so that all parties understand each other’s preferences and expectations.***

Responsible Party: District CBO, Bond Counsel, Financial Advisor.

7. Prior to each bond sale, obtain most recent AV from County Assessor along with any projections offered by the County and prepare a comparison, of actual to the original projection and to historical rates of AV growth. Provide a revised set of growth estimates, reflecting market conditions at the time, and adjust total combined debt service (including the pending series) to meet the original tax rate pledge (as nearly as possible) and to avoid breaching the maximum Proposition 39 limit described above; ***Each bond sale necessitates a fresh projection of AV growth rates, interest costs, bond amortization and bond structure – reflecting the nature of a process that operates on estimates at the time of placing the measure on the ballot, and subsequently thereafter, until all of the bonds are sold.***

Responsible Party: District CBO, Financial Advisor.

8. Prior to a bond sale where the County is issuing bonds on behalf of the District, contact County Counsel and County Treasurer for procedures, guidelines and schedules for processing necessary documents and information as part of Board of Supervisor’s approval process. Up to 120 days may be required to complete the process starting with agendizing the District Board’s action item; ***Bonds issued under the Government Code have a 40 year maximum maturity. Each County has adopted its own policies, procedures and guidelines and this area of the process can vary greatly from location to location.***

Responsible Party: District CBO, Bond Counsel, Financial Advisor.

9. Prior to each bond sale, confirm or renew contracts for any lapsed services including bond counsel, advisors and underwriters prior to Board authorization of the issuance of bonds; ***Most contracts from consultants will extend for the duration of the bond program. There are occasions, however, when individuals and firms involved in the original bond election and issuance are no longer available to provide continuing services for subsequent bond issuances – necessitating a new selection process and contract approval by the Board.***

Responsible Party: District, District Counsel.

10. Prior to each bond sale, prepare project funding list with initial estimates of funding needs for pending projects including the reimbursement of any internally borrowed funds and up to 36

months of expenditures giving highest priority to urgently needed projects and projects for which there are available State matching funds; ***Because the bond process operates on assumptions, the cost and scope of projects will change with the passage of time, the development of more specific designs and changes in market conditions as the construction industry moves through booms, busts and periods of stability. As the District revises budget estimates and State grant funding eligibility and applications, the list of projects will expand or contract until the final bond and State dollar is spent.***
Responsible Party: District CBO, District Facilities Director.

11. Prior to each bond sale, prepare revised estimates of available bonding capacity establishing assumptions on final maturity, AV growth rate, use of premium, interest rates, prepayment provisions and number of bond series. ***The determination of the 36 months of expenditures is the starting point in designing a responsive financing structure that will express itself in terms of final maturity and bond structure. The use of Capital Appreciation Bonds (CABs) should be minimized (especially on the longer end of the maturity scale) as this bond structure is very expensive for future taxpayers.***
Responsible Party: District CBO, Financial Advisor.

12. Prior to each bond sale, prepare a Board presentation incorporating the project funding list and bonding capacity analysis to update the District Board on status of the existing financings, proposed new financings and availability of State grant funding, bond funding and developer fees or mitigation (where applicable) as an information item for discussion seeking direction from the Board as to whether to proceed with an issuance of additional bonds in the following 120 to 180 days. ***Each bond issuance is commonly accompanied by a formal presentation to the Board recapitulating the terms of the prior issuances and projecting and estimating the impact of an additional issuance. This presentation is another opportunity to review the status of the bond and capital facility programs and is required to be presented in open session with an opportunity for public comment***
Responsible Party: District Governing Board, District CBO, Financial Advisor.

13. Prior to each bond sale, prepare District resolution and, in the case of a bond where the County acts as issuer on behalf of the District, a County resolution, as well as a purchase contract and official statement; ***The Board and members of the public are also given another opportunity to review the terms of the bond financing and provide questions and comments to the Board at the time that the issuance resolution is considered by the Board of Education and again when considered by the Board of Supervisors.***
Responsible Party: District CBO, District Counsel, Bond Counsel.

14. Prior to each bond sale and after production of a final draft official statement draft, prepare a credit rating agency/credit presentation for at least one and as many as three rating agencies (based on the likely value of additional ratings) in order to secure the best possible rating(s). ***Another external control is the process of soliciting a rating from the credit rating agencies or credit enhancement from a bank or bond insurer. The credit rating agencies criteria for GO bond ratings include, among other factors, the cumulative tax rates for all District indebtedness, the reasonableness of the assumed rate of AV growth, the rate at which principal is retired, the average life of the debt and the final maturity debt. The opinions of the rating agencies are provided in written form and highlight the strengths and weakness of the community, the District and its management and the bond structure.***

Responsible Party: District CBO, Disclosure Counsel, Financial Advisor.

15. Prior to each bond sale, review drafts of all documents with District staff to identify inaccuracies or issues/concerns that arise as a result of due diligence prior to seeking approval from the Board of Trustees or the Board of Supervisors; ***A further source of internal and external control is the process of preparing, reviewing and modifying bond documents that requires counsel, the underwriter and the financial advisor to perform due diligence to ensure the accuracy of documents provided to the school Board and the Board of Supervisors, if applicable.***

Responsible Party: District CBO, Bond Counsel, Disclosure Counsel, District Counsel, County Treasurer, Underwriter and/or Financial Advisor.

16. Prior to each bond sale where the County acts as issuer on behalf of the District, documents and analyses are periodically distributed to the County Treasurer and County Counsel for comments, as requested or appropriate; ***A further source of external control is the review of documents, financial analysis and bond pricing information by the County Counsel and the County Treasurer as the case may be.***

Responsible Party: District CBO, Bond Counsel, Disclosure Counsel, Underwriter or Financial Advisor.

17. Prior to each bond sale, bond counsel is present at the time of Board consideration of resolutions and approval of documents to explain the contents of the documents, answer questions and explain any special duties or representations that the Board may assume as a result of approving the resolutions; ***In order to ensure that the Board is aware of the terms and content of the documents provided to it for its approval, a representative of bond counsel typically attends the Board meeting where the bond resolution is considered for adoption.***

Responsible Party: District Governing Board, District CBO, Bond Counsel.

18. Prior to each bond sale where the County acts as issuer of the bonds on behalf of the District, County Counsel and bond counsel coordinate documents and address potential legal concerns and process issues; ***Another form of external control includes the review of documents by outside counsel including District Counsel and County Counsel.***

Responsible Party: County Board of Supervisors, District CBO, Bond Counsel, District Counsel County Counsel.

19. The best way to ensure that a competitive interest rate is achieved on the bonds so the taxpayers pay the lowest interest rate possible is to sell the bonds on a competitive basis, not a negotiated basis. When a competitive sale process is utilized, and prior to each competitive bond sale, the financial advisor and bond counsel will prepare a bid form to be sent with a copy of the official statement to underwriters for the purpose of soliciting bids for the District's bonds. If a negotiated sale is warranted due to market or political conditions, the justification should be clearly stated to the Board; ***Unfortunately, the current financial structure for GO bonds lends itself to negotiated sales because of the need for political contributions required to fund the bond ballot measure. This causes a "pay-to-play" conflict of interest, but barring changes in legislation, it is currently not illegal. However, the best practice recommended by Treasurer-Tax Collectors is a competitive bid process for the sale of GO bonds.***

Responsible Party: District, Financial Advisor.

20. When a negotiated sale is the method of issuing bonds, all but the most sophisticated issuers are well served to have the expertise of an independent financial advisor to act on behalf of the District in the process of negotiating the sale of the bonds. The financial advisors role most often begins prior to the decision to place a bond measure on the ballot, but it is also recommended to involve an independent financial advisor at later stages of the financing process – even as late as the week before bond pricing if the District only wants help evaluating the performance of the underwriter at negotiated sale. Additionally, the District or Treasurer-Tax Collector should consider utilizing an independent pricing consultant to help insure the District is receiving the best possible market execution and interest rates for the taxpayers. ***While it is a best practice to have professional representation when negotiating a bond sale, most districts will have the benefit of a professional advisor for the duration of the financing process. County Treasurers encourage districts that are not selling GO bonds at competitive sale, to be professionally represented by an advisor.***

Responsible Party: District CBO, Financial Advisor.

21. Prior to each bond sale, the underwriter/financial advisor will prepare a pre-sale pricing analysis with debt service payments, comparable financings (ratings, coupons, yields, security type), and credit market comment to be discussed with the District, the Treasurer, the financial advisor and the underwriter’s trading desk on the day prior to sale in the case of negotiated financings where market conditions warrant; ***When market conditions and bond structure warrant, a pre-sale document including market comparables of other recently issued debt with similar ratings and debt instruments can be used to ensure that a negotiated pricing compares favorably with other recent sales in the marketplace – indices are often used to create an “apples-to-apples” comparison to debt issued more than a couple of days prior to the new bond issuance. It is the financial advisors job to make sure that the underwriter is using the most applicable comparisons.***

Responsible Party: District CBO, Financial Advisor and Underwriter.

22. Prior to each bond sale, actual, real time bond pricing comparables in the marketplace are compared to coupons and yields on the District bonds and order balances and over-subscriptions are addressed prior to authorization and award by the District often with the telephonic presence of the County Treasurer; ***The best comparables are those for financings in the market at the same time as the District bonds – especially competitive sales and sales by firms other than the District’s underwriter(s).***

Responsible Party: District CBO, Financial Advisor and Underwriter.

23. A purchase contract including maturity schedules, sinking fund payment schedules, coupons, yields, premium, true interest cost, underwriter’s discount, bond insurance or LOC bank fees (if any), costs of issuance (when paid from premium) and prepayment provisions are reviewed by the financial advisor, underwriter(s) and bond counsel prior to District signing and County signing in the case of Government Code bonds; ***The purchase contract is primarily for the benefit of the District, and therefore the taxpayers, and binds the underwriter to the terms of award of sale that initially occurs verbally at the end of the pricing process.***

Responsible Party: District CBO, Bond Counsel, Underwriter’s Counsel, Financial Advisor and Underwriter.

24. Debt service data is provided to the County Auditor-Controller and Treasurer-Tax Collector so that future tax-rate setting and levies can be tied to debt service payments established through pricing and sale of the bonds; ***This is a critical area of cooperation that prevents errors that might result in a failure to levy a tax and the need to levy a double tax in a subsequent year and/or to incur interest on an interim loan for the payment owed to investors. Providing debt service in advance of bond pricing also enables Districts to discuss County reserve requirements, if any, so that the first year’s levy does not exceed the tax rate statement’s disclosed amount because of supplemental levies above the amount needed for debt service for reserves deemed to be reasonably required by the County Treasurer and/or County Assessor.***

Responsible Party: District CBO, Financial Advisor or Underwriter.

25. A post closing analysis is prepared for the District and/or the County by the financial advisor or underwriter that documents the process, the sale, the comparable bond transactions, the costs of issuance, recaps the objectives and the outcomes, the final bonding assumptions, the projected schedule for additional bond issuances (if any) and incorporates financial information provided to the County Auditor-Controller and Treasurer-Tax Collector for future tax rate setting and levies. This presentation may be submitted on a written basis or presented to the Board in open session following the bond closing. ***This document serves as the final and complete financial summary of the actual bond sale. A copy of this document is typically given to members of the Board, as well as District staff, and represents another internal control that verifies that the tax rate, bond term, interest rate and AV growth assumptions ultimately utilized by the District and its finance team were within the range of the projections provided to the Board at the time of bond presentation and the vote on the bond issuance resolution which followed.***

Responsible Party: District CBO, Financial Advisor.

SOME POSSIBLE IDEAS TO ADDRESS BOND ACCOUNTABILITY CONCERNS:

1. A table setting forth estimated debt service, AV growth rate assumptions and timing of the issuance of bonds should be provided to the Board at the same meeting as the resolution ordering an election is being considered for adoption; ***The purpose of this provision is to ensure that elected District officials are able to see the AV growth rates that would need to occur to keep their tax rate pledge intact and the total payments that will be made by taxpayers based on the number of series, period of amortization, security types utilized and interest rates assumed.***
2. A table setting forth historical assessed valuation growth rates by year for at least 10 to 20 years (when available from the Assessor) should be provided to the Board at the same meeting as the resolution ordering an election is being considered for adoption. In general, AV growth projections should not exceed the average of the most recent 20 years of AV growth. ***The purpose of this provision is to provide context for elected district officials to compare growth rate assumptions to historical actual growth rates to help in evaluating whether the projections they are approving are realistic in light of past and future AV trends.***
3. There could be a “Safe Harbor” provision for Districts to issue bonds under the Government Code for up to 40 years under the same terms of independence as the Education Code provisions for 25 year bonds. Since the most significant material difference between the two

provisions is the additional 15 years of amortization (both allow multiple series of escalating debt, tax-exempt and taxable bonds, QZABs, CABs and Convertible CABs), the Safe Harbor rule should be conditional on setting a reasonable rate of AV growth and a reasonable multiple of interest to principal. For AV growth limitations under the Safe Harbor, an AV growth rate of not to exceed the average of the historical 20 year growth rate in any year would be a reasonable limitation to qualify for Safe Harbor treatment. As far as debt service limitations, A Safe Harbor debt service test of not to exceed 3.0 times principal would allow for a reasonable amount of flexibility in debt structuring (especially second and subsequent series of bonds which tend to be back-loaded with principal amortization). ***The purpose of the Safe Harbor provisions is to encourage Districts to pursue bond financings with more reasonable AV growth assumptions and to reduce the workload of Counties on issuances that are based on reasonable, conservative assumptions. A “safe harbor” provision will encourage Districts to structure their bonds, prior to ordering an election, to fit within these guidelines. Districts could still come to the County for bonds that don’t meet these guidelines -- as there are sometimes reasonable circumstances that would argue for operating outside the Safe Harbor guidelines.***

4. A certificate indicating whether the District has completed a facility master plan, calculated grant eligibility under the School Facility Program (or its successors) for basic growth and modernization projects and held at least two public meetings related to the proposed bond issuance could be provided to the Board at the same meeting that the resolution ordering an election is considered for adoption. *Districts should not be required to have completed any or all of these elements and this proposed exhibit is intended only as a disclosure of best practice activities. The purpose of this provision is to provide elected district officials guidance as to the best practices and expectations for professional planning including planning facility construction, seeking matching funding where available and providing reasonable opportunity for citizens to comment.*

5. A copy of a notice of intent to order an election should be sent to the County Treasurer, and County Office of Education (with all of the items described in 1, 2,3, and 4 above) at least 30 days prior to the Board meeting where the resolution will be considered for adoption. This is similar to the practice for COPs with County Offices of Education and gives the interested parties a chance to review and comment on the plan prior to the ballot measure being authorized. ***The purpose of this provision is to allow oversight and bond-related agencies a chance to comment on the assumptions and structure of a proposed bond at a time in the process when such comments can be considered by elected district officials before ordering the election. Once the District Board has placed the measure on the ballot, such comments and concerns can no longer be incorporated into the bond plan without disrupting the bond amount (and project list), timing of bond sales or tax rate that was presented to voters in the Election Handbook/Voter Pamphlet.***

6. For financings that do not qualify for “Safe Harbor” treatment, it may be necessary from time-to-time for the County to seek advice from professional consultants that are familiar with the issuance of bond generally or school bonds, in particular. In order to avoid a conflict of interest, or the appearance of a conflict of interest, any consultants retained by the County to provide expert advice should agree to abstain from representing any school districts within the County during their term of engagement and for a reasonable period of time thereafter. ***The purpose of this provision is to address any concerns of the County that a particular District or a bond of a particular District is being approached with underlying assumptions that are***

unreasonable and/or outside the mainstream of such transactions as they are being completed by other similar districts elsewhere in the State.

7. With regard to bond election campaign contributions by underwriters and other financial professionals involved in the issuance, disclosure of these contributions in the Preliminary Official Statement (POS) and Official Statement (OS) for the bond offering should be considered. **Pay-to-play activities are an ongoing issue and this type of disclosure would increase the transparency of any type of campaign contributions by finance professionals that would benefit from the bond issuance.**

Non-Voter Approved Debt Process and Requirements

This section is designed to provide school districts necessary information to comply with Education Code Section 17150 regarding public disclosure requirements for proposed non-voter approved debt. The most common types of non-voter approved debt include:

- Certificates of Participation (COP)
- Revenue Bonds
- Direct Capital Lease
- Land Bank
- any other non-voter approved agreement to finance school construction

Once a school district board completes the disclosure process and approves the issuance of non-voter approved debt, it is recommended that the district continue to communicate with the Treasurer-Tax Collector and make sure that they are on the interested parties list for the financings as the Treasurer-Tax Collector can be a useful resource during the financing process. Additionally, many of the steps in Phase III of the “School District GO Bond Best Practices” section are still applicable to non-voter approved debt.

The following form and general instructions are designed to provide school districts with a best practices template to satisfy the public disclosure requirements of Education Code Section 17150. This information and supporting documents, such as debt repayment schedules evidencing the ability of the district to repay the obligation, must be made available to the County Superintendent of Schools and the County Auditor at least 15 days prior to the date the governing board will take action on the proposed non-voter approved debt issuance. Within 15 days of the receipt of the information the County Superintendent of Schools and/or the County Auditor may comment publicly the capability of the school district to repay that debt obligation.

For Counties that do not have combined Auditor-Controller and Treasurer-Tax Collector offices, additional communication would be required between the offices for the Treasurer-Tax Collector to be notified of non-voter approved debt prior to a school district board approval.

Below are the following documents that could be provided to school districts to help them satisfy the disclosure requirements:

- Education Code Section 17150
- Disclosure of non-voter approved debt general instructions
- Disclosure of non-voter approved debt information form

DISCLOSURE OF NON-VOTER APPROVED DEBT LEGAL REFERENCE

EDUCATION CODE 17150

- (a) Upon the approval by the governing board of the school district to proceed with the issuance of certificates of participation or revenue bonds or to enter into any agreement for financing school construction pursuant to Chapter 18 (commencing with Section 17170), the school district shall notify the county superintendent of schools and the county auditor. The superintendent of the school district shall provide the repayment schedules for that debt obligation, and evidence of the ability of the school district to repay that obligation, to the county auditor, the county superintendent, the governing board, and the public. Within 15 days of the receipt of the information, the county superintendent of schools and the county auditor may comment publicly to the governing board of the school district regarding the capability of the school district to repay that debt obligation.
- (b) Upon the approval by the county board of education to proceed with the issuance of certificates of participation or revenue bonds or to enter into any agreement for financing pursuant to Chapter 18 (commencing with Section 17170), the county superintendent of schools or superintendent of a school district for which the county board serves as governing board shall notify the Superintendent of Public Instruction. The county superintendent of schools or the superintendent of a school district for which the county board serves as the governing board shall provide the repayment schedules for that debt obligation and evidence of the ability of the county office of education or school district to repay that obligation, to the Superintendent of Public Instruction, the governing board, and the public. Within 15 days of the receipt of the information the Superintendent of Public Instruction may comment publicly to the county board of education regarding the capability of the county office of education or school district to repay that debt obligation
- (c) Prior to delivery of the notice required by subdivision (a) neither the county nor any of its officers shall have any responsibility for the administration of the school district's indebtedness. Failure to comply with the requirements of this section will not affect the validity of the indebtedness.

DISCLOSURE OF NON-VOTER APPROVED DEBT GENERAL INSTRUCTIONS

Pursuant to Education Code Section 17150

- 1) Please submit this form to the County Superintendent of Schools at least fifteen (15) days prior to the date the district's governing board will take action on the non-voter approved debt issuance (the initial approval to proceed with the financing).
- 2) This form is to be used for all new and refunded issuances of non-voter approved debt.
- 3) Attachments to this form are to include: debt repayment schedule, evidence of the ability of the school district to repay the obligation, multi-year financial projections for the funds pledged for the repayment, including assumptions used, and the calculations or data analysis to substantiate growth or revenue projections.

Specific Instructions:

1. **Type of Issue:** Indicate the type of debt instrument, i.e. Certificates of Participation (COP), Direct Capital Lease, Land Bank, Revenue Bonds, or any agreement to finance school construction.
2. **Board Approval Date:** The initial date the board approved proceeding with the debt issuance, along with the date the actual issuance is expected to be approved by the board.
3. **Amount of Issue:** The total dollar amount the district is borrowing, including any amounts to refund existing debt issuances.
4. **Anticipated Date of Sale:** The date the debt instrument is expected to be purchased by the investor(s).
5. **Interest Rate %:** The expected rates of interest payable on the debt instrument for the term of the issue. If variable rate, indicate what drives variability, expected rate ranges, and the highest rate of interest that can be charged.
6. **Bond Counsel and Financial Advisory/Underwriter:** Provide the company and individual contact person handling your debt financing.
7. **Purpose of the Issue:** Describe the projects to be covered by the debt issuance, i.e., building a multi-purpose room, district match to state school building project, refunding existing debt issuance for lower interest rate.
8. **Proposed method of sale:** negotiated or competitive
9. **Pledged Source(s) of Funds for Debt Repayment as Indicated in the Official Statement:** Indicate the sources of the funds the district is expecting to receive to repay this debt obligation as indicated in the official debt disclosure document (O.S.), i.e., state school building project apportionments, developer fees, and revenue limit apportionments. Provide analysis of projections for developer fees and/or calculations of anticipated student attendance growth for revenue limit pledges.

DISCLOSURE OF NON-VOTER APPROVED DEBT INFORMATION FORM

In accordance with Education Code Section 17150, the following information is being provided to the County Superintendent of Schools and the County Auditor Controller:

School District _____ Date _____

District Contact _____ Phone _____

Type of Issue _____

Anticipated Board of Approval Date _____

Amount of Issue \$ _____

Anticipated Date of Sale _____

Anticipate Interest Rate _____%

Bond Counsel _____

Bond Counsel Contact _____ Phone _____

Financial Advisor/Underwriter _____

Financial Advisor/Underwriter Contact _____ Phone _____

Purpose of the Issue _____

Pledged Source(s) of Funds for Debt Repayment as indicated in Official Statement

Proposed Method of Sale _____

Alternate Sources of Funding Available for Debt Repayment

Attach copies of:

1. Official Statement Debt Repayment Schedule
2. Multi-year Financial Projections and Assumptions for all funds (General Fund, Capital Facilities, etc.) Pledged for Debt Repayment (Include calculations/backup to support anticipated revenue stream.)

Best Practice Questions TTCs Should Ask

Prior to School Board Approval

- What is the purpose of the bonds?
School facilities, cash flow, refunding
- If refunding, what is the NPV savings?
The rule of thumb is that for a bond issuance to be worth refunding there should be a Net Present Value savings of at least 3%. Make sure costs of issuance are included when calculating the NPV savings. Refer to Section 2.Phase III.2
- Is the TTC on the Interested Parties List (IPL)?
The only way to stay informed on a bond issuance is to be on the IPL.
- Have you chosen the financing team?
The Financial Advisor (FA) should be completely independent of the underwriter. Bond Counsel should be a reputable firm with a proven track record in public finance.
- How were the financial team members chosen?
RFP Process is recommended.
- What is the proposed method of sale?
Consider competitive sale. Refer to Section 2.PhaseIII.19
- Have there been any bond campaign contributions made by any members of the financing team?
If so, some consideration should be given to disclosing that information in the POS and OS.

Prior and/or During Bond Structuring

- What is the proposed method of sale?
Consider competitive sale. Refer to Section 2.PhaseIII.19
- What is the proposed structure of the bonds?
Ask to see the spreadsheet(s) prepared by the FA or the underwriter showing bond structure (CIBs, CABs, etc.), assessed valuation (AV) estimates, tax rate estimates.
- For Proposition 39 bonds, have the tax rates been exceeded for any future year based on current outstanding bonds?
If they have, why are they trying to issue more?
- What are the Assessed Valuation (AV) projections?
AV projections should be based on reasonable growth assumptions.
- If Capital Appreciation Bonds (CABs) are part of the proposed structure, ask why?
CABs are very costly to the taxpayer.

Prior to Pricing

- If negotiated, have comparable deals been provided for analysis and comparison?
The FA should pick (or at least review) the comparable deals.
- If negotiated, is the underwriter willing to hold unsold bonds?
The underwriter should be willing to hold unsold bonds at the same interest rate as if they received orders.

2012 LEGISLATIVE WRAP UP & 2013 CACTTC PLATFORM

KAREN LANGE – CACTTC LEGISLATIVE ADVOCATE

LEGISLATIVE ADJOURNMENT

September 30 was the final day for the Governor to act on bills sent to him.

For the Year: 996 bills sent to him.

- 876 were signed.**
- 120 were vetoed.**

Non-urgency laws take effect on Jan. 1.

2012 IN REVIEW

The Legislature had a very productive year:

- **High Speed Rail**
- **Work Comp**
- **Pension Reform**
- **Moved the water bond**
- **Governor's reorganization plan**
- **Foreclosure bills**
- **On-Time Budget**

CACTTC Sponsored Legislation in 2012

CACTTC 2012

SPONSORED BILLS

AB 1957 would have allowed tax collectors to issue shortened publications in newspapers and referred readers to the website. Failed passage.

AB 2643 allows duplicate payments to be applied to delinquent tax bills for the same property. It also clarifies that taxes due are paid, regardless if a reassessment is pending. It also extends from 60 to 90 days the amount of time tax collectors have to report the pool rate. Signed into law.

AB 2131 adds tax collection to the list of continuing education subjects for which course credit can be earned. Signed into law.

OTHER LEGISLATION

CACTTC OPPOSED LEGISLATION

AB 1576 authorized a County Board of Education to loan funds from RANs to charger schools. Bill was held, but similar permissive language was approved in the State Budget.

SB 504 would have extended by 5 years (from 5 to 10 years) the repayment of school issued BANs and authorized property taxes be used to repay them. The bill was never heard.

SB 1130 would have created a structure to fund energy retrofits on commercial buildings by utilizing bonds. It would have created logistical and bookkeeping challenges for tax collectors. The bill failed passage.

SB 12 would have deleted the Bulk Sales law from the Code. The bill was gutted and amended for another purpose.

OTHER LEGISLATION OF CONCERN OR INTEREST TO CACTTC

AB 2299 authorized a county-run program to redact all public safety officers' personal information from publicly available records. CACTTC sent a letter of concerns. The bill was held.

SB 794 authorizes the interest on BANs to be paid from proceeds of the sale of bonds in anticipation of which the BANs are issued. Authorizes the interest of the BANs to be paid from a property tax levied for that purpose under certain conditions. The bill was signed into law.

HEALTHCARE

The Governor has indicated his interest in calling a Special Session in 2013 to address Federal Healthcare Reform.

NOVEMBER 2012

11 initiatives on State Ballot.

National election.

**Funding for realignment protections
tied to Prop. 30.**

2012 INITIATIVES

Proposition 30: Temporary Taxes to Fund Education. Guaranteed Local Public Safety Funding. This is the Governor's initiative and it contains the Constitutional protections for the 2011 Realignment to the counties.

Proposition 31: State Budget; State and Local Government. This is the California Forward Initiative, and includes a two-year budget cycle, pay-go requirements on legislation and increased local authority to raise revenues to implement legislation.

Proposition 32: Prohibits Political Contributions by Payroll Deduction. The "no" campaign on this initiative will likely be one of the most highly funded campaigns in 2012.

2012 INITIATIVES

Proposition 33: Changes Law to Allow Auto Insurance Companies to Set Prices Based on a Driver's History of Insurance Coverage.

Proposition 34: Death Penalty Repeal.

Proposition 35: Human Trafficking. Penalties. Sex Offender Registration.

Proposition 36: Three Strikes Law. Sentencing for Repeat Felony Offenders.

Proposition 37: Genetically Engineered Foods. Mandatory Labeling.

2012 INITIATIVES

Proposition 38: Tax for Education and Early Childhood Programs. Initiative Statute. (This is Molly Munger's tax initiative, which is generally considered to be in direct competition with the Governor's initiative.)

Proposition 39: Tax Treatment for Multistate Businesses. Clean Energy and Energy Efficiency Funding.

Proposition 40: Redistricting. State Senate Districts. Referendum. Note: the proponents have abandoned their effort to secure approval on this proposal.

NOVEMBER 2012

If voters approve both tax proposals (Prop. 30 and Prop. 38), the one receiving the highest number of votes will prevail.

If they approve neither, schools will be scrambling to address major mid-year funding gaps.

Current legislative office holders are not eligible to utilize the term limits extension approved in June 2012.

PENSION REFORM DEAL

- **Caps Pensionable Salaries at \$110,100.**
- **Establishes Equal Sharing of Pension Costs as the Standard – 50-50 share.**
- **Requires new employees to contribute at least half of normal costs, and sets a similar target for current employees, subject to bargaining.**
- **Increases retirement ages by two years or more for all new public employees.**
- **Eliminates all 3% formulas going forward.**
- **For local miscellaneous employees: 2.5% at 55 changes to 2% at 62; with a maximum of 2.5% at 67.**
- **For local fire and police employees: 3% at 50 changes to 2.7% at 57.**

PENSION REFORM CONTINUED

- **Requires three-year final compensation to stop spiking for all new employees.**
- **Calculates benefits based on regular, recurring pay to stop spiking for all new employees.**
- **Limits post-retirement employment for all employees.**
- **Felons will forfeit pension benefits.**
- **Prohibits retroactive pension increases for all employees.**
- **Prohibits pension holidays for all employees and employers.**
- **Prohibits purchases of service credit for all employees.**
- **Clean up expected on 1937 Act safety enhancement due to use of the term “industrial disability”**

**Proposed 2013
CACTTC Legislative
Platform**

The proposed 2013 platform contains 11 separate proposals.

The subject matter covered in the platform ranges from capital appreciation bond reform to county department communications and refunding to tax collector elections and qualifications.

PROPOSAL 1

CAB Reform: 5 changes to current law:

- 1) Limit all GO bonds to 25 years (down from 40)**
- 2) Require approximately level debt service each year**
- 3) Prior to sale, requires the bond oversight committee to review and make a recommendation on the bond structure and forward that recommendation to the appropriate governing board (BOE, Trustee, CC District)**
- 4) All bonds with terms longer than 10 years be callable at 10 years**
- 5) Require that the County Board of Supervisors approve all issuances of bonds by school and community college districts, or expressly waive such approval rights**

PROPOSAL 2

Conforms information required to appear on the tax bill to the other sections of the code (follow-up legislation to AB 2643, Ma, 2012).

PROPOSAL 3

Adds 20 additional days to the amount of time by which a Tax Collector must report to the Assessor information regarding the purchase of property sold at a tax sale.

PROPOSAL 4

Amends the code to retain excess proceeds in a trust account pending any challenge, and modifies the code so that the Tax Collector does not need to publish a notice if the cost to publish exceeds the amount of excess proceeds.

*** CACTTC Legislative Committee wants to coordinate with Land Title interests on this proposal to avoid raising concerns.**

PROPOSAL 5

Adds language to the California Commercial Code Section on Bulk Sales to provide the ability to charge for a fee to cover costs in preparing a Bulk Sale payoff demand.

PROPOSAL 6

Adds to the Government Code Section on Medium of Payment for Credit Cards, EFT, etc. the same language to charge a fee for a charge back that is charged for a negotiable paper.

PROPOSAL 7

Will extend unsecured tax collection methods to any debt owed to a county, if implemented by ordinance of the Board of Supervisors of the county.

PROPOSAL 8

Eliminates the requirement that counties pay 3% interest on refunds due, and instead ties that rate to the pool rate.

PROPOSAL 9

Clarifies that a tax collector may issue a refund without first sending a notice that a refund is due.

It also clarifies that the time frame to issue a refund starts when the tax collector should reasonably know a refund is due.

PROPOSAL 10

Modifies the eligibility qualifications for individuals seeking the office of the Treasurer-Tax Collector and updates the code to delete out-of-date references.

PROPOSAL 11

Requires that in the event a board of supervisors wishes to consolidate county offices, and one of those is an elected office, that the board must first submit that proposal to the voters for their approval.

Discussion

MOTION

**THE CALIFORNIA
ASSOCIATION OF COUNTY
TREASURERS AND TAX
COLLECTORS**

**2013 LEGISLATIVE
PLATFORM**

ADOPTED XX



The California Association of County Treasurers and Tax Collectors



Comprised of the Treasurer/Tax Collectors in the 58 counties throughout California, the association provides opportunities for education, networking and advocacy. The association has been in its current existence since 1981.

Previous to that year, there were two Associations: the California Association of County Tax Collectors and the California Association of County Treasurers.

The purpose of this Association shall be to promote the general interests of the active members and the respective counties they represent; to strive for high professional standards and, through the exchange of information and ideas, stimulate a friendly and cooperative spirit among the membership.



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Summary of Proposals

Proposal 1 – Local Agency Bond Financing

Proposal 1 makes five key changes to current law: (1) establish a maximum maturity of 25 years for all general obligation bonds by repealing the 40-year maturity limit which was added to the Government Code effective January 1, 1994 (Stats. 1993, Chap. 841). This will limit aggregate interest costs by reducing the length of time that principal can remain outstanding. (2) Require approximately level annual debt service payments, to prevent dramatic swings and sudden spikes in property tax levies required to repay general obligation bonds. (3) Provide that Boards of Education and Boards of Trustees of school and community college districts are better informed before authorizing bonds to be issued, by requiring that the Board may only take action to grant such authority after an independent citizens' oversight committee has reviewed the structure of the proposed bond issue and issued its report and recommendation (either for or against the proposed issuance). This will enable governing boards to assess the fiscal impact of the proposed bond issue on property owners before the bonds are issued, and it will promote greater transparency in the bond issuance process. (4) Require that all general obligation bonds with maturities longer than 10 years be callable prior to maturity beginning not later than 10 years after the date of issuance. (5) Require that the County Board of Supervisors approve all issuances of bonds by school and community college districts, or expressly waive such approval rights. (Los Angeles)

Proposal 2

Proposal 2 conforms information required to appear on the tax bill to the other sections of the code. (Sacramento)

Proposal 3

Proposal 3 adds 20 additional days to the amount of time by which a Tax Collector must report to the Assessor information regarding the purchase of property sold at a tax sale. (Sacramento)

Proposal 4

Changes made to Revenue and Taxation Code Section 3725 and 3731 in AB261 effective January 1, 2012, impact when excess proceeds should be distributed if the validity of the tax sale is challenged. Proposal 4 amends the code to retain excess proceeds in a trust account pending any challenge, and modifies the code so that the Tax Collector does not need to publish a notice if the cost to publish exceeds the amount of excess proceeds. (Sacramento)



Proposal 5

The proposal adds language to the California Commercial Code Section on Bulk Sales to provide the ability to charge for a fee to cover costs in preparing a Bulk Sale payoff demand. (Sacramento)

Proposal 6

Add to the Government Code Section on Medium of Payment for Credit Cards, EFT, etc. the same language to charge a fee for a charge back that is charged for a negotiable paper. (Sacramento)

Proposal 7

These changes will extend unsecured tax collection methods to any debt owed to a county, if implemented by ordinance of the Board of Supervisors of the county. (Los Angeles)

Proposal 8

The proposal eliminates the requirement that counties pay 3% interest on refunds due, and instead ties that rate to the pool rate. (Sacramento and San Francisco)

Proposal 9

Proposal 9 clarifies that a tax collector may issue a refund without first sending a notice that a refund is due. It also clarifies that the time frame to issue a refund starts when the tax collector should reasonably know a refund is due. (Sacramento and Los Angeles)

Proposal 10

This proposal modifies the eligibility qualifications for individuals seeking the office of the Treasurer-Tax Collector (Merced and Madera Counties).

Proposal 11

This proposal would require that in the event a board of supervisors wishes to consolidate county offices, and one of those is an elected office, that the board must first submit that proposal to the voters for their approval. (Merced and Madera Counties).



PROPOSAL 1

1. BRIEF DESCRIPTION OF WHY A BILL IS NEEDED:

- a. Include specific examples that could be used to explain the bill:

To prevent abusive school bond transactions involving long-dated capital appreciation bonds, such as happened in Poway USD and other school districts. These transactions result in excessive repayment costs to taxpayers.

2. RECOMMENDED STATUTORY CHANGE (please note code section):

- a. **SPECIFIC CHANGES TO CODE SECTION BEING RECOMMENDED** (please use ~~striketrough~~ to reflect proposed deletions and *italics/underline* to reflect additions to code):

Amend Education Code Section 15140(a) to read as follows:

15140. (a) Bonds of a school district or community college district shall be offered for sale by the board of supervisors of the county, the county superintendent of which has jurisdiction over the district, or the community college district governing board, where appropriate, as soon as possible following receipt of a resolution duly adopted by the governing board of the school district or community college district. The resolution shall prescribe the total amount of bonds to be sold. The resolution may also prescribe the maximum acceptable interest rate, not to exceed 8 percent, and the time or times when the whole or any part of the principal of the bonds shall be payable, which shall not be more than 25 years from the date of the bonds. *The resolution shall be adopted only after the governing board has received a report and recommendation from the Citizens' Oversight Committee (established pursuant to section 15272) with respect to the structure of the proposed bond issue.*

Amend Education Code Section 15144 to read as follows:

15144. The number of years the whole or any part of the bonds are to run shall not exceed 25 years, from the date of the bonds or the date of any series thereof. *The principal and interest payable with respect to the bonds in any fiscal year shall not be greater than 105% of the principal and interest payable with respect to the bonds in the immediately prior fiscal year. Each bond maturing more than 10 years after its date of issuance shall be subject to mandatory tender for purchase or redemption prior to its fixed maturity date, with or without premium, at any time or from time to time beginning on the tenth anniversary of the date such bond was issued.*



Amend Government Code Section 53507.5 to read as follows:

53507.5. (a) The legislative body may, by resolution, provide for the issuance of bonds pursuant to this article. *If the Issuer is a school district or community college district, the resolution shall be adopted only after the legislative body has received a report and recommendation from the Citizens' Oversight Committee (established pursuant to section 15272 of the Education Code) with respect to the structure of the proposed bond issue.*

(b) The resolution shall state that the bonds are being issued pursuant to this article.

Amend Government Code Section 53508 to read as follows:

53508. The resolution authorizing any bonds or any issue of bonds may provide for any of the following:

- (a) The form of the bonds to be issued as serial bonds, or sinking fund bonds, with serial or term maturities, or any combination thereof.
- (b) The number of series in which the bonds are to be issued.
- (c) The form of the bonds as coupon, registered, or book entry.
- (d) The interest on the bonds, either fixed or variable, and the interest rate or rates, payable at the times and in the manner specified therein, and whether all or part of any series of the bonds shall be issued as zero coupon or capital appreciation bonds; provided, however, that under no conditions may the annual interest rate, whether fixed or variable, exceed the maximum rate permitted by Section 53531 or 53532.
- (e) The time, medium, and place or places of payment.
- (f) The time or times of maturity of the bonds, not exceeding ~~40~~ 25 years from their respective dates.
- (g) The date or dates to be borne by the bonds of each series.
- (h) The denomination of the bonds.
- (i) The registration and conversion privileges of the bonds.
- (j) The manner in which the bonds are to be executed.
- (k) The terms of redemption, with or without premium.
- (l) Other terms and conditions of the bonds and of their execution, issuance, and sale deemed necessary and appropriate by the legislative body.

Amend Government Code Section 53508.3 to read as follows:

53508.3. (a) ~~No~~ *Each* bond *maturing more than 10 years after its date of issuance* shall be subject to mandatory tender for purchase or redemption prior to its fixed maturity date, *with or without premium*, ~~unless it contains a~~



~~recital to that effect~~ at any time or from time to time beginning on the tenth anniversary of the date such bond was issued.

(b) Any bond protected by its terms or by the terms of this section from mandatory tender for purchase or redemption prior to its fixed maturity date or for a specified period of time after issuance, may specify terms upon which the issuer may sell or transfer its right to require the bond to be tendered for purchase or redemption prior to its fixed maturity date.

Add a new Section 53508.5 to the Government Code, to read as follows:

53508.5. The principal and interest payable with respect to the bonds in any fiscal year shall not be greater than 105% of the principal and interest payable with respect to the bonds in the immediately prior fiscal year.

Amend Government Code Section 53508.7 to read as follows:

53508.7. (a) The bonds shall be sold at a public or private sale and at a price at, above, or below par, as the legislative body determines.

(b) Any bonds sold at a discount below the par value of the bonds shall be sold in compliance with the provisions of Section 53532.

(c) The private sale of bonds is limited to the sale of school districts' and community college districts' bonds pursuant to, and in full compliance with, Sections 15140 or 15146 of the Education Code, including approval of such sale by the Board of Supervisors of the County, the county superintendent of schools of which has jurisdiction over such school district or community college district, or the express waiver by the Board of Supervisors of its approval rights.

b. GENERAL EXPLANATION FOR WHAT THESE CHANGES WILL DO:

1. Establish a maximum maturity of 25 years for all general obligation bonds by repealing the 40-year maturity limit which was added to the Government Code effective January 1, 1994 (Stats. 1993, Chap. 841). This will limit aggregate interest costs by reducing the length of time that principal can remain outstanding.



2. Require approximately level annual debt service payments, to prevent dramatic swings and sudden spikes in property tax levies required to repay general obligation bonds.

3. Provide that Boards of Education and Boards of Trustees of school and community college districts are better informed before authorizing bonds to be issued, by requiring that the Board may only take action to grant such authority after an independent citizens' oversight committee has reviewed the structure of the proposed bond issue and issued its report and recommendation (either for or against the proposed issuance). This will enable governing boards to assess the fiscal impact of the proposed bond issue on property owners before the bonds are issued, and it will promote greater transparency in the bond issuance process.

4. Require that all general obligation bonds with maturities longer than 10 years be callable prior to maturity beginning not later than 10 years after the date of issuance.

5. Require that the County Board of Supervisors approve all issuances of bonds by school and community college districts, or expressly waive such approval rights.

3. FISCAL IMPACT OR MANDATED COSTS (Please list any estimated cost savings or additional costs to county or state agencies which this proposal will mandate through implementation):

The proposed changes will prevent excessive property tax levies by establishing stricter, more fiscally prudent financing structures. For example, taxpayers in Poway USD will be required to pay nearly 10 times the amount of principal borrowed in aggregate debt service, but other recent school bond issues will be repaid with aggregate debt service of less than 3 times the amount of principal borrowed.

4. POTENTIAL IMPACTS ON OTHER COUNTY OR STATE DEPARTMENTS OR AGENCIES (if Yes, please list those departments/agencies AND the concerns which those parties may raise against this proposal):

In the past CSBA has opposed efforts to impose restrictions on general obligation bond issuance. However, because of widely reported recent public outrage, it may be politically difficult to oppose reforms going forward.



5. HISTORY OF PRIOR LEGISLATIVE EFFORTS:

I am not aware of these particular reforms being proposed in the past. Other efforts to require competitive sale, limit assessed valuation projections, etc., have been unsuccessful.

Attach additional sheets, if necessary

NAME: Mark Saladino

COUNTY: Los Angeles



PROPOSAL 2

1. BRIEF DESCRIPTION OF WHY A BILL IS NEEDED:

- a. Include specific examples that could be used to explain the bill:

Changes made to Revenue and Taxation Code Section 4985.4 in AB2643 effective January 1, 2013, impact what information should appear on the tax bills. To include similar language in Section 2611.6 Information that shall be included in each county tax bill.

2. RECOMMENDED STATUTORY CHANGE (please note code section):

a. SPECIFIC CHANGES TO CODE SECTION BEING

RECOMMENDED (please use ~~striketrough~~ to reflect proposed deletions and italics/underline to reflect additions to code):

2611.6. The following information shall be included in each county tax bill, whether mailed or electronically transmitted, or in a separate statement accompanying the bill:

(a) The full value of locally assessed property, including assessments made for irrigation district purposes in accordance with Section 26625.1 of the Water Code.

(b) The tax rate required by Article XIII A of the California Constitution.

(c) The rate or dollar amount of taxes levied in excess of the 1-percent limitation to pay for voter-approved indebtedness incurred before July 1, 1978, or bonded indebtedness for the acquisition or improvement of real property approved by two-thirds of the voters on or after June 4, 1986.

(d) The amount of any special taxes and special assessments levied.

(e) The amount of any tax rate reduction pursuant to Section 96.8, with the notation: "Tax reduction by (name of jurisdiction)."

(f) The amount of any exemptions. Exemptions reimbursable by the state shall be shown separately.

(g) The total taxes due and payable on the property covered by the bill.

(h) Instructions on tendering payment, including the name and mailing address of the tax collector.

(i) The billing of any special purpose parcel tax as required by paragraph (2) of subdivision (b) of Section 53087.4 of the Government Code, or any successor to that paragraph.

(j) Information specifying all of the following:

(1) That if the taxpayer disagrees with the assessed value as shown on the tax bill, the taxpayer has the right to an informal assessment review by contacting the assessor's office.

(2) That if the taxpayer and the assessor are unable to agree on a proper assessed value pursuant to an informal assessment review, the taxpayer has the right to file an application for reduction in assessment for the following year with the county board of equalization or the assessment



appeals board, as applicable, and the time period during which the application will be accepted.

(3) The address of the clerk of the county board of equalization or the assessment appeals board, as applicable, at which forms for an application for reduction in assessment may be obtained.

(4) If an informal or formal assessment review is requested, relief from penalties shall apply only to the ad valorem tax amount based on the difference between the county assessor's final determination of value and the value on the assessment roll for the fiscal year covered.

b. GENERAL EXPLANATION FOR WHAT THESE CHANGES WILL DO:

Since the notification required to be included on all tax bills mailed by the Tax Collector, the language is more appropriate in the code section for the information that is required to appear on the tax bill. Also keeps it in Part 5, Chapter 2 of the Revenue and Taxation Code for Collection Generally.

3. FISCAL IMPACT OR MANDATED COSTS (Please list any estimated cost savings or additional costs to county or state agencies which this proposal will mandate through implementation):

No additional costs.

4. POTENTIAL IMPACTS ON OTHER COUNTY OR STATE DEPARTMENTS OR AGENCIES (if Yes, please list those departments/agencies AND the concerns which those parties may raise against this proposal):

None.

5. HISTORY OF PRIOR LEGISLATIVE EFFORTS:

Attach additional sheets, if necessary

NAME: Julie Valverde

COUNTY: Sacramento



PROPOSAL 3

1. BRIEF DESCRIPTION OF WHY A BILL IS NEEDED:

a. Include specific examples that could be used to explain the bill:

2. RECOMMENDED STATUTORY CHANGE (please note code section):

a. SPECIFIC CHANGES TO CODE SECTION BEING

RECOMMENDED (please use strikethrough to reflect proposed deletions and italics/underline to reflect additions to code):

3716. Within ~~10~~ 30 days after the sale, the tax collector shall report to the assessor the following:

- (a) The name of the purchaser.
- (b) The date the property was sold.
- (c) The amount for which the property was sold.
- (d) The description of the property conveyed.

3718. The tax collector shall deposit the money received from the sale like tax collections and shall immediately transmit a report of sale to the county treasurer and a duplicate of the report to the county auditor. The report shall show:

- (a) The cost of advertising the sale, including but not limited to the published notice required by Section 3702.
- (b) The sums received for individual parcels.
- (c) Identification of the parcels by year, page and number of the delinquent and current roll.
- (d) The cost of recording the deeds.

b. GENERAL EXPLANATION FOR WHAT THESE CHANGES WILL DO:

3. FISCAL IMPACT OR MANDATED COSTS (Please list any estimated cost savings or additional costs to county or state agencies which this proposal will mandate through implementation):

4. POTENTIAL IMPACTS ON OTHER COUNTY OR STATE DEPARTMENTS OR AGENCIES (if Yes, please list those departments/agencies AND the concerns which those parties may raise against this proposal):



5. HISTORY OF PRIOR LEGISLATIVE EFFORTS:

Attach additional sheets, if necessary

NAME: Julie Valverde
Sacramento

COUNTY:



PROPOSAL 4

1. BRIEF DESCRIPTION OF WHY A BILL IS NEEDED:

a. Include specific examples that could be used to explain the bill:

Revenue and Taxation Code sections 4671 to 4676 govern the Distribution of Proceeds from the Sale of Tax-defaulted Property. Excess proceeds not claimed by a party of interest in the property sold and after all cost recovery has been deducted is currently being distributed to the tax funds based on their proportion of the tax rate area. All local taxing and public agencies in the County already received their proper share of property tax revenue for the defaulted tax years. No city or special district in the County has a legal right to a portion of the excess proceeds. Parties of interest in the property sold at tax sale no longer have a legal right to claim the excess proceeds. The excess proceeds are money that is not the property of a local agency that remains in the official custody of the county.

Changes made to Revenue and Taxation Code Section 3725 and 3731 in AB261 effective January 1, 2012, impact when excess proceeds should be distributed if the validity of the tax sale is challenged. Proposal 2 amends the code to retain excess proceeds in a trust account pending any challenge, and modifies the code so that the Tax Collector does not need to publish a notice if the cost to publish exceeds the amount of excess proceeds.

2. RECOMMENDED STATUTORY CHANGE (please note code section):

a. SPECIFIC CHANGES TO CODE SECTION BEING

RECOMMENDED (please use ~~striketrough~~ to reflect proposed deletions and italics/underline to reflect additions to code):

4674. Any excess in the proceeds deposited in the delinquent tax sale trust fund remaining after satisfaction of the amounts distributed under Sections 4672, 4672.1, 4672.2, 4673, and 4673.1 shall be retained in the fund on account of, and may be claimed by parties of interest in the property as provided in, Section 4675. At the expiration of the period specified in Section 4675(e)~~one year following the recordation of the tax deed to the purchaser,~~ any excess proceeds not claimed under Section 4675 ~~shall be distributed as provided in paragraph (2) of subdivision (a) of Section 4673.1,~~ the payment may be transferred to the county general fund of the county by the county auditor, except prior to the distribution, the county may deduct those costs of maintaining the redemption and tax-defaulted property files, and those costs of administering and processing the claims for excess proceeds, that have not been recovered under any other provision of law.



4675. (a) Any party of interest in the property may file with the county a claim for the excess proceeds, in proportion to his or her interest held with others of equal priority in the property at the time of sale, at any time prior to the expiration of one year following the recordation of the tax collector's deed to the purchaser.

(b) After the property has been sold, a party of interest in the property at the time of the sale may assign his or her right to claim the excess proceeds only by a dated, written instrument that explicitly states that the right to claim the excess proceeds is being assigned, and only after each party to the proposed assignment has disclosed to each other party to the proposed assignment all facts of which he or she is aware relating to the value of the right that is being assigned. Any attempted assignment that does not comply with these requirements shall have no effect. This paragraph shall apply only with respect to assignments on or after the effective date of this paragraph.

(c) Any person or entity who in any way acts on behalf of, or in place of, any party of interest with respect to filing a claim for any excess proceeds shall submit proof with the claim that the amount and source of excess proceeds have been disclosed to the party of interest and that the party of interest has been advised of his or her right to file a claim for the excess proceeds on his or her own behalf directly with the county at no cost.

(d) The claims shall contain any information and proof deemed necessary by the board of supervisors to establish the claimant's rights to all or any portion of the excess proceeds.

(e) (1) No sooner than one year following the recordation of the tax collector's deed to the purchaser, and if the excess proceeds have been claimed by any party of interest as provided herein, and only if the board of supervisors has not been petitioned to rescind the tax sale pursuant to section 3731 the excess proceeds shall be distributed on order of the board of supervisors to the parties of interest who have claimed the excess proceeds in the order of priority set forth in subdivisions (a) and (b).

(2) If the board of supervisors has been petitioned to rescind the tax sale pursuant to section 3731, any excess proceeds shall not be distributed sooner than one year following the date the board of supervisors determines the tax sale shall not be rescinded, and only if the person that petitioned the board of supervisors pursuant to 3731 has not filed a proceeding in court pursuant to 3725.

(3) If a proceeding has been filed in court pursuant to 3725, any excess proceeds shall not be distributed sooner than final order from the court.

(f) For the purposes of this article, parties of interest and their order of priority are:

(1) First, lienholders of record prior to the recordation of the tax deed to the purchaser in the order of their priority.



(2) Second, any person with title of record to all or any portion of the property prior to the recordation of the tax deed to the purchaser.

~~(g)(f)~~ In the event that a person with title of record is deceased at the time of the distribution of the excess proceeds, the heirs may submit an affidavit pursuant to Chapter 3 (commencing with Section 13100) of Part 1 of Division 8 of the Probate Code, to support their claim for excess proceeds.

~~(h)(g)~~ Any action or proceeding to review the decision of the board of supervisors shall be commenced within 90 days after the date of that decision of the board of supervisors.

4676. (a) When excess proceeds from the sale of tax-defaulted property exceeds one hundred fifty dollars (\$150), the county shall provide notice of the right to claim the excess proceeds, as provided in this section.

(b) No later than 90 days after the sale of the property, the county shall mail written notice of the right to claim excess proceeds to the last known mailing address of parties of interest, as defined in Section 4675. The county shall make a reasonable effort to obtain the name and last known mailing address of parties of interest.

(c) If the last known address of a party of interest cannot be obtained, the county shall publish notice of the right to claim excess proceeds in a newspaper of general circulation in the county. Publication is not required if the cost to publish is more than the amount of the excess proceeds or eliminates any proceeds available for distribution. The notice shall be published once a week for three successive weeks and shall commence no later than 90 days after the sale of the property.

(d) The cost of obtaining the name and last known mailing address of parties of interest and of mailing or publishing the notices required under this section shall be deducted from the excess proceeds and shall be distributed to the county general fund.

b. GENERAL EXPLANATION FOR WHAT THESE CHANGES WILL DO:

The Excess Proceeds which represent the money received in excess of an amount to redeem the property taxes and tax program recovery costs will be transferred to the county general fund.

Excess Proceeds will not be distributed until final determination of any challenge to the validity or irregularity of the tax sale.

The amount of \$150 was set in 1980. The cost of publishing the excess proceeds in a newspaper of general circulation and mailing of excess proceeds notices to the lien holders shall be deducted from the excess proceeds. These



costs have exceeded the amount of excess proceeds, resulting in zero excess proceeds to disburse although we have mailed and published notice.

3. FISCAL IMPACT OR MANDATED COSTS (Please list any estimated cost savings or additional costs to county or state agencies which this proposal will mandate through implementation):

No additional costs.

4. POTENTIAL IMPACTS ON OTHER COUNTY OR STATE DEPARTMENTS OR AGENCIES (if Yes, please list those departments/agencies AND the concerns which those parties may raise against this proposal):

Auditor-Controller. The local taxing and public agencies will not receive any distribution of Excess Proceeds. Any amount expected to be distributed is nominal and is not included in any organizations budget.

Parties of Interest that have claimed the Excess Proceeds may not receive distributions after one year.

5. HISTORY OF PRIOR LEGISLATIVE EFFORTS:

Change to Section 4674 submitted in 2011 legislative platform

Attach additional sheets, if necessary

NAME: Julie Valverde
Sacramento

COUNTY:



PROPOSAL 5

1. BRIEF DESCRIPTION OF WHY A BILL IS NEEDED:

- a. Include specific examples that could be used to explain the bill:

Add to California Commercial Code Section on Bulk Sales the ability to charge for a fee to cover costs in preparing a Bulk Sale payoff demand.

2. RECOMMENDED STATUTORY CHANGE (please note code section):

a. **SPECIFIC CHANGES TO CODE SECTION BEING**

RECOMMENDED (please use ~~striketrough~~ to reflect proposed deletions and italics/underline to reflect additions to code):

6105. In order to comply with subdivision (b) of Section 6104 each of the following shall be satisfied:

(a) The notice shall comply with each of the following:

(1) State that a bulk sale is about to be made.

(2) State the name and business address of the seller together with any other business name and address listed by the seller (subdivision (a) of Section 6104) and the name and business address of the buyer.

(3) State the location and general description of the assets.

(4) State the place and the anticipated date of the bulk sale.

(5) State whether or not the bulk sale is subject to Section 6106.2 and, if so subject, the matters required by subdivision (f) of Section 6106.2.

(b) At least 12 business days before the date of the bulk sale, the notice shall be:

(1) Recorded in the office of the county recorder in the county or counties in this state in which the tangible assets are located and, if different, in the county in which the seller is located (paragraph (2) of subdivision (a) of Section 6103).

(2) Published at least once in a newspaper of general circulation published in the judicial district in this state in which the tangible assets are located and in the judicial district, if different, in which the seller is located (paragraph (2) of subdivision (a) of Section 6103), if in either case there is one, and if there is none, then in a newspaper of general circulation in the county in which the judicial district is located.

(3) Delivered or sent by registered or certified mail to the county tax collector in the county or counties in this state in which the tangible assets are located. If delivered during the period from January 1 to May 7, inclusive, the notice shall be accompanied by a completed business property statement with respect to property involved in the bulk sale pursuant to Section 441 of the Revenue and Taxation Code.

If the tangible assets are located in more than one judicial district in this state, the publication required in paragraph (2) shall be in a newspaper of general circulation published in the judicial district in this state in which a



greater portion of the tangible assets are located, on the date the notice is published, than in any other judicial district in this state and, if different, in the judicial district in which the seller is located (paragraph (2) of subdivision (a) of Section 6103). As used in this subdivision, "business day" means any day other than a Saturday, Sunday, or day observed as a holiday by the state government. The assessor, tax collector, and auditor may charge and collect a fee to cover the actual and reasonable costs for the research and preparation of an estimate of the taxes due when a buyer in a bulk transfer provides notice of the sale. The amount of the fee shall be established by the board of supervisors of the county and shall be subject to the requirements of Chapter 12.5 (commencing with Section 54985) of Part 1 of Division 2 of Title 5 of the Government Code.

b. GENERAL EXPLANATION FOR WHAT THESE CHANGES WILL DO:

The County expends additional labor hours to prepare demands for payoff on Bulk Sales. The County may charge for preparing a payoff demand on delinquent unsecured charges, but not future charges that must be estimated.

3. FISCAL IMPACT OR MANDATED COSTS (Please list any estimated cost savings or additional costs to county or state agencies which this proposal will mandate through implementation):

No additional costs.

4. POTENTIAL IMPACTS ON OTHER COUNTY OR STATE DEPARTMENTS OR AGENCIES (if Yes, please list those departments/agencies AND the concerns which those parties may raise against this proposal):

None.

5. HISTORY OF PRIOR LEGISLATIVE EFFORTS:

Attach additional sheets, if necessary

NAME: Julie Valverde

COUNTY: Sacramento



PROPOSAL 6

1. BRIEF DESCRIPTION OF WHY A BILL IS NEEDED:

- a. Include specific examples that could be used to explain the bill:

Add to Government Code Section on Medium of Payment for Credit Cards, EFT, etc. the same language to charge a fee for a charge back that is charged for a negotiable paper.

2. RECOMMENDED STATUTORY CHANGE (please note code section):

a. **SPECIFIC CHANGES TO CODE SECTION BEING**

RECOMMENDED (please use ~~striketrough~~ to reflect proposed deletions and italics/underline to reflect additions to code):

6157. (a) The state, and each city, whether general law or chartered, county, and district, each subdivision, department, board, commission, body, or agency of the foregoing, shall accept personal checks drawn in its favor or in favor of a designated official thereof, in payment for any license, permit, or fee, or in payment of any obligation owing to the public agency or trust deposit, if the person issuing the check furnishes to the person authorized to receive payment satisfactory proof of residence in this state and if the personal check is drawn on a banking institution located in this state.

(b) If any personal check, corporate check, cashier's check, money order, or other draft method offered in payment pursuant to this section is returned without payment, for any reason, a reasonable charge for the returned check, not to exceed the actual costs incurred by the public agency, may be imposed to recover the public agency's processing and collection costs. This charge may be added to, and become part of, any underlying obligation other than an obligation which constitutes a lien on real property, and a different method of payment for that payment and future payments by this person may be prescribed.

(c) The acceptance of a personal check pursuant to this section constitutes payment of the obligation owed to the payee public agency to the extent of the amount of the check as of the date of acceptance when, but not before, the check is duly paid.

(d) The provisions in subdivision (b) prohibiting a returned check charge being added to, and becoming a part of, an obligation which constitutes a lien on real property do not apply to obligations under the Veterans' Farm and Home Purchase Act of 1974 (Article 3.1 (commencing with Section 987.50) of Chapter 6 of Division 4 of the Military and Veterans Code).

6159. (a) The following definitions apply for purposes of this section:



(1) "Credit card" means any card, plate, coupon book, or other credit device existing for the purpose of being used from time to time upon presentation to obtain money, property, labor, or services on credit.

(2) "Card issuer" means any person, or his or her agent, who issues a credit card and purchases credit card drafts.

(3) "Cardholder" means any person to whom a credit card is issued or any person who has agreed with the card issuer to pay obligations arising from the issuance of a credit card to another person.

(4) "Debit card" means a card or other means of access to a debit card cardholder's account that may be used to initiate electronic funds transfers from that account.

(5) "Draft purchaser" means any person who purchases credit card drafts.

(6) "Electronic funds transfer" means any method by which a person permits electronic access to, and transfer of, money held in an account by that person.

(b) Subject to subdivisions (c) and (d), a court, city, county, city and county, or other public agency may authorize the acceptance of a credit card, debit card, or electronic funds transfer for any of the following:

(1) The payment for the deposit of bail for any offense not declared to be a felony or for any court-ordered fee, fine, forfeiture, penalty, assessment, or restitution. Use of a card or electronic funds transfer pursuant to this paragraph may include a requirement that the defendant be charged any administrative fee charged by the company issuing the card or processing the account for the cost of the transaction.

(2) The payment of a filing fee or other court fee.

(3) The payment of any towage or storage costs for a vehicle that has been removed from a highway, or from public or private property, as a result of parking violations.

(4) The payment of child, family, or spousal support, including reimbursement of public assistance, related fees, costs, or penalties, with the authorization of the cardholder or accountholder.

(5) The payment for services rendered by any city, county, city and county, or other public agency.

(6) The payment of any fee, charge, or tax due a city, county, city and county, or other public agency.

(7) The payment of any moneys payable to the sheriff pursuant to a levy under a writ of attachment or writ of execution. If the use of a card or electronic funds transfer pursuant to this paragraph includes any administrative fee charged by the company issuing the card or processing the account for the cost of the transaction, that fee shall be paid by the person who pays the money to the sheriff pursuant to the levy.



(8) The payment of a donation, gift, bequest, or devise made to or in favor of a county, or to or in favor of the board of supervisors of a county, pursuant to Section 25355.

(c) A court desiring to authorize the use of a credit card, debit card, or electronic funds transfer pursuant to subdivision (b) shall obtain the approval of the Judicial Council. A city desiring to authorize the use of a credit card, debit card, or electronic funds transfer pursuant to subdivision (b) shall obtain the approval of its city council. Any other public agency desiring to authorize the use of a credit card, debit card, or electronic funds transfer pursuant to subdivision (b) shall obtain the approval of the governing body that has fiscal responsibility for that agency.

(d) After approval is obtained, a contract may be executed with one or more credit card issuers, debit card issuers, electronic funds transfer processors, or draft purchasers. The contract shall provide for the following matters:

(1) The respective rights and duties of the court, city, county, city and county, or other public agency and card issuer, funds processor, or draft purchaser regarding the presentment, acceptability, and payment of credit and debit card drafts and electronic funds transfer requests.

(2) The establishment of a reasonable means by which to facilitate payment settlements.

(3) The payment to the card issuer, funds processor, or draft purchaser of a reasonable fee or discount.

(4) Any other matters appropriately included in contracts with respect to the purchase of credit and debit card drafts and processing of electronic funds transfer requests as may be agreed upon by the parties to the contract.

(e) The honoring of a credit card, debit card, or electronic funds transfer pursuant to subdivision (b) hereof constitutes payment of the amount owing to the court, city, county, city and county, or other public agency as of the date the credit or debit card is honored or the electronic funds transfer is processed, provided the credit or debit card draft is paid following its due presentment to a card issuer or draft purchaser or the electronic funds transfer is completed with transfer to the agency requesting the transfer.

(f) If any credit or debit card draft is not paid following due presentment to a card issuer or draft purchaser or is charged back to the court, city, county, city and county, or other public agency for any reason, any record of payment made by the court, city, or other public agency honoring the credit or debit card shall be void. If any electronic funds transfer request is not completed with transfer to the agency requesting the transfer or is charged back to the agency for any reason, any record of payment made by the agency processing the electronic funds transfer shall be void. Any



receipt issued in acknowledgment of payment shall also be void. The obligation of the cardholder or accountholder shall continue as an outstanding obligation as if no payment had been attempted.

(g) If any credit card, debit card draft, electronic fund transfer or other payment method offered in payment pursuant to this section is returned without payment, for any reason, a reasonable charge for the charge back or return, not to exceed the actual costs incurred by the public agency, may be imposed to recover the public agency's processing and collection costs. This charge may be added to, and become part of, any underlying obligation other than an obligation which constitutes a lien on real property, and a different method of payment for that payment and future payments by this person may be prescribed.

—~~(g)~~ (h) Notwithstanding Title 1.3 (commencing with Section 1747) of Part 4 of Division 3 of the Civil Code, a court, city, county, city and county, or any other public agency may impose a fee for the use of a credit or debit card or electronic funds transfer, not to exceed the costs incurred by the agency in providing for payment by credit or debit card or electronic funds transfer. These costs may include, but shall not be limited to, the payment of fees or discounts as specified in paragraph (3) of subdivision (d). Any fee imposed by a court pursuant to this subdivision shall be approved by the Judicial Council. Any fee imposed by any other public agency pursuant to this subdivision for the use of a credit or debit card or electronic funds transfer shall be approved by the governing body responsible for the fiscal decisions of the public agency.

—~~(h)~~ (i) Fees or discounts provided for under paragraph (3) of subdivision (d) shall be deducted or accounted for prior to any statutory or other distribution of funds received from the card issuer, funds processor, or draft purchaser to the extent not recovered from the cardholder or accountholder pursuant to subdivision (g).

—~~(i)~~ (j) The Judicial Council may enter into a master agreement with one or more credit or debit card issuers, funds processors, or draft purchasers for the acceptance and payment of credit or debit card drafts and electronic funds transfer requests received by the courts. Any court may join in any of these master agreements or may enter into a separate agreement with a credit or debit card issuer, funds processor, or draft purchaser.

b. GENERAL EXPLANATION FOR WHAT THESE CHANGES WILL DO:

Clarifies that a fee can be charged for any returned payment, regardless of the method of the payment.



3. **FISCAL IMPACT OR MANDATED COSTS** (Please list any estimated cost savings or additional costs to county or state agencies which this proposal will mandate through implementation):

No additional costs.

4. **POTENTIAL IMPACTS ON OTHER COUNTY OR STATE DEPARTMENTS OR AGENCIES** (if Yes, please list those departments/agencies AND the concerns which those parties may raise against this proposal):

None.

5. **HISTORY OF PRIOR LEGISLATIVE EFFORTS:**

Attach additional sheets, if necessary

NAME: Julie Valverde

COUNTY: Sacramento



PROPOSAL 7

1. BRIEF DESCRIPTION OF WHY A BILL IS NEEDED:

a. Include specific examples that could be used to explain the bill:

The County of Los Angeles has a large amount of uncollected non-tax accounts receivable, such as for health care and welfare overpayments. Collection methods vary based on the type of debt; for example, income tax refund intercept is available for some debts and not others. The Tax Collector has broad enforcement powers with respect to unsecured taxes (such as summary judgments and property seizure) which should be available to collect any debt owed to the County.

2. RECOMMENDED STATUTORY CHANGE (please note code section):

a. SPECIFIC CHANGES TO CODE SECTION BEING

RECOMMENDED (please use strikethrough to reflect proposed deletions and italics/underline to reflect additions to code):

Section 26220.1 of the Government Code is added to read:

Notwithstanding Section 26220, the board of supervisors may adopt an ordinance providing that any or all debts, delinquent bills, claims, and accounts, 30 days after the date upon which they are due and payable to the county, and any or all money judgments payable to the county or collected by the county on behalf of other public agencies, may be collected in any manner allowed for the collection of unsecured taxes except as otherwise prohibited by law.

OR, IN THE ALTERNATIVE

Section 26220 of the Government Code is amended to read:

(a) The board of supervisors may, by a four-fifths vote of its members, assign for purposes of collection, under any terms and conditions that the board may prescribe, any or all delinquent bills, claims, and accounts, 30 days after the date upon which they are due and payable to the county, and any or all money judgments taken in the name of the county.

(b) The board of supervisors may, by a four-fifths vote of its members, and with the approval of the tax collector, assign for purposes of collection under such terms and conditions as the board may prescribe, any or all delinquent unsecured taxes 90 days after the date upon which they are due and



delinquent when, in the judgment of the tax collector, the remedy set forth in Section 2951 of the Revenue and Taxation Code will not be used by the tax collector.

(c) The board of supervisors may assign, for purposes of securing any financing of the same, any obligations arising out of any delinquent assessments or taxes levied on the secured roll by the county or any other political subdivision of the state. No assignment to a collection agency shall be made of obligations arising out of any delinquent assessments or taxes levied on the secured roll by the county or any other political subdivision of the state.

(d) Notwithstanding subsection (a) above, the board of supervisors may adopt an ordinance providing that any or all debts, delinquent bills, claims, and accounts, 30 days after the date upon which they are due and payable to the county, and any or all money judgments taken in the name of the county, may be collected in any manner allowed for the collection of unsecured taxes.

b. GENERAL EXPLANATION FOR WHAT THESE CHANGES WILL DO:

These changes will extend unsecured tax collection methods to any debt owed to a county, if implemented by ordinance of the Board of Supervisors of the county.

3. FISCAL IMPACT OR MANDATED COSTS (Please list any estimated cost savings or additional costs to county or state agencies which this proposal will mandate through implementation):

The proposed law should increase the liquidation (i.e. collection) rate of county accounts receivable, resulting in increased revenue.

4. POTENTIAL IMPACTS ON OTHER COUNTY OR STATE DEPARTMENTS OR AGENCIES (if Yes, please list those departments/agencies AND the concerns which those parties may raise against this proposal):

The Franchise Tax Board could be impacted minimally because additional accounts would be referred to FTB for income tax refund intercept.



5. **HISTORY OF PRIOR LEGISLATIVE EFFORTS:** None known.

Attach additional sheets, if necessary

NAME: MARK SALADINO

COUNTY: LOS ANGELES



PROPOSAL 8

1. CALIFORNIA STATUTES(S) NEEDING CHANGE, AMENDMENT, OR BEING AFFECTED BY PROPOSAL:

Revenue and Taxation Code section 5151(a).

2. BRIEF DESCRIPTION OF PROBLEM IN CURRENT LAW:

Revenue and Taxation Code section 5151(a) specifies the rate of interest to be paid for refunds as “interest at the greater of 3 percent per annum or the county pool apportioned rate...” With the current economic situation, a county’s pool apportioned rate may be or will drop to less than 3 percent.

3. RECOMMENDED AMENDMENT OR CHANGE:

a. SPECIFIC CHANGES TO CODE SECTION BEING

RECOMMENDED (please use strikethrough to reflect proposed deletions and italics/underline to reflect additions to code):

5151. (a) Interest at ~~the greater of 3 percent per annum or~~ the county pool apportioned rate shall be paid, when that interest is ten dollars (\$10) or more, on any amount refunded under Section 5096.7, or refunded to a taxpayer for any reason whatsoever. However, no interest shall be paid under the provisions of this section if the taxpayer has been given the notice required by Section 2635 and has failed to apply for the refund within 30 days after the mailing of that notice. For purposes of this section, "county pool apportioned rate" means the annualized rate of interest earned on the total amount of pooled idle funds from all accounts held by the county treasurer, in excess of the county treasurer's administrative costs with respect to that amount, as of June 30 of the preceding fiscal year for which the refund is calculated. For each fiscal year, the county treasurer shall advise the Controller of the county pool apportioned rate, and of computations made in deriving that rate, no later than 60 days after the end of that fiscal year.

b. GENERAL EXPLANATION FOR WHAT THESE CHANGES WILL DO (how will this improve existing law?):

If the county pool apportioned rate drops below 3 percent, taxing entities should not have to pay more than that rate for refunds.

4. FISCAL IMPACT OR MANDATED COSTS (Please list any estimated cost savings or additional costs which this proposal will mandate through implementation):

Cost savings to the County by paying out more interest than the County can earn.



5. **POTENTIAL IMPACTS ON OTHER COUNTY OR STATE DEPARTMENTS OR AGENCIES** (if Yes, please list those departments/agencies AND the concerns which those parties may raise against this proposal):

6. **HAS THIS PROPOSAL BEEN TRIED BEFORE? IF SO, WHEN AND BY WHOM?:**

2002

NAME: Julie Valverde

COUNTY: Sacramento



PROPOSAL 9

1. BRIEF DESCRIPTION OF WHY A BILL IS NEEDED:

- a. Include specific examples that could be used to explain the bill:

Clean up Refund code sections:

- Clarified language in 2635 regarding claims and amount at the time of payment.

2. RECOMMENDED STATUTORY CHANGE (please note code section):

- a. **SPECIFIC CHANGES TO CODE SECTION BEING RECOMMENDED** (please use strikethrough to reflect proposed deletions and italics/underline to reflect additions to code):

2635. *(a)* When the amount of taxes paid exceeds the amount due more than ten dollars (\$10), the tax collector shall send notice of the overpayment to the taxpayer within a reasonable period of time after the overpayment has been reflected on the tax roll. The notice shall be mailed to the taxpayer's last known address and shall state the amount of overpayment and that a refund claim may be filed pursuant to Chapter 5 (commencing with Section 5096) of Part 9.

b) If the tax collector establishes that the refund is due the taxpayer, then the tax collector may choose to issue any refund to the taxpayer without sending a notice requesting the taxpayer file a refund claim.

- b. **GENERAL EXPLANATION FOR WHAT THESE CHANGES WILL DO:**

Cleans up the code.

3. FISCAL IMPACT OR MANDATED COSTS (Please list any estimated cost savings or additional costs to county or state agencies which this proposal will mandate through implementation):

None

4. POTENTIAL IMPACTS ON OTHER COUNTY OR STATE DEPARTMNETS OR AGENCIES (if Yes, please list those departments/agencies AND the concerns which those parties may raise against this proposal):



None

5. HISTORY OF PRIOR LEGISLATIVE EFFORTS:

Yes in 2012. AB2643 – with different language.

NAME: Julie Valverde

COUNTY: Sacramento



Proposal 10

1. BRIEF DESCRIPTION OF WHY A BILL IS NEEDED:

a. Include specific examples that could be used to explain the bill:

Before 1995 – 1996 the only requirement to seek the elected office of Treasurer-Tax Collector was to be registered to vote, pay your fee and be the top vote getter with a 50% +1 result.

In 1995 – 1996, as a result of the Orange County bankruptcy and in an effort to statutorily pledge our commitment to the electorate, to the legislature and our dedication to our offices, the County Association of County Treasurer and Tax Collectors, took it upon themselves to propose legislation outlining ‘eligibility requirements’ and ‘continuing education requirements’ for the current Treasurer-Tax Collector’s and future elected or appointed Treasurer-Tax Collectors.

The code is not consistent as it is with other elected county officials that have a mandated eligibility requirement. Instead it left the qualification requirements for Treasurer-Tax Collector “optional” by a board of supervisor ordinance. We feel, this omission has provided no credibility to the treasurer’s office and should be amended to mandate a qualifications requirement.

Over the past 14 years, certain organizations have either collapsed or evolved into different Associations. Also as levels of sophistication and information have increased, it has become necessary to re-visit the eligibility requirements and update them to keep up with the times and reflect current California State Law.

The Certified Cash Manager is not an official California designation and does not exist anymore.

2. RECOMMENDED STATUTORY CHANGE (please note code section):

a. SPECIFIC CHANGES TO CODE SECTION BEING RECOMMENDED:

Government Code 27000.7. (a) No person shall be eligible for election or appointment to the office of county treasurer, county tax collector, or county treasurer-tax collector of any county unless that person meets at



least one of the following criteria and meets the provisions of Elections Code §13.5:

(1) The person has served in a senior financial management position in a county, city, or other public agency within the State of California dealing with similar financial responsibilities for a continuous period of not less than three years, including, but not limited to, treasurer, tax collector, auditor, auditor-controller, or the chief deputy or an assistant in those offices. Or ;

(2) The person possesses a valid baccalaureate, masters, or doctoral degree from an accredited college or university in any of the following major fields of study: business administration, public administration, economics, finance, or accounting, ~~or a related field~~, with a minimum of 16 college semester units, or their equivalent, in accounting, auditing, or finance. Or;

(3) The person possesses a valid certificate issued by the California Board of Accountancy pursuant to Chapter 1 (commencing with Section 5000) of Division 3 of the Business and Professions **Code**, showing that person to be, and a permit authorizing that person to practice as, a certified public accountant. Or;

(4) The person possesses a valid charter issued by the Institute of Chartered Financial Analysts showing the person to be designated a Chartered Financial Analyst, with a minimum of 16 college semester units, or their equivalent, in accounting, auditing, or finance. Or;

(5) The person possesses a valid certificate, issued by the Association for Financial Professionals showing the person to be designated a Certified Treasury Professional ~~Cash Manager~~, with a minimum of 16 college semester units, or their equivalent, in accounting, auditing, or finance.

(b) This section shall only apply to any person duly elected or appointed as a county treasurer, county tax collector, county treasurer-tax collector, consolidated director of finance or director of finance on or after January 1, ~~1998~~ 2013.

Elections Code 13.5. (a) (1) Notwithstanding subdivision (a) of Section 13, no person shall be considered a legally qualified candidate for any of the offices set forth in subdivision (b) unless that person has filed a declaration of candidacy, nomination papers, or statement of write-in candidacy, accompanied by documentation, including, but not necessarily limited to, certificates, declarations under penalty of



perjury, diplomas, or official correspondence, sufficient to establish, in the determination of the official with whom the declaration or statement is filed, that the person meets each qualification established for service in that office by the provision referenced in subdivision (b).

(2) The provision of "documentation," for purposes of compliance with the requirements of paragraph (1), may include the submission of either an original, as defined in Section 255 of the Evidence **Code**, or a duplicate, as defined in Section 260 of the Evidence **Code**.

(b) This section shall be applicable to the following offices and qualifications therefor:

(1) For the office of county auditor, the qualifications set forth in Sections 26945 and 26946 of the Government **Code**.

(2) For the office of county district attorney, the qualifications set forth in Sections 24001 and 24002 of the Government **Code**.

(3) For the office of county sheriff, the qualifications set forth in Section 24004.3 of the Government **Code**.

(4) For the office of county superintendent of schools, the qualifications set forth in Sections 1205 to 1208, inclusive, of the Education **Code**.

(5) For the office of judge of the superior court, the qualifications set forth in Section 15 of Article VI of the California Constitution.

(6) For the office of county treasurer, county tax collector, county treasurer-tax collector, or consolidated director of finance or director of finance, the qualifications set forth in Section 27000.7 of the Government **Code**, ~~provided that the board of supervisors has adopted the provisions of that section pursuant to Section 27000.6 of the Government **Code**.~~

3. GENERAL EXPLANATION FOR WHAT THESE CHANGES WILL DO:

With the elimination of the Elections Code 13.5(a)(6) language "provided that the board of supervisors has adopted the provisions of that section pursuant to Section 27000.6 of the Government Code", and concluding



with what is set forth in the provision aligns the Treasurer-Tax Collector eligibility requirements with the Assessor, Auditor, District Attorney, and Sheriff. CACTTC will uphold that the expertise required in cash management is of equal merit as other elected department heads expertise when the voter is considering a viable candidate seeking office.

Removing Municipal Treasurer Association reference associated with the required 16 college semester units and explicitly requiring accounting, auditing or finance requirements is more in line with the cash management function of the treasurer office and is a well understood and easily documented requirement.

Also, there is no explanation as to what is “equivalent” to 16 college semester units.... This removes the arbitrary designation, “equivalent” and replaces it with something more substantial.

CDIAC’s education programs are accepted by many certification entities as “certifiable.”

4. FISCAL IMPACT OR MANDATED COSTS: None

5. POTENTIAL IMPACTS ON OTHER COUNTY OR STATE DEPARTMENTS OR AGENCIES:

This relates to County Treasurer-Tax Collector positions, both appointed and elected, as well as clarifying the requirements for Election Officials.

6. HISTORY OF PRIOR LEGISLATIVE EFFORTS: To my knowledge no such clarification of code section has been suggested.

NAME: Tracy Kennedy & Karen Adams
Merced

COUNTY: Madera &



PROPOSAL11

1. BRIEF DESCRIPTION OF WHY A BILL IS NEEDED:

- a. Include specific examples that could be used to explain the bill:

Current law allows the board of supervisors to consolidate, via ordinance, the duties of auditor-controller and treasurer-tax collector, or auditor and treasurer, or controller and treasurer, or auditor and tax collector or auditor and director of finance. Of the 58 counties, 52 are elected treasurer-tax collectors or finance directors and 10 are consolidated with auditor-controller of which 6 were consolidated within the past 5 years.

Only six counties have appointed officials and the remaining 52 counties are elected county officials elected by a county wide vote. Allowing the Board of Supervisors the ability to consolidate via ordinance does not allow the voting public to decide whether or not they want to:

- (i) reduce the number of their elected officials,
- (ii) or give the Board additional power in selecting those representatives

Code Section 26980 allows the Board to consolidate these offices into a 'Consolidated Office of Director of Finance' which must be submitted to voters. Additionally at the same time, the question must be asked, "will this office be established as an elected office or appointed by the Board."

2. RECOMMENDED STATUTORY CHANGE (please note code section):

Current consolidation code for your reference only (actual changes follow)

California Government Code, Title 3, Division 2, Part 1, Chapter 7§

24300. By ordinance the board of supervisors may consolidate the duties of certain of the county offices in one or more of these combinations:

- (a) Sheriff and tax collector.
- (b) Auditor and recorder.
- (c) County clerk, auditor, and recorder.



- (d) County clerk and public administrator.
- (e) County clerk and recorder.
- (f) County clerk and auditor.
- (g) Treasurer and tax collector.
- (h) Treasurer and recorder.
- (i) Treasurer and assessor.
- (j) Treasurer and public administrator.
- (k) Public administrator and coroner.
- (l) District attorney and public administrator.
- (m) District attorney and coroner.
- (n) Sheriff and coroner.
- (o) Sheriff and public administrator.
- (p) County agricultural commissioner and county sealer of weights and measures.
- (q) Road commissioner and surveyor. A county may create an office entitled public works director, combining the duties of road commissioner and surveyor and any other compatible duties not legally required to be performed by another county officer.
- (r) County surveyor and director of transportation.

By the ordinance that consolidates the duties of the appointive county offices described in subdivision (p), notwithstanding Section 2122 and Sections 2181 to 2187, inclusive, of the Food and Agricultural Code, and Sections 12200 and 12214 of the Business and Professions Code, the board of supervisors may provide that the first term only of the newly consolidated office expires when the first of the remaining unexpired terms of the two unconsolidated offices would have expired. Where a vacancy in either of the unconsolidated offices exists the term of office of the newly consolidated office shall be the longer of the remaining unexpired terms

a. SPECIFIC CHANGES TO CODE SECTION BEING RECOMMENDED:

California Government Code, Title 3, Division 2, Part 1, Chapter 7§

24300.5 In addition to the duties of the county offices which may be consolidated under the provisions of Section 24300, the board of supervisors shall place a measure on the ballot for voter approval to ~~by ordinance~~ consolidate the offices of auditor, controller, treasurer, tax collector, and director of finance.



24301. If the duties of officers are consolidated pursuant to this chapter, the board of supervisors, ~~by ordinance~~, may elect to separate the duties so consolidated, and reconsolidate ~~them~~ in any other manner permitted by this chapter or separate the duties without reconsolidation, and provide that the duties of each office shall be performed by a separate person, if it deems the change to be in the public interest and obtained voter approval.

24301.5. QUALIFICATIONS FOR COMBINED OFFICE:

Any person may be appointed by the board of supervisors, or be a candidate for election to the office of consolidated Director of Finance or combined Auditor-Controller Treasurer-Tax Collector, if he or she meets the qualifications set forth in Section 26945 or Section 27000.7.

24304.2. Notwithstanding Section 24300, in Mendocino County, Sonoma County, Trinity County, and Tulare County, the board of supervisors, by ordinance, may consolidate the duties of the offices of Auditor-Controller, ~~and Treasurer-Tax Collector, and Director of Finance~~ into the elected office of Auditor-Controller-Treasurer-Tax Collector. Effective January 2013, any additional inclusion to the consolidated list shall be approved by the local electorate of said county requesting inclusion.

3. GENERAL EXPLANATION FOR WHAT THESE CHANGES WILL DO:

Clarifying this GC by stating that consolidations must only be allowed by the vote of the people does many things. It allows the voting public a say on how their government is structured. It protects their vote by allowing them to make the ultimate decision. It further provides the Board with the necessary voting 'clout' to support their position for combinations and how to restructure the departments for efficiencies in budgets, reclassifications, and internal control functions.

Additionally, in many counties, making this decision is cumbersome and confusing. This change will provide consistency and prevent certain 'classes' of counties from continuing to be granted specific authority to consolidate.



Currently, GC 24009 identifies the treasurer as an officer elected by the people and in order to change an office from elective to appointive, a proposal shall be presented to the voters of the county and approved by a majority of the votes cast. This proposed legislative change will further clarify and protect the rights of the people to select their government.

4. FISCAL IMPACT OR MANDATED COSTS:

Additional outside audit and oversight costs may erode any efficiency savings along with costly support management positions necessary to direct authority over transactions if such departments were to be consolidated.

5. POTENTIAL IMPACTS ON OTHER COUNTY OR STATE DEPARTMENTS OR AGENCIES:

Depending on size of county and abilities of existing department heads, consolidating these offices could increase potential risks by creating a super agency and dilutes managing abilities. Keeping these positions separate offers a clearer line of responsibility and accountability to the people they serve.

6. HISTORY OF PRIOR LEGISLATIVE EFFORTS: To my knowledge no such clarification of code section has been suggested.

NAME: Tracy Kennedy & Karen Adams
Merced

COUNTY: Madera &



Proposals By Code Section

Education Code

Code Section	Proposal	Submitter
15140	1	Los Angeles
15144	1	Los Angeles

Government Code

Code Section	Proposal	Submitter
53507.5	1	Los Angeles
53508	1	Los Angeles
53508.5 (new)	1	Los Angeles
53508.7	1	Los Angeles
6157	1	Sacramento
26220.1	7	Los Angeles
27000.7	10	Merced and Madera
24300	11	Merced and Madera

Revenue and Taxation Code

Code Section	Proposal	Submitter
3716	2	Sacramento
2611.6	3	Sacramento
4674	4	Sacramento
5151	8	Sacramento and San Francisco
2635	9	Sacramento

California Commercial Code

Code Section	Proposal	Submitter
6105	5	Sacramento



Unsecured Property Tax Collection – Collection Actions for Specific Property Types

Presented by Ken Press • Burlingame, CA October 11, 2012



Controller *John Chiang*

California State Controller's Office

Presentation Outline

The purpose of this presentation is to provide an overview of collection techniques for delinquent property taxes on specific unsecured property types.



Background

Background

Definition: Unsecured property tax is an *ad-valorem* property tax that is the liability of the person or entity assessed.

Lien Established: The lien date for unsecured property, as of 1997, is January 1. Prior to 1997, the lien date was March 1 (§2192).



Background

Liability: The assessment of unsecured property taxes against an individual constitutes a personal lien against the owner of record, not a lien against the property (§405).



Background

Unsecured property – General Description:

Personal property that is tangible or moveable and is not attached to real estate.

Property that is not real property is considered personal property.

The Assessor is responsible for making the distinction between secured property and unsecured property (§134).



Background

Business property: Furniture, fixtures, machinery, and equipment.

Luxury items: Boats, jet skis, and planes.

Improvements to land: Property not permanently attached to the land or improvement made to the land owned by another person or entity.

Abstract Property: Mining rights, etc.



Background

- **Secured Property that Converts to Unsecured Property Upon Tax Delinquency:**
 - Manufactured homes, floating homes, and related supplemental assessments.
 - Structural improvements on leased land and other leasehold interests.
 - Possessory interests in public lands and leasehold estates for gas, oil, and other hydrocarbon substances.
 - Escape assessments discovered after the real property has transferred ownership.



Initial Determination

Individual or Business

Before investing resource into a specific unsecured property tax collection action, determine whether that course of action is applicable.

Some collection actions may be applied to both individuals or businesses, while others may be more relevant to one or the other.



Individual or Business

- **Individuals or Businesses:**
 - Bank Account Levy
 - Seizure and Sale
- **Businesses only:**
 - Liquor License Hold
 - Till Tap/ Keepers Levy
- **Individuals only:**
 - DMV Stops
 - FTB Offset



Collection Actions for Individuals and Businesses

Bank Account Levy

Bank Account Levy

- **Definition and Authority**

- **Bank Account Levy:** The seizing of an asset (savings account, checking account, safe deposit contents) held by a financial institution.
- **Authority:** Revenue and Taxation Code section 2951 authorizes the county tax collector to collect delinquent taxes owed by an assessee by seizing any property belonging to that assessee.



Bank Account Levy

- **Preliminary Procedures**

- Confirm that the property scheduled for seizure is only being seized to collect delinquent taxes that are outstanding for three years or less (§2963).
- Confirm the assessee is NOT in bankruptcy.
- Confirm that a Certificate of Lien has been recorded.



Bank Account Levy

- **Locate the assessee bank account**
 - Check your internal database for past check payments of the assessee.
 - Review treasurer's archived check deposit records for check payments by the assessee to other county departments.
 - Use State-wide and national locator services.
 - DataQuick, Real Quest, Infoquest, Accurint, Merlin, Experian/Transunion, Court records, DMV records
 - **Social Security Numbers may be obtained from the county assessor pursuant to §408(c)**



Bank Account Levy

- **Initiate the Levy**

- Compile a list of all banks and credit unions that match the accounts of the assessee or are within the vicinity of the assessee's address.
- Complete a seizure notice for each bank or credit union you determine may have an account of the assessee.
- Deliver, by hand or certified mail, a completed seizure notice (See sample form UNS 5-06) to all bank and credit unions associated with the assessee name.



Bank Account Levy

- **The Levy Process**

- The financial institution must respond to your seizure request (Penal Code §428) and provide any of the following account information:
 - Active and funded account(s) exist, and will be frozen
 - No account(s) exist
- If there are assets, the financial institution will send a notice to the assessee informing him or her that his or her assets have been frozen.



Bank Account Levy

- **The Levy Process (cont.)**

- Once ten business days have passed, the financial institution will release the funds to the tax collector.

- **Note:** The financial institution may charge fees for any internal-seizure-processing costs.

- [OPTIONAL] Assessee may contact your office after receiving the financial institution's communication desiring to make a payment prior to funds being seized.

- If assessee pays in full, contact the financial institution, and follow up with a written notice, to cancel the seizure action. (See sample form UNS 5-07 for this process)



Tangible Property Seizure and Sale

Tangible Property Seizure and Sale

- **Definition and Authority**

- **Seizure:** Securing control of the assessee's assets sufficient to cover delinquent taxes owed by that assessee.
- **Authority:** Revenue and Taxation Code section 2951 authorizes the county tax collector to collect delinquent taxes owed by an assessee by seizing any property belonging to that assessee.



Tangible Property Seizure and Sale

- **Types of Tangible Property**
 - Airplanes
 - Boats/vessels
 - Farm equipment
 - Fixtures
 - Leased equipment
 - Machinery
 - Manufactured/ mobile homes
 - Office furniture



Tangible Property Seizure and Sale

- **Preliminary Procedures**

- Confirm that the property scheduled for seizure is only being seized to collect delinquent taxes that are outstanding for three years or less (§2963).
- Confirm the assessee is NOT in bankruptcy.
- Confirm that a Certificate of Lien has been recorded.



Tangible Property Seizure and Sale

- **Pre-Seizure Preparations**
 - Assemble the following personnel.
 - Law Enforcement Official
 - Locksmith



Tangible Property Seizure and Sale

- **Pre-Seizure Preparations (cont.)**

- Assemble the following items:

- Seizure File (Tax Bill documents, Declaration of Seizure, etc. – see sample for UNS 3-03)
- Receipt book.
- Receptacle to receive and store payments, if collected.
- Seizure Notices for posting



Tangible Property Seizure and Sale

- **Checklist of helpful items to bring**

- Painter's tape for securing notices to premises or seized items.
- Heavy duty chain and coated lock.
- Clear sheet labels or laminated labels. (to prevent ink or color stains on items where notices are attached)
- Camera to document seized items and their condition when seized.



Tangible Property Seizure and Sale

- **Checklist of helpful items to bring (cont.)**
 - Tie downs to secure planes or other movable property.
 - Bolt cutters.
 - Key blocks.
 - Cell phone.



Tangible Property Seizure and Sale

- **Seizing the Property (cont.)**

- If owner cannot fulfill payment, initiate seizure of property
 - If a place of business, inform the owner and his/her employees to vacate the premises.
- Authorize the locksmith to lock down the property
 - If a place of business, authorize the locksmith to change the locks on all entrances and exits.
 - If a vessel, or similar item, secure the property sufficiently to prevent unauthorized relocation.



Tangible Property Seizure and Sale

- **Pre-Sale Actions**

- Administrative Hearing

- It is unconstitutional to sell seized property without giving the owner an administrative hearing. (*T.M. Cobb Co. v. County of Los Angeles*, 128 Cal. Rptr. 655; 16 Cal. 3d 606)
 - Send an Administrative Hearing Notice to the assessee (See sample form UNS 3-05). Include:
 - Date and location of the hearing.
 - Statement of Right to Hearing pursuant to Code.
 - Ten-day deadline to respond.



Tangible Property Seizure and Sale

- **Pre-Sale Actions (cont.)**
 - Administrative Hearing
 - Assessee Response
 - If the assessee responds and requests a hearing within the deadline, proceed with hearing.
 - » Confirm the hearing with another notice to the assessee.(See sample form UNS 3-06)
 - If the assessee does not respond within the prescribed deadline or waives his or her right to a hearing, schedule a sale (auction).



Tangible Property Seizure and Sale

- **Pre-Sale Actions (cont.)**

- Administrative Hearing

- Conducting the hearing

- The hearing may be conducted at the tax collector's office.

- Following are some recommended hearing format particulars:

- » Arrange a private meeting room.

- » Ensure that at least two staff members are present to serve as moderators/witnesses.

- » Announce to the assessee that the hearing will be electronically recorded.



Tangible Property Seizure and Sale

- **Pre-Sale Actions (cont.)**

- Administrative Hearing

- Conducting the hearing.

- Provide written documents outlining the details of the seizure actions, including:

- » Collection procedures and notices provided prior to seizure.
 - » The Code sections authorizing the seizure action.
 - » The Code sections providing for an administrative hearing.
 - » Outline of seizure actions taken and intended sale plans.
 - » The amount of taxes due, with calculations.
 - » Any other pertinent information.



Tangible Property Seizure and Sale

- **Pre-Sale Actions (cont.)**
 - Administrative Hearing
 - Concluding the hearing
 - Inform the assessee that the tax collector will render a determination of the proceedings.
 - Advise that results will be sent by mail within five days.



Tangible Property Seizure and Sale

- **Pre-Sale Actions (cont.)**
 - Administrative Hearing
 - Results of Hearing
 - If payment is completed, cease all sale actions and release the property to the assessee.
 - If payment is not made, prepare the property for a tax sale (auction).



Tangible Property Seizure and Sale

- **Sale of the Seized Property**
 - Preparing the Property for Tax Sale
 - Calculate the amount of proceeds necessary to cover the taxes, penalties, and all actual costs incurred by the county (§§2922(e) and 2958). This includes, but is not limited to:
 - Advertising
 - Mileage and keeper's fees
 - A fee not exceeding \$15 for each seizure



Tangible Property Seizure and Sale

- **Sale of the Seized Property (cont.)**
 - Preparing the Property for Tax Sale
 - Inventory the property items and determine how they might be offered.
 - Each item may be offered as a separate article
 - One or more items, or all of the items, may be offered as a collective article.



Tangible Property Seizure and Sale

- **Sale of the Seized Property (cont.)**
 - Preparing the Property for Tax Sale
 - Determining Parties of Interest
 - Consult the California Secretary of State office to determine any UCC liens against the property.
 - Review County Recorder's files for other liens.
 - Assemble parties of interest and their respective mailing addresses.



Tangible Property Seizure and Sale

- **Sale of the Seized Property (cont.)**
 - Preparing the Property for Tax Sale
 - Notice of Sale:
 - The date and time of the sale (§2957)
 - The location of the sale (§2957)
 - That the property may be redeemed by the owner up to just prior to being sold at auction (§2959)
 - Publish/Mail the Notice
 - One week prior to sale in newspaper in county or three public places. (§2957)
 - Mail the notice to all parties of interest (§§3701 and 4675)



Tangible Property Seizure and Sale

- **Sale of the Seized Property (cont.)**
 - The Tax Sale
 - Sell the Property at the allotted date and time
 - Once redemption amount has been collected from sale proceeds, release any remaining unsold property to the assessee. (§2962)
 - Any excess proceeds are returned to the owner. (§2961)



Tangible Property Seizure and Sale

- **Sale of the Seized Property**

Case Study #1

Plumas County



Collection Actions for Businesses

Liquor License Hold

Liquor License Hold

- **Definition and Authority**
 - **Liquor License Hold:** The license of a business engaged in either a bulk sale or having delinquent taxes is placed in a status whereby the license cannot be transferred or renewed.
 - **Authority:** Business and Profession Code section 24049 authorizes the ABC [upon notification from the county] to refuse the transfer of [or holding] any license when the applicant is delinquent in the payment of any taxes due on unsecured property.



Liquor License Hold

- **Preliminary Procedures**

- Determine if the business has a liquor license.

- Obtain information from the ABC Website at:
<http://www.abc.ca.gov/dataport/LQSMenu.html>.

- Confirm the license-type number

- Note:** All hold requests will be honored for businesses slated for a bulk sale. For businesses NOT involved in a transfer, the ABC will only accept a hold request for certain license types.



Liquor License Hold

- **Preliminary Procedures (cont.)**
 - Prepare a Notice of Intent to Hold Liquor License (See sample form UNS 5-02)
 - Provide payment deadline
 - Send the form to the sale facilitator involved in the transfer.



Liquor License Hold

- **Secondary Procedures**
 - If the taxes remain unpaid after payment deadline:
 - Prepare a Liquor License Transfer Hold Request
 - Email, Fax, or mail the completed form to the following (See sample form UNS 5-03) :
 - Department of Alcoholic Beverage Control – License Division.
 - The sale facilitator (escrow company, title company, or private party).



Liquor License Hold

- **Concluding Procedures**
 - Once the taxes are paid:
 - Prepare a Liquor License Hold Release Advice.
 - Send a copy of the form to the following (See sample form UNS 5-03) :
 - The Department of Alcoholic Beverage Control.
 - The Owner/sale facilitator/ escrow holder.



Till Tap Levy & Keepers Levy

Till Tap Levy / Keeper's Levy

- **Definition and Authority**

- **Till Tap:** The tax collector or law enforcement officer takes into possession money directly from the cash register.
- **Keeper's Levy:** For larger judgments, the tax collector can contract to leave a "keeper" in charge of the business for up to 24 hours. The "keeper" will collect all the cash and checks that come into the cash register for that day and can also prevent credit card transactions.
- **Authority:** Revenue and Taxation Code section 2951 authorizes the county tax collector to collect delinquent taxes owed by an assessee by seizing any property belonging to that assessee.



Till Tap Levy / Keeper's Levy

- **Profile the business for the following:**
 - Type of Business
 - Seasonal/Transient Businesses best candidates.
 - Potential Jeopardy Seizure Procedure.(§2953)
 - The hours of operation.
 - The hours of highest volume of transaction within the business.
 - Whether the business maintains a cash till.



Till Tap Levy / Keeper's Levy

- **Calculate and estimate the total tax amount owed and consider the following:**
 - If the amount owed is relatively small, initiate the Till Tap Levy procedure.
 - If the amount owed is somewhat large, initiate a Keeper's Levy procedure.



Till Tap Levy / Keeper's Levy

- **Till Tap Procedure**

- Determine the date and hour for till tapping the business.
- Schedule two or three staff to administer the till tap.
- Upon arrival at the business, identify the owner and present her/him with certificate of lien and other delinquency notices previously sent.
- Announce your collection intentions.



Till Tap Levy / Keeper's Levy

- **Till Tap Procedure (cont.)**

- Collect the cash and checks. For checks, request that the owner endorses the checks over to your office.

Note: If collecting checks and the owner refuses to endorse them, you may inform the owner that property seizure will be promptly initiated – the first action being closing the business.

- Upon collection of the total amount, provide the owner with documentation detailing that the taxes paid have been paid in full.



Till Tap Levy / Keeper's Levy

- **Till Tap Procedure**

Case Study #2

Mariposa County



Till Tap Levy / Keeper's Levy

- **Keeper's Levy Procedures**
 - Obtain Court Documents
 - Summary Judgment.
 - Writ of Attachment.
 - Specify the name and address of debtor's business.
 - The writ of execution expires 180 days after the issuance.



Till Tap Levy / Keeper's Levy

- **Keeper's Levy Procedures (cont.)**
 - Upon receipt of the court documents, complete the Levy Upon Debtor's Going Business form.
 - Present the Levy Upon Debtor's Going Business (See Sample form UNS 5-08) and Writ of Attachment to the Sheriff.
 - Once Sheriff collects money and submits it to your office, prepare a payment received letter and send to the business owner.



Collection Actions for Individuals

DMV Stop

DMV Stop

- **Preliminary Procedure**
 - Assemble list of properties that are vessels.
 - After the delinquency deadline is past, cull the initial list created to those vessels that have delinquent taxes.
 - Initiate a 30-day Notice of Intent to place a DMV Stop. (See sample form SCO 2-23).
 - October 15 is DMV deadline to initiate stop.



DMV Stop

- **Initiating the Stop**

- After the 30-day deadline is past, cull the initial list created to those vessels that still have outstanding delinquent taxes.
- Assemble the following information:
 - Vessel number.
 - Tax bill or account number.
 - Owner's last name.



DMV Stop

- **Initiating the Stop (cont.)**
 - Provide the vessel information to the DMV
 - There are three methods by which to transfer the information
 - Online.
 - Paper Form.
 - Batch Process.
 - Once the DMV is notified, a stop is placed on the vessel registration record to prevent renewal or transfer.



DMV Stop

- **Concluding Procedures**

- Once payment is received:

- Contact the DMV and complete the Release Code requirements, which includes either:

- issuing a *Vessel Tax Disposition* (BOAT 120) form to the vessel owner (to submit to the department) **or**
 - updating the department's records and remove the vessel tax hold.

- Upon completion of the release code requirements, the vessel registration can be renewed or transferred.



FTB Offset Program

FTB Offset Program

- **Definition and Authority**

- **FTB Offset Program:** The Franchise Tax Board (FTB) Offset Program (also known as the Interagency Intercept Collections (IIC) program) intercepts (offsets), upon request from an eligible government agency, refunds due to individuals who have delinquent debts owed that government agency.
- **Authority:** Government Code Sections 12419.2-3, 12419.5, and 12419.7-12 authorizes the FTB to operate the IIC program.



FTB Offset Program

- **Preliminary Steps**

- Prepare a REQUEST TO PARTICIPATE. (see sample form FTB 2282)
 - One time requirement. (Check for previous filing)
- Prepare a INTENT TO PARTICIPATE. (see sample form FTB 2282)
 - Annual requirement.
- Assemble delinquent assessee names for stand-by submission to FTB offset program.



FTB Offset Program

- **Secondary Steps**
 - **Submit Request to Participate.**
(State Administrative Manual 877.6)
 - **Submit Intent to Participate .**
(State Administrative Manual 877.6)
 - **Send Pre-intercept letter to tax-delinquent assessesees.** (State Administrative Manual 8790)
 - see sample form UNS 5-05



FTB Offset Program

- **Final Steps**

- Submit an Annual Listing of Accounts for Upcoming Year. (State Administrative Manual 877.6)
 - Assemble required information:
 - » Agency Code – Two-digit code assigned by FTB for your county.
 - » Social Security Number. (authority to obtain - Government Code Section 12419.8 and California Revenue & Taxation Code 408(c) and 19551)
 - » Assessee Name – first four letters.
 - » Debt amount.
 - » Your county's internal control number.



FTB Offset Program

- **Final Steps**

- As payments are intercepted and paid over the course of the year, assemble and submit a Modified Listing of Accounts to reflect any updates. (State Administrative Manual 877.6)



Questions???



Controller *John Chiang*
California State Controller's Office

Contact Information

Ken Press

Property Tax Collections Unit

(916) 445-6022

kpress@sco.ca.gov

SCO Unsecured Collection Resources

http://www.sco.ca.gov/ardtax_unsecured_proptax_collection_manual.html



Controller John Chiang
California State Controller's Office

(Tax collector's letterhead)

SEIZURE FOR TAXES

RE:

Date:

Assesses Name(s)
FEIN or SSN (if available)
Address
City, State, Zip

Acct No.

You are hereby notified that, pursuant to sections 2902, 2903, 2921.5, 2922, and 2951 through 2963 of the Revenue and Taxation Code of California, I hereby seize, on this date, all money, funds, cash, savings, checking accounts, and bank deposits now in your possession and belonging to the above named taxpayer(s).

Note: Penal Code section 428 states: "Every person who willfully obstructs or hinders any public officer from collecting any revenue, taxes, or other sums of money in which the people of this State are interested, and which such officer is by law empowered to collect, is guilty of a misdemeanor."

AS SUCH, PURSUANT TO CALIFORNIA CODE, YOU ARE ORDERED TO TRANSFER FUNDS TO THE TAX COLLECTOR FORTHWITH. Please make the check or money order payable to the _____ County Tax Collector. The total amount due, including costs, is stated below:

Base Tax	_____
10% Penalty	_____
1.5 % Monthly Penalty*	_____
Seizure/Collection/Release Fee	_____
Recording Fee	_____
Less Payments	_____
Total Taxes Currently Due	_____

***An additional 1.5% penalty will be added the first day of each month until paid**

Enclosed please find check in the amount of \$_____ for payment of the above seizure.

___ No account found ___ No funds to remit ___ Account closed prior to seizure request ___ Other

I hereby certify under penalty of perjury that the foregoing is true and correct.

_____, _____ Phone () _____ Dated _____
Signature and Printed Name Title

(Tax collector's letterhead)

RELEASE OF SEIZURE FOR TAXES

Date:

Bank Name
Bank Address

Attn:

Subject: _____ County Treasurer and Tax Collector Bank Account Seizure

Dear _____,

This letter is to notify you that the _____ County Treasurer and Tax Collector's office, is herewith releasing its seizure in the amount of \$_____, dated on _____, and duly served against the account of:

Assessee Name
Assessee Address

Thank you for your assistance in this matter. If you have any questions, please feel free to contact me at _____.

Sincerely,

Treasure and Tax Collector

Tax Collector Investigator

DECLARATION OF INTENT TO SEIZE PROPERTY

TAX COLLECTOR'S OFFICE

_____ COUNTY, STATE OF CALIFORNIA

WHEREAS, _____ has failed and neglected to pay unsecured property taxes in the sum of \$____, and I believe the taxes will not be collectible after the delinquency date, due to: (insert reasons)

Insert reasons here

I hereby give notice and declare that in accordance with provisions of §2953 of the California Revenue and Taxation Code, I am proceeding with SEIZURE of personal property, improvements, or possessory interests belonging or assessed to the assessee named above.

Dated _____, _____

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct

WITNESS my hand and official seal.

Tax Collector

By _____ Deputy

RECORD OF SEIZURE AND SALE

TAX COLLECTOR'S OFFICE

_____ COUNTY, STATE OF CALIFORNIA

Assessee: _____

Assessment No: _____ Value \$ _____ Tax: \$ _____ Tax-Rate Area: _____

Description of property assessed: _____

Location: _____

Written demand made of assessee on: _____, _____
Date Time

Address: _____

Attachments delivered to _____, _____, _____
Date Time

The property seized on _____, _____ is described as follows:
Date Time

Place of sale: _____

Keeper in charge: _____, _____, _____
Name Date Time

Notice posted:

By _____, on _____ at the hour of _____ m.

By _____, on _____ at the hour of _____ m.

By _____, on _____ at the hour of _____ m.

Sale will be held on: _____, _____, at the hour of _____ by _____

Description of property sold: _____

Sold to: _____ Address: _____

Amount paid: \$ _____ Receipt No.: _____

Released to keeper on _____, _____
Time Date

Amount of tax and penalties: _____ \$ _____

Costs: General seizure fee _____ \$ _____

Mileage: _____ at _____ per mile _____ \$ _____

Keeper's fee: _____ at _____ per day _____ \$ _____

Advertised in _____ on _____ \$ _____

Total \$ _____

Excess deposited in trust account \$ _____

DO NOT REMOVE THIS NOTICE

Penal Code Section 428 States: "Every person who willfully obstructs or hinders any public officer from collecting any revenue, taxes, or other sums of money in which the people of this State are interested, and which such officer is by law empowered to collect, is guilty of a misdemeanor."

(This statement above for posted notice only)

NOTICE OF PUBLIC AUCTION OF SEIZED PROPERTY

Made pursuant to Section 2957, Revenue and Taxation Code

_____ COUNTY TAX COLLECTOR'S OFFICE

STATE OF CALIFORNIA

By reason of the failure to pay unsecured taxes levied to _____ and duly assessed for the years _____ in the sum of \$_____, notice is given that the _____ County tax collector will sell at public auction all or a portion of the property described as follows:

PROPERTY TO BE SOLD:

DATE AND TIME OF SALE:

LOCATION OF SALE:

MINIMUM BID: (optional)

TERMS OF SALE: (cash, money order, cashier's check, etc.)

INSPECTION OPPORTUNITY:

THE ASSESSEE'S RIGHT TO PAY THE AMOUNT DUE TO PREVENT THE SALE TERMINATES ONCE THE HIGH BID IS RECEIVED. IF THE PROPERTY IS NOT SOLD, THE RIGHT OF REDEMPTION IS REVIVED.

The property will be awarded to the highest bidder.

The county tax collector will transfer said property to the purchaser, with a bill of sale, upon receipt of payment of the amount of the bid. Title shall thereupon vest in the purchaser, subject to the rights of any prior lienholders of record. Any costs of handling, storage or transportation of the purchased property after the time of sale will be borne wholly by the purchaser, and no warranty of the property's condition or utility is made or implied by the county. The title to the property being sold by the tax collector, as well as the right of possession, may be subject to the rights of any prior lienholders of record.

After satisfaction of all taxes and related charges, including costs of conducting the auction, any remaining proceeds will be deposited in the county treasury, subject to claim by the person who owned the property just prior to its auction or his/her successor in interest. Any such excess not claimed within three years from the date of the sale becomes the property of the county.

(Signed)

_____ County Tax Collector

Date: _____

Address: _____

City: _____ State: ____ Zip: _____

Phone: _____

TREASURER AND TAX COLLECTOR
COUNTY OF _____, STATE OF CALIFORNIA

Date: _____
Name: _____
Attention: _____
Address: _____
City: _____

NOTICE!

A public auction will be held on _____ at _____ to sell property seized by the _____ County Treasurer and Tax Collector to satisfy delinquent taxes owed by _____

REQUEST FOR ADMINISTRATIVE HEARING

You are hereby notified that you have a right to an administrative hearing **prior** to the above referenced auction to contest the sale of the following property for delinquent taxes:

Description: _____

If you wish to avail yourself of this right, you must contact this office in writing or by returning this form, signed, with the appropriate box checked below no later than _____. **Failure to do so by the aforementioned date will be considered a waiver of your right to a hearing and the property described above will be sold without further notice to you.** Should you request a hearing, you will be notified by Certified Mail of the date, time and location of the hearing.

_____, Treasurer and Tax Collector
Name of Tax Collector

By: _____, Deputy

I REQUEST / DECLINE A HEARING

I the undersigned, hereby Request _____ Decline _____ an administrative hearing as explained above. I understand that failure to request an administrative hearing will be considered a waiver of my right to dispute the sale of my property. I further understand that failure to attend a requested administrative hearing, without substantial and significant reason, will result in the sale of the subject property without further notice to me.

Return this notice to the _____ County Tax Collector's Office.

Dated: _____ Signed: _____

**TREASURER AND TAX COLLECTOR
COUNTY OF _____, STATE OF CALIFORNIA**

Date: _____

Name: _____

Attention: _____

Address: _____

City: _____

NOTICE!

A public auction will be held on _____ at _____ to sell property seized by the _____ County Treasurer and Tax Collector to satisfy delinquent taxes owed by _____

ADMINISTRATIVE HEARING NOTICE

Hearing Date: _____

Time: _____

You are hereby notified that an administrative hearing will be held on the date and time noted above at the _____ County Treasurer and Tax Collector's office, located at _____, _____, California _____ to determine if there is any reason why the following described property should not be sold at public auction.

Description:

Your failure to attend the scheduled administrative hearing without notifying the _____ County Treasurer and Tax Collector prior to the hearing will result in the sale of the subject property without further notice to you. The circumstance(s) of any reported inability to appear must be substantial and significant.

_____, TREASURER AND TAX COLLECTOR

By: _____, DEPUTY

(Tax Collector's Letterhead)

NOTICE OF INTENT TO HOLD LIQUOR LICENSE

Date

Assessee/Business Name
Address

Pursuant to Business and Professions Code Sections 23815 et al. and 24049, a notice of hold will be filed with the Department of Alcoholic Beverage Control (ABC) for the non-payment of Unsecured Property Taxes.

The hold will be filed on ____ (date)_____.

In order to prevent the filing, the tax amount of \$_____ must be remitted on or before_____.

Only cash, money order, or certified funds will be accepted and must be received at:

_____, **Treasurer-Tax Collector**
County Address

If you have any questions, please contact our office at:

Sincerely,

_____, Treasurer-Tax Collector

By: _____
, Tax Collector Investigator

(Agency's Letterhead)

LIQUOR LICENSE HOLD REQUEST

Date:
Account No.:

Department of Alcoholic Beverage Control
3810 Rosin Ct, Suite 150
Sacramento, CA 95834

Re: _____, Licensee

The above-named licensee is indebted to _____ County for the lien of delinquent unsecured personal property taxes due under the provisions of the California Revenue and Taxation Code. You are requested to withhold transfer or renewal of any liquor license of the above-named licensee under the provisions of Business and Professions Code section 24049, pending release from this office.

Should you receive an application for the transfer or renewal of the license, please furnish the information for the items shown below so that we may notify the persons concerned.

We will release the withhold transfer as soon as this tax lien has been paid.

Transferee Name: _____

Transferee Address: _____

ABC File No.: _____ Liquor License No.: _____

Escrow Agent (if applicable): _____

Date Application for Transfer
Filed: _____

District Administrator,
ABC: _____

(Tax Collector's Letterhead)

LIQUOR LICENSE HOLD – RELEASE ADVICE

Date:
Account No.:

Department of Alcoholic Beverage Control
3810 Rosin Ct., Suite 150
Sacramento, California 95834

Administrators:

Please release our hold against the liquor license transfer/renewal involving the licensee named herein.

_____, Licensee
_____, Transferor
_____, Transferee

ABC File No. _____

Liquor License No. _____

Thank you,

_____, County Tax Collector

By: _____, Deputy

(Levy upon Debtor's Going Business)

INSTRUCTIONS TO THE SHERIFF OF THE COUNTY OF _____

The Sheriff must have written, signed, instructions by the attorney for the creditor, or the creditor if he / she has no attorney in accordance with CCP 262; 687.010.

_____ vs. _____ Case No. _____
Plaintiff Defendant

If the writ contains multiple debtors, please indicate which debtor (s) is the owner of the going business: _____

SECTION I (Property)

YOU ARE INSTRUCTED TO LEVY ON THE JUDGMENT DEBTOR'S BUSINESS AS FOLLOWS:

(check only one box - 1, 2 or 3)

- 1. [] CONDUCT "TILL TAP" ONLY by taking immediate custody of CASH/CHECK PROCEEDS FROM SALES ONLY from the cash register or usual money receptacle at the business. (Section II below not required for this action)
2. [] PLACE A KEEPER in the judgment debtor's business for the period of time indicated in Section II (below), for the purpose of taking custody of CASH / CHECK PROCEEDS FROM SALES ONLY pursuant to Section 700.070(c) of the Code of Civil Procedure.
3. [] PLACE A KEEPER in the judgment debtor's business for the period of time indicated in Section II (below), for the purpose of taking custody of CASH/CHECK PROCEEDS FROM SALES AND TANGIBLE PERSONAL PROPERTY in the manner prescribed by the law. At the end of the keeper period, or if, pursuant to CCP 700.070(b)(1), the judgment debtor objects to the placement of the keeper (check only one of the boxes below - A or B) ...
A. [] Seize all cash and checks, release all other tangible property, release the keeper and leave.
B. [] Seize cash and checks, inventory, move, store, and sell tangible personal property as directed by the judgment creditor, in the manner prescribed by law. NOTE: A minimum deposit of \$_____ is required pending further quotation. Pursuant to 685.100 of the Code of Civil Procedure, the levying officer will not take exclusive custody of property unless the judgment creditor has deposited sufficient sum money to pay costs of moving and storage.

SECTION II (Keeper period)

THE KEEPER IS TO BE INSTALLED IN THE BUSINESS FOR A PERIOD OF:

(check one box only)

4 [] 12 [] 24 [] hours each day for _____ day (s).

SECTION III (Business information)

_____/_____/_____
Name of Business/ Address/ City

Business hours are _____ a.m. to _____ p.m., Days closed _____

NOTICE: ALL COMMUNICATIONS, REFUNDS, AND COLLECTIONS WILL BE MADE TO THE NAME AND ADDRESS LISTED BELOW: (Please Print)

Accept \$ _____ plus levy costs and interest to satisfy this case.

Signature of attorney (or creditor without an attorney)

Date

PRINT Name and Address of attorney (or creditor without an attorney)

TEL () _____ EXT. _____ FAX () _____

**NOTIFICATION LETTER TO ASSESSEE ON TAX DELINQUENT VESSELS
(Rev. & Tax. Code, §3205)**

VESSEL NUMBER: _____ ASSESSEE: _____

TAX ACCOUNT NUMBER: _____ ADDRESS: _____

Your name will be submitted to the California Department of Motor Vehicles to withhold renewal of your certificate number for the vessel referred to above, because you have failed to pay taxes on said vessel to _____ (county name) _____. This procedure is in addition to standard county delinquent property tax collection procedures and will increase the amount you owe by the cost involved.

Vehicle Code section 9880 restricts the Department of Motor Vehicles from renewing the certificate number of a vessel if the county tax collector has notified the department, pursuant to Revenue and Taxation Code section 3205, that taxes levied upon the vessel are delinquent. The Department of Motor Vehicles will not renew a certificate number until the delinquency has been satisfied.

Contact: _____
Name

Address

Phone number

By: _____, _____
Date

Initial Request to Participate

Interagency Intercept Collections Program

Date:

DIVISION OF ACCOUNTING & REPORTING
BUREAU OF STATE TAX ADMINISTRATION
ATTN OFFSET COORDINATOR
OFFICE OF THE STATE CONTROLLER
PO BOX 942850
SACRAMENTO CA 94250-5880

FAX: 916.327.2563

The _____ requests authorization to participate
(Agency/College)

in the Interagency Intercept Collections Program beginning with the 20__ process year.

We are a:

State Agency:

The debts for which we are requesting intercept services are similar to those specified in California Government Code sections 12419.5, 12419.10, and 12419.11 for debts owed to state agencies. In addition, these debts meet the requirements defined in State Administrative Manual Sections 8790.1 through 8790.8

University:

The debts for which we are requesting intercept services are similar to those specified in California Government Code sections 12419.7 for financial obligations due a college or college districts and section 12419.9 for amounts dues an accredited post-secondary educational institution. These intercept services may be for delinquent registration, tuition, and other fees due to bad checks or library fines. In addition, these debts meet the requirement defined in State Administrative Manual Sections 8790.1 through 8790.8

City or county agency:

The debts for which we are requesting intercept services are similar to those specified in California Government Code sections 12419.8 and 12419.10 for county debts, such as delinquent taxes and penalties, fines, bails, vehicle parking penalties or court-order reimbursements.

See the attached copy of the Pre-Intercept Notice. This notice informs our debtors that their funds will be intercepted to pay delinquent debts owed to our agency/college

Check all boxes below to indicate the type of debt(s) you intend to submit to the Intercept program

Dishonored
Checks

Fees

Fines

Parking

Judgments

Taxes

Tuition

Insurance

Unpaid
Services

Overpayment

Other

Executive Officer/Director
(Signature required)

Telephone number: _____

INTENT TO PARTICIPATE

(Complete both sides of this form, sign, and either fax or mail it to us)

Agency type: State College City County

1. Agency name _____
Division/branch _____

2. Agency code _____
(Enter the two-digit code assigned to your agency by FTB)

3. Process year 20 ____

4. Public contact unit. (Provide an **address and phone number for your debtors** to contact you directly.)

If your agency permits in-person inquiries regarding debts, provide a street address and include the floor, room, and/or suite number. For agencies that do not have a public contact window, provide a post office box.

Please check this box if the public contact unit is a collection agency/service

Agency name _____

Unit name _____

Room/suite/floor _____

City _____

State _____ Zip code _____

Telephone(____) _____ Ext. _____

5. FTB Intercept Program liaisons:

Provide the names and direct telephone numbers of up to three individuals we may contact to resolve issues or obtain account information. These individuals should be authorized to make requests for intercept services.

(Note: Do not list a collection agency's contact person in this portion; only the authorized participating agency's contact(s) should be listed here.)

a) Name _____

Position _____

Telephone (____) _____ Ext. _____

Email address _____

(Email addresses may be provided to the State Controller's Office for billing purposes)

b) Name _____

Position _____

Telephone (____) _____ Ext. _____

Email address _____

c) Name _____

Position _____

Telephone (____) _____ Ext. _____

Email address _____

6. Include your agency address to send intercept listings, warrants, fund transfers, media submissions, and billings:

Agency name _____

Unit name _____

Address _____

Room/suite/floor _____

City _____

State _____ Zip code _____

Contact name _____

Telephone(____) _____ Ext. _____

Email address _____

FAX number (____) _____

7. Select your agency type (one only):

State agency of college:
Complete either **A, B, or C**. The State Controller will credit the intercepts accordingly

A. General checking account number
_____ (Three-digit number)

B. Special Fund Name: _____
(Fund#) (Org. Code)

State Controller's account number: _____
(Contact your accounting office for this number.)

C. Warrant

City or county agency

A warrant will be issued to your agency listing the intercept fund sent to you.

AGENCY CERTIFICATION

(Must be signed and completed in full)

This document notified FTB that the _____ AGENCY/COLLEGE _____ plans to participate in the Interagency Intercept Collections program for the 2008 process year. In doing so, I certify that all debts submitted for the offset comply with the following Government Code Sections (please mark one):

State agencies and colleges — 12419.5, 12419.7, 12419.9, 12419.10 and 12419.11

County and city agencies — 12419.8 and 12419.10

I also certify that the _____ AGENCY/COLLEGE _____ agrees to pay administrative costs to the California State Controller's Office for processing these offset accounts, and that I am authorized to request services on behalf of the agency/college.

In addition, I certify that all records, copies, files, and media submissions received by the _____ AGENCY/COLLEGE _____ shall be destroyed in a manner acceptable to FTB. The

_____ AGENCY/COLLEGE _____ will notify FTB when the records are destroyed. Approved destruction methods that permanently render data unreadable and unusable include:

- Degaussing and magnetizing disks.
- Damage to disks that prevents their use in any disk drive.
- Criss-cross shredding of the shreds are 5/15 inch or smaller.

I further agree that our agency/college's fax signatures sent to FTB should be treated as original signatures.

Signature _____ Date _____

Title _____ Telephone _____

❖ ***FTB will not send or receive taxpayer social security numbers via regular Email. Please do not use regular Email to request sensitive taxpayer information. However, to register for secured Email, contact our intercept liaison at (916) 845-5344.***

(tax collector's letterhead)

PRE-INTERCEPT NOTICE

Date

Name
Address
City, State, Zip

Acct No.
Bill No.
Tax Year

RE: Pre-Intercept Notice

Dear _____ :

We are writing to notify you that our office is contacting the State of California Franchise Tax Board to submit your name into the Interagency Intercept Collections program.

This collections program is designed to intercept any money that the state may owe an individual and instead apply the money toward any delinquent personal property taxes and any associated penalties and interest that said individual may owe to the county.

As such, once your name is submitted, if you are owed a tax refund or win a California Lottery prize, the Franchise Tax Board will prevent the money from disbursing to you and instead apply it toward the amount you owe the county.

California Government Codes sections 12419.8 and 12419.10 authorize the State Controller's Office to collect money owed to county, or any other government entity, by intercepting any money that the state owes an individual. This includes tax refunds or state lottery winnings.

Our records show that the total amount now due and payable to the County of _____ for delinquent taxes and associated penalties and interest is \$_____. You have 30 days to pay voluntarily before we submit your name to the Franchise Tax Board for an intercept.

If you have any questions concerning the nature of this liability, please contact us within 30 days of the date of this notification. If you object to this action, a county representative will review your case upon receipt of your written objection. If you submit no objection in writing, or if we consider your objection to be insufficient; we will proceed with this action.

Sincerely,

(Tax Collection Signatory)
(Title)

Investing in Your Local Economy

California Treasurer and Tax Collector's Association
Education Conference
October 11, 2012

Jenine Windeshausen, Placer County Treasurer-Tax
Collector

What's in your Portfolio?

- Agency Debt? Corporate Bonds?
- Government Code Section 53601

Government Code 53601

- ▶ **Debt issued by your County (a)**
- ▶ US Treasuries
- ▶ Notes and Warrants of California or any other State
- ▶ **Debt issued by local government entities in California (e)**
- ▶ Debt issued by Federal Agencies and Government Sponsored Enterprises
- ▶ Banker's Acceptances
- ▶ Commercial Paper
- ▶ Negotiable CDs
- ▶ Repurchase Agreements
- ▶ Securities Lending Agreements
- ▶ Medium Term Notes
- ▶ Mutual Funds
- ▶ Mortgage Backed Securities

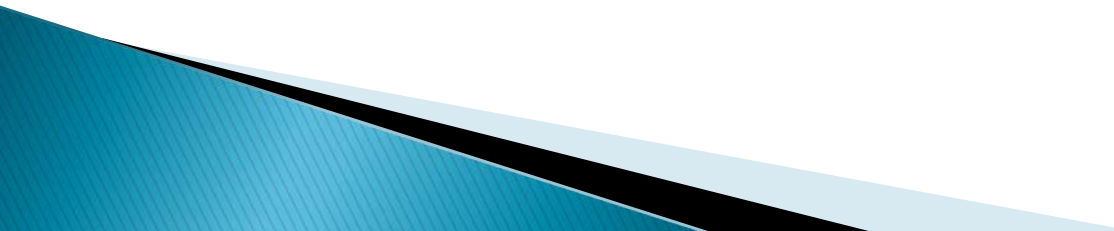
Who's money is it?

Local Government?

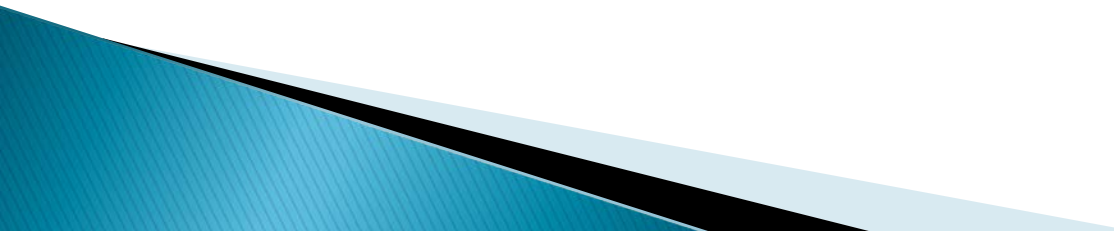
Taxpayers!



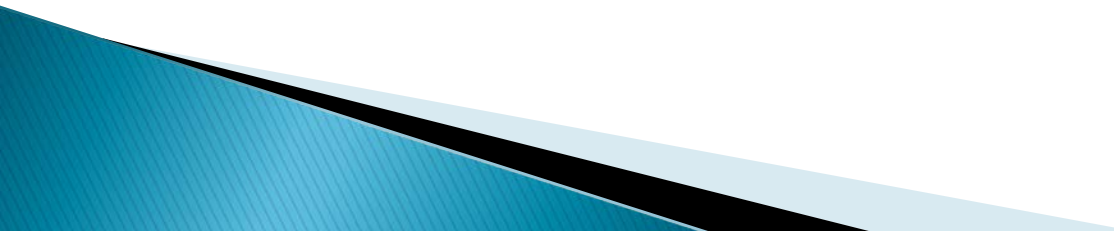
Local Government Entities

- ▶ County
 - ▶ Schools
 - ▶ Cities
 - ▶ Special Districts
- 

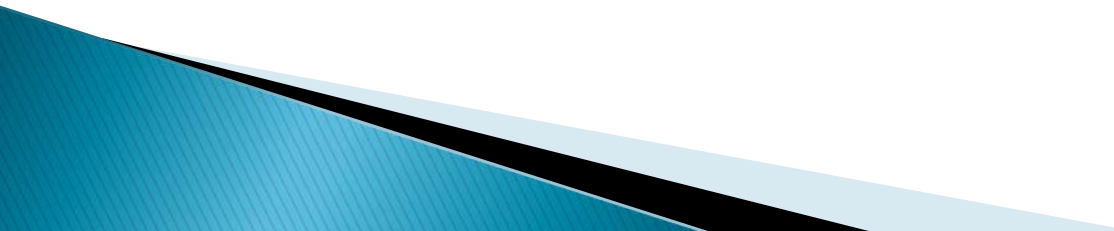
Types of Projects

- ▶ County infrastructure and equipment leases
 - ▶ Small School District Financing
 - ▶ Bridge Loans for infrastructure w/delayed State funding
 - ▶ Emergency cash flow (schools)
- 

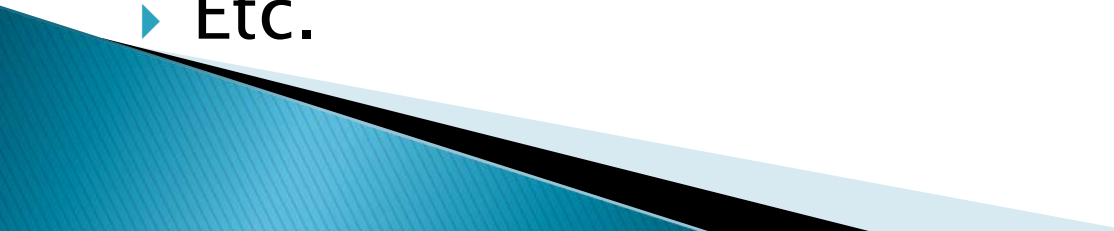
Types of Debt

- ▶ Dry Period Financing
 - ▶ TRAN
 - ▶ Revenue Bonds
 - ▶ COPs
 - ▶ Lease Purchase
- 

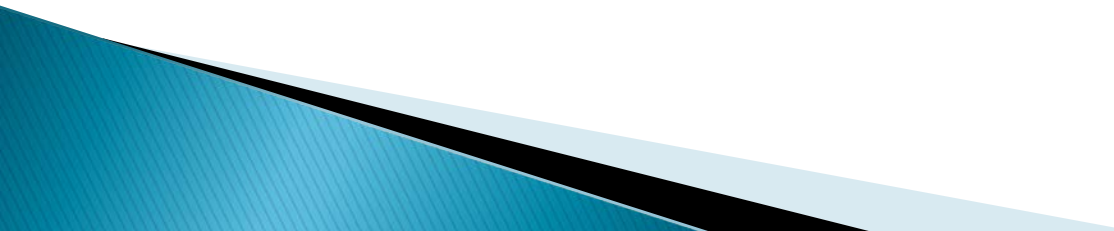
Who's watching

- ▶ Rating Agencies
 - ▶ Outside Auditors
 - ▶ TOC
 - ▶ Depositor's
 - ▶ Tax Payer Groups
 - ▶ The issuance should be in standard form for ease of review and understanding.
- 

Standard Process and Documentation

- ▶ Letters of Representation
 - ▶ Indenture
 - ▶ Purchase contract
 - ▶ Note or Bond
 - ▶ Etc.
- 

Due Diligence

- ▶ Project feasibility (do you need outside professional analysis?)
 - ▶ Security
 - ▶ Fiduciary responsibility to depositors
 - ▶ Take advantage of the market disparity to determine the interest rate
- 

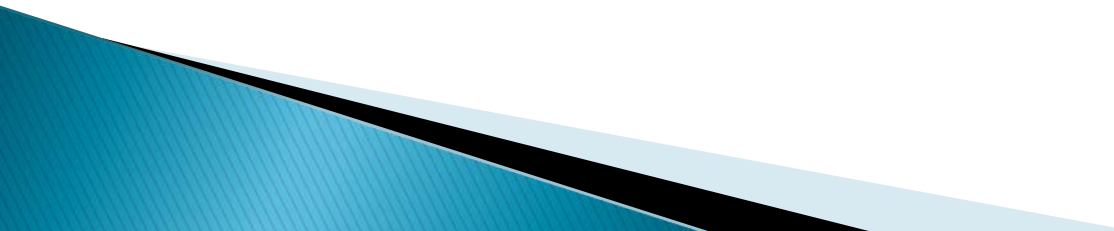
Who can/should help?

- ▶ County Counsel
- ▶ Bond Counsel
- ▶ Financial Advisor
- ▶ Technical Advisors (Engineers, Architects)

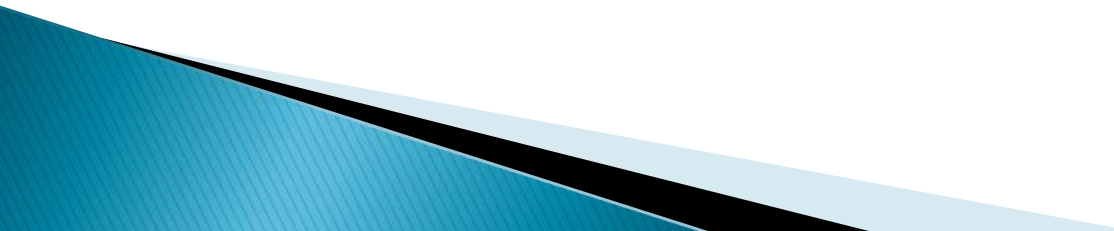
What is their professional opinion?



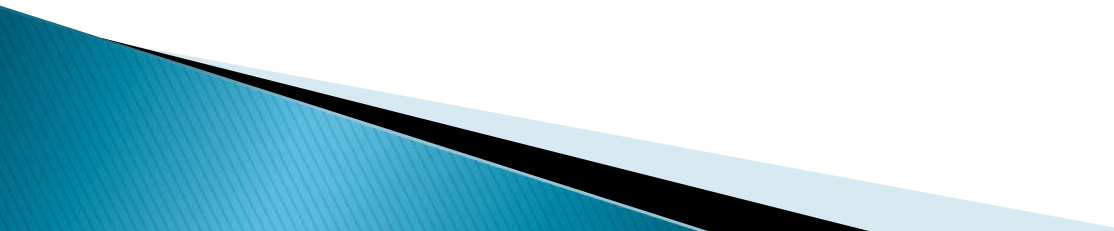
Be innovative to create the win/win

- ▶ Credit line structure
 - To avoid CABs
 - ▶ Step structure
 - To accommodate cash flow
 - ▶ No prepayment penalty
 - ▶ Reduce Cost of financing
- 

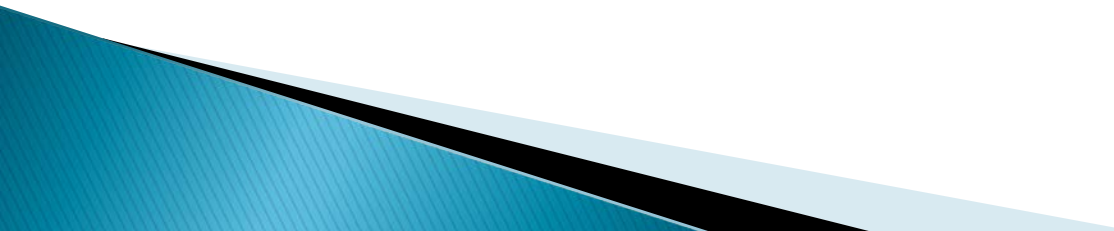
How much can you invest?

- ▶ Safety
 - ▶ Liquidity
 - ▶ Yield
 - ▶ Diversification
- 

What's the impact?

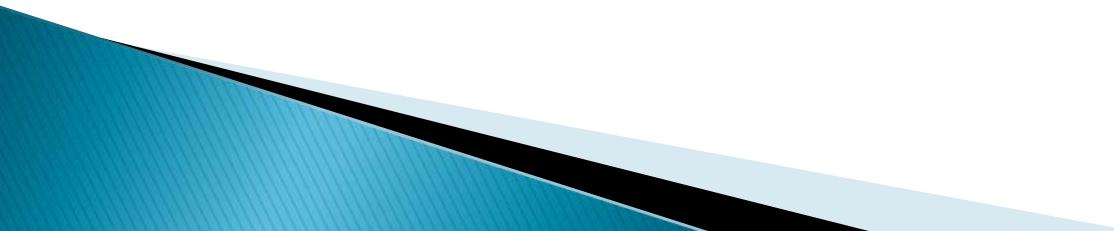
- ▶ What is the Combined Value of Treasury Portfolios?
 - ▶ What kind of impact could this have on the California economy?
 - Jobs
 - Economic growth and recovery
 - Increased public service and infrastructure
- 

Examples

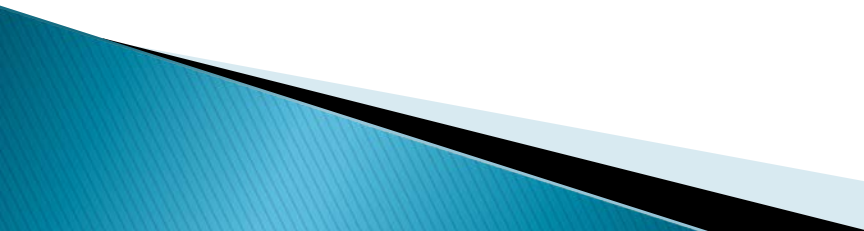
- ▶ Colfax, wastewater, interim financing (Note)
 - ▶ Rocklin USD, school construction, gap financing (Note)
 - ▶ Middle Fork Hydroelectric System relicensing and capital improvements (Revenue Bonds)
 - ▶ County, Helicopter(Lease Purchase)
 - ▶ Newcastle School Dist. (GO refi)
 - ▶ mPOWER Placer – PACE assessment bonds
- 

Relationships

Can you, will you transcend local politics for local benefit and greater good?



Jenine's Quotes:

- ▶ *“I'd rather do business with Main Street than Wall Street”*
 - ▶ *“I like to invest in Main Street and sell to Wall Street”.*
 - ▶ *“The next economy is not about trickle-up or trickle-down, but about regional collaboration and leveraging local resources to create a “ripple-out effect” in regional economies.”*
- 

Thank you!

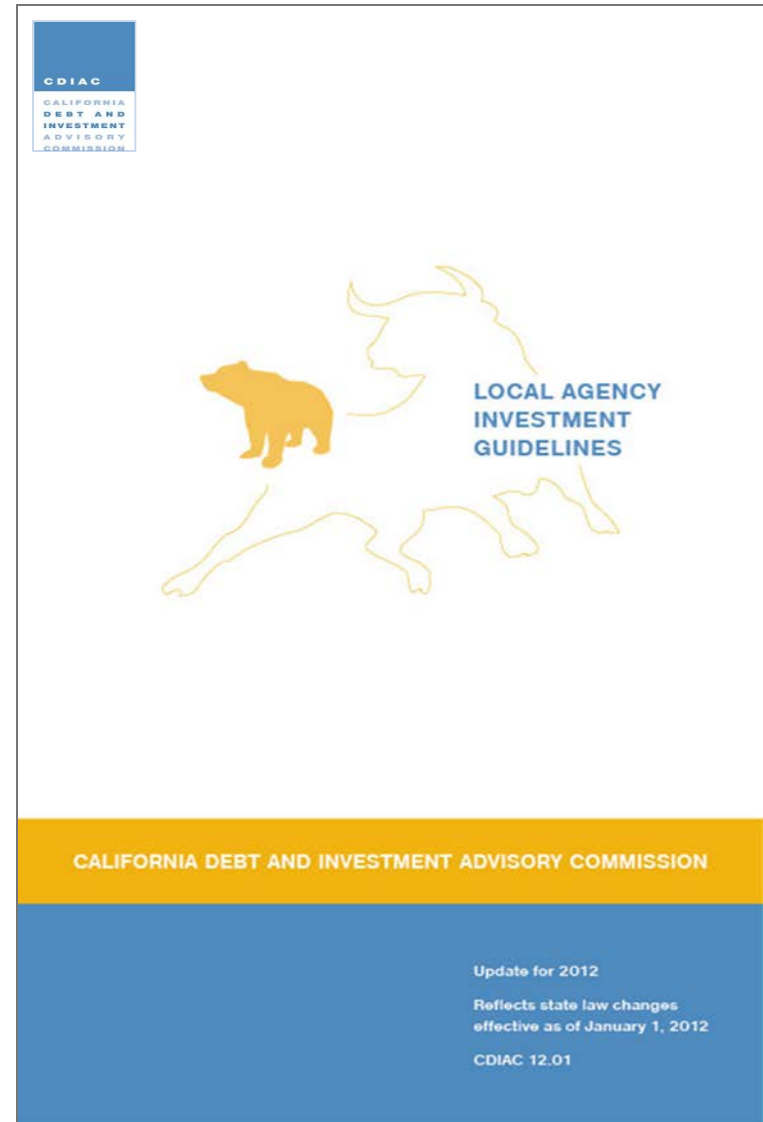
Comments/Questions



Government Code Section 53601 (a, b, c?)

No statutory authority to “loan” money

California Debt and
Investment Advisory
Commission
**Local Agency
Investment Guidelines**
(LAIG)



- Background and History
- Report Layout
- Review and Annual Update Process
- Communication and Access to Report
- Major Changes Over Past 5 Years

Background

- **Events**

- 1994 - Orange County Bankruptcy

- **Legislation**

- 1995 numerous changes to the Government Code

- Restricted permissible investments and promoted increased oversight

- **Implementation**

- Laws difficult to interpret
 - Established Stakeholder workgroup to sort out
 - CDIAC Local Agency Investment Guidelines product of that effort
 - In existence and administered by CDIAC since 1996

Six (6) major sections to LAIG

- 1) Summary of Statutory Changes
- 2-5) Four (4) Chapters
 - Investment Policy*
 - Fund Management*
 - Reporting Requirements*
 - Treasury Oversight Committees*
- 6) Complete Listing of Government Code Related to Local Agency Investing

Chapter I – Investment Policy

- Requirements for the rendering and approval of an investment policy
- Contents of the policy
- Frequency of updates and approvals
- Distinction between counties and other local agencies

Chapter II – Fund Management

- Permissible investments
- Rules regarding certain investments
- Requirements of depository institutions and fiduciaries in which local agency funds are invested

Layout - Chapters

Provides a listing of permissible investments, including:

- Maturity
- Maximum Percent of Portfolio
- Credit Quality Requirements

INVESTMENT TYPE	MAXIMUM MATURITY ^c	MAXIMUM SPECIFIED % OF PORTFOLIO ^p	MINIMUM QUALITY REQUIREMENTS
Local Agency Bonds	5 years	None	None
U.S. Treasury Obligations	5 years	None	None
State Obligations—CA And Others	5 years	None	None
CA Local Agency Obligations	5 years	None	None
U.S Agency Obligations	5 years	None	None
Bankers' Acceptances	180 days	40% ^g	None
Commercial Paper—Select Agencies ^f	270 days	25% of the agency's money ^g	"A-1" if the issuer has issued long-term debt it must be rated "A" without regard to modifiers ^h
Commercial Paper—Other Agencies ⁱ	270 days	40% of the agency's money ^j	"A-1" if the issuer has issued long-term debt it must be rated "A" without regard to modifiers ^h
Negotiable Certificates of Deposit	5 years	*	None
CD Placement Service	5 years	30% ^k	None
Repurchase Agreements	1 year	None	None
Reverse Repurchase Agreements and Securities Lending Agreements	92 days ^l	20% of the base value of the portfolio	None ^m
Medium-Term Notes ⁿ	5 years	30%	"A" Rating
Mutual Funds And Money Market Mutual Funds	N/A	o	po
Collateralized Bank Deposits	5 years	None	None
Mortgage Pass-Through Securities	5 years	20%	"AA" Rating ^q
Bank/Time Deposits	5 years	None	None
County Pooled Investment Funds	N/A	None	None
Joint Powers Authority Pool	N/A	None	Multiple ^s
Local Agency Investment Fund (LAIF)	N/A	None	None

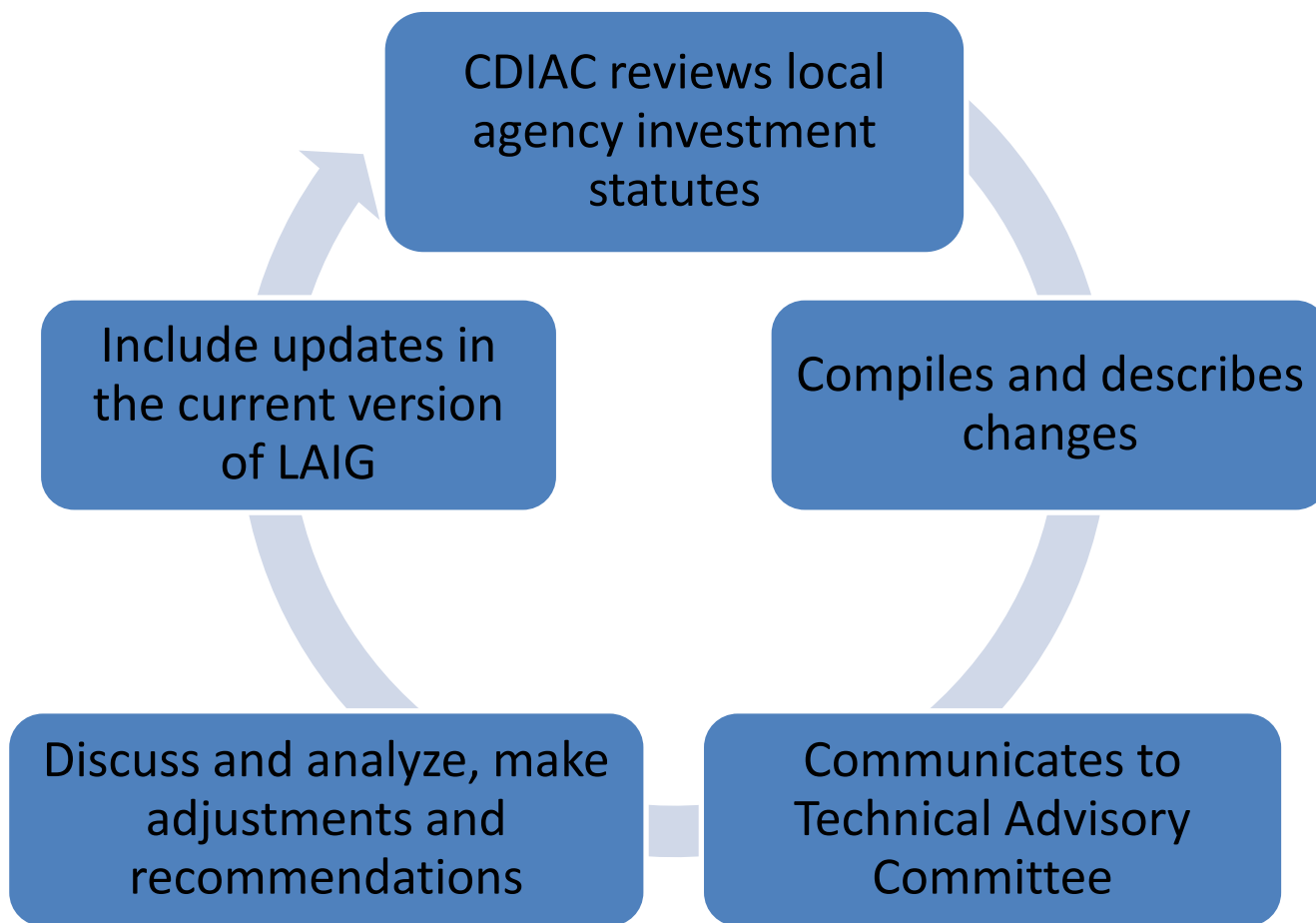
Chapter III – Reporting Requirements

- Requirements for an Investment Report
 - County versus Other
 - Portfolio versus Transaction Reports
- Contents of Report
 - Valuation Measures
 - Cash Flow Forecasting
- Frequency of Reporting
 - Quarterly versus Monthly

Chapter IV – Treasury Oversight Committees

- Requirements for an Oversight Committee
 - Participants (Expertise)
 - Structure (Public / Private / Both)
- Roles and Responsibilities
 - County Treasurer
 - Monitoring / Auditing / Compliance

Review and Update



Schedule of Publication

- **Published in March following the end of calendar year. (ex. 2012 March 2013)**
- **PDF file that can be accessed on the CDIAC website at www.treasurer.ca.gov/CDIAC/LAIG**
- **Update is communicated via ListServe**
- **Questions and comments of the current version can be directed to CDIAC staff at CDIAC@treasurer.ca.gov**
- **Research staff dedicated to providing technical assistance to local agencies on a variety of questions**

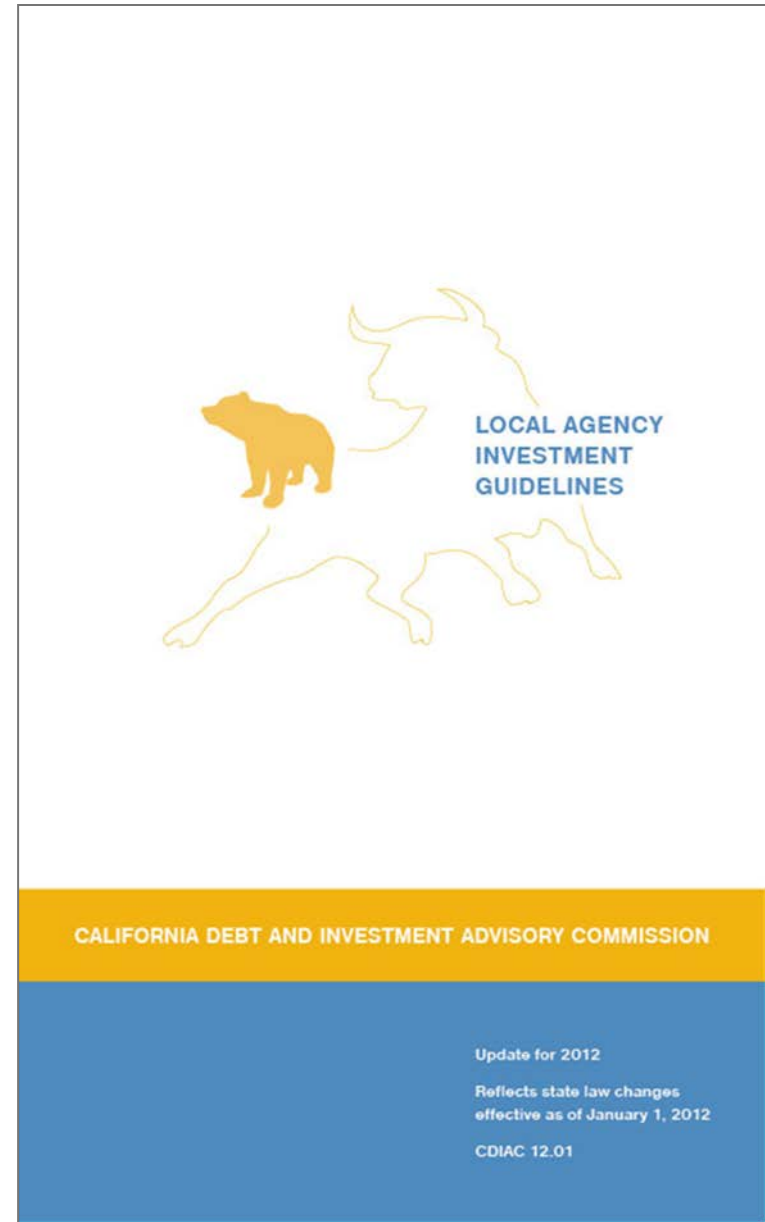
Local Agency Investment Guidelines Major Updates Last 5 Years

Year	Section	Change
2007	Sections 53601.8 and 53635.8:	These new sections authorize, until January 1, 2012, the investment of up to 30 percent of a local agency's surplus funds in certificates of deposit at a commercial bank, savings bank (savings and loan association), or credit union that uses a private sector entity that assists in the placement of certificates of deposit under specified conditions.
2008	SECTION 53601 (d):	Effective January 1, 2008, this new subdivision authorizes local agencies to invest in registered treasury notes and bonds issued by any of the other 49 states in addition to California.
2009	SECTION 53646	The requirement that cities and counties submit copies of investment policies to the commission has been deleted.
2011	SECTION 53601.7	Section 53601.7 expired due to a January 1, 2011 sunset provision.
	SECTIONS 53601.8 AND 53635.8	A sunset provision that would have prohibited the use of CD placement services (CDARS) after January 1, 2012 was deleted.

2012 Changes in Suggested Reporting

	Recommendation		Justification
	2011	2012	
53646	No Recommendation on Submission to Legislative Body	No Recommendation on Submission of monthly report to Legislative Body	Increased Disclosure Public Good Fiduciary Duty Better Management
53607	Added recommendation that agency treasurers submit a QUARTERLY report to their legislative body.	Added recommendation that agency treasurers <i>with delegated authority</i> to submit a MONTHLY report of transactions to their legislative body. This report is separate and distinct from QUARTERLY investment report suggested under 53646.	53607 specifically requires this report. Format of report is up for interpretation. (All transactions, brokerage statements, LAIF statements). Needs discussion between treasurer and legislative body.

Thank You



CALIFORNIA DEBT AND INVESTMENT ADVISORY COMMISSION

Update for 2012

Reflects state law changes
effective as of January 1, 2012

CDIAC 12.01

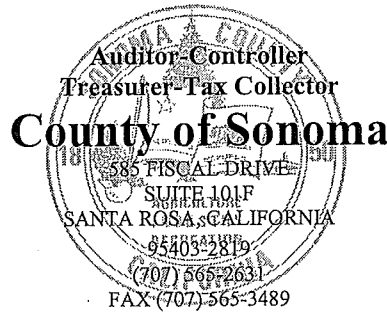
LOCAL AGENCY INVESTMENT GUIDELINES UPDATE

Federal Tax Restrictions

Tax-Exempt Bond Proceeds and Build America Bonds have federal tax restrictions on investment and expenditure

- Yield Restriction / Arbitrage Rebate
- Market Pricing of Investments
- Recordkeeping
- Comingled Funds
- IRS Audits – More Frequency
- Watch Buying Own Bonds

RODNEY A. DOLE
AUDITOR-CONTROLLER
TREASURER - TAX COLLECTOR



DONNA M. DUNK
ASSISTANT
AUDITOR-CONTROLLER

ROBERT BOITANO
ASSISTANT
TREASURER

PAM JOHNSTON
ASSISTANT
TAX COLLECTOR-AUDITOR

Vacation Rentals USA thru November 30, 2009

Quarter	Type	Tax	Interest & Penalties	Lien Fee	Payments	Amount Due
Oct-Dec 2007	TOT	\$ 51,930.49	\$ 12,938.89	\$ 12.00	\$ (47,397.86)	\$ 17,483.52
Jul-Sept 2008	TOT	\$ 76,388.31	\$ 28,634.54	\$ 12.00	\$ -	\$ 105,034.85
Oct-Dec 2008	TOT	\$ 49,192.78	\$ 16,491.58	\$ 12.00	\$ -	\$ 65,696.36
Jan-Mar 2009	TOT	\$445,500.00	\$129,210.00	\$ 12.00	\$ -	\$ 574,722.00
Apr-June 2009	TOT	\$ 37,298.70	\$ 9,150.23	\$ 121.00	\$ -	\$ 46,569.93
Jul-Sept 2009	TOT	\$ 63,010.89	\$ 7,246.25	\$ 12.00	\$ -	\$ 70,269.14
Jan-Mar 2009	BIA	\$ 99,000.00	\$ 28,710.00	\$ -	\$ -	\$ 127,710.00
Oct-Dec 2008	BIA	\$ 10,931.73	\$ 3,826.14	\$ -	\$ -	\$ 14,757.87
Jul-Sept 2008	BIA	\$ 16,975.18	\$ 6,705.20	\$ -	\$ -	\$ 23,680.38
Apr-June 2009	BIA	\$ 8,288.60	\$ 2,030.71	\$ -	\$ -	\$ 10,319.31
Jul-Sept 2009	BIA	\$ 14,002.42	\$ 1,610.28	\$ -	\$ -	\$ 15,612.70
Total						\$1,071,856.06
BIA						\$ 192,080.26
TOT						\$ 879,775.80

Auditor-Controller
Treasurer-Tax Collector

County of Sonoma

585 FISCAL DRIVE
SUITE 101F
SANTA ROSA, CALIFORNIA
95403-2819
(707) 565-2631
FAX (707) 565-3489

RODNEY A. DOLE
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TREASURER - TAX COLLECTOR

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ASSISTANT
AUDITOR-CONTROLLER

ROBERT BOITANO
ASSISTANT
TREASURER

PAM JOHNSTON
ASSISTANT
TAX COLLECTOR -AUDITOR

“Claim attachment sheet”

“This claim is a secured tax claim secured by a statutory lien under California state law. The claim is secured under 11 U.S.C. Section 506. This claim is subject to interest under California Revenue and Taxation Code Section 2103, 11 U.S.C. 506 and Section 511.

The claim will continue to increase and interest will continue to accrue until it is paid”.

1 LAW OFFICES OF MIKEL D. BRYAN, P.C.
MIKEL D. BRYAN (SBN 84010)
2 550 Doyle Park Drive
Santa Rosa, California 95405
3 (707) 528-1231
Fax: (707) 528-3143

4 Attorney for Defendant

5
6 Barry S. Glaser (SBN 70968)
bglaser@swjlaw.com
7 STECKBAUER WEINHART JAFFE, LLP
333 S. Hope Street, 36th Floor
8 Los Angeles, California 90071
Tel: (213) 229-2868
9 Fax: (213) 229-2870

10
11 UNITED STATES BANKRUPTCY COURT
12 NORTHERN DISTRICT OF CALIFORNIA

13 In Re: Bankruptcy No. 09 BK 13975 AJ 7

14 JOANN MARIE BECKMAN Chapter 7

15 Debtors

A.P. No. 10-01034

16 SONOMA COUNTY TAX COLLECTOR

17 Plaintiff,

18 v.

19 JOANN MARIE BECKMAN

20 Defendant.

EX PARTE APPLICATION FOR ENTRY
OF ORDER APPROVING SETTLEMENT
AGREEMENT AND AUTHORIZING
PLAINTIFF TO DISMISS
BANKRUPTCY SECTION 727 CAUSES
OF ACTION; DECLARATION OF
MIKEL D. BRYAN IN SUPPORT; AND
ORDER THEREON

21 _____/
22 Plaintiff, SONOMA COUNTY TAX COLLECTOR, and the Debtor/defendant,

23 JOANN MARIE BECKMAN, an individual (collectively the "Parties") in Adversary

24 Proceeding 10-01034, hereby make this Ex Parte Application for an Order Approving

25 Settlement Agreement and Authorizing Plaintiff to Dismiss Bankruptcy Code Section 727

26 Causes of Action in said Adversary Proceeding.

27 In support of the Application, the Parties represent:

28 1. The Parties filed their Joint Motion for an Order Granting Settlement By and

1 Between Debtor and The County Of Sonoma Tax Collector (the "Motion"). Under the terms
2 of the Settlement, the Plaintiff would be granted a Non-Dischargeable Judgment under Section
3 523 against the Debtor, and the Plaintiff would dismiss any Bankruptcy Code Section 727
4 claims objecting to the discharge of the Debtor.

5 2. Notice of the Motion providing notice to all of the creditors of the estate and
6 providing an opportunity for hearing on the Motion was duly served on the Chapter 7 Trustee,
7 the US Trustee's Office and all other creditors on November 19, 2010.

8 3. Neither the Chapter 7 Trustee, the U.S. Trustee's office, nor any other interested
9 party requested hearing on the Motion.

10 4. An Order Approving the Settlement and allowing the Plaintiff's Dismissal of
11 the Section 727 Objection to Discharge Claims should be entered.

12
13 Dated: December 8, 2010

LAW OFFICES OF MIKEL D. BRYAN

14
15 By: _____ /s/

Mikel D. Bryan

Attorneys for JOANN MARIE BECKMAN

16
17 Dated: December 9, 2010

STECKBAUER WEINHART JAFFE, LLP

18
19 By: _____ /s/

Barry S Glaser

Attorneys for the SONOMA COUNTY TAX COLLECTOR

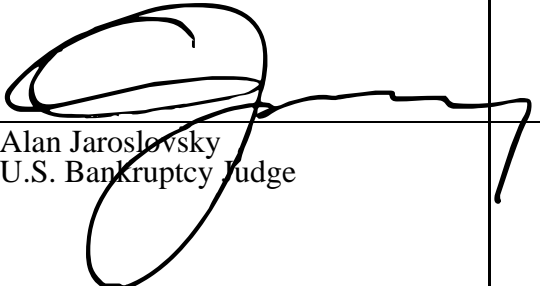
1 **ORDER**

2 Upon reading of the Application and good cause appearing,

3 1. The Settlement Agreement dated November 19, 2010 ("the Settlement
4 Agreement"), entered into between the Sonoma County Tax Collector and the Debtor, Joann
5 Marie Beckman, is hereby approved in its entirety; and
6

7 2. The Sonoma County Tax Collector is authorized to dismiss the Bankruptcy
8 Code Section 727 causes of action in its Adversary Proceeding 10-01034 in accord with the
9 Settlement Agreement.
10

11 Dated: December 10, 2010
12
13
14

15 
16 Alan Jaroslovsky
17 U.S. Bankruptcy Judge
18
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24
25
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27
28

EJ-001

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, address, State Bar number, and telephone number):
 Recording requested by and return to:
 Barry S Glaser, State Bar No. 70968
 STECKBAUER WEINHART JAFFE, LLP
 333 S. Hope Street, 36th Floor
 Los Angeles, California 90071
 Tel: (213) 229 2868

ATTORNEY FOR JUDGMENT CREDITOR ASSIGNEE OF RECORD

United States Bankruptcy Court, Northern District
 STREET ADDRESS: 99 South "E" Street
 MAILING ADDRESS:
 CITY AND ZIP CODE: Santa Rosa, CA 95404
 BRANCH NAME: SANTA ROSA DIVISION

FOR RECORDER'S USE ONLY

PLAINTIFF: SONOMA COUNTY TAX COLLECTOR
 DEFENDANT: JOANN MARIE BECKMAN, an individual

CASE NUMBER:
 10-ap-01034-AJ

ABSTRACT OF JUDGMENT—CIVIL AND SMALL CLAIMS Amended

FOR COURT USE ONLY

1. The judgment creditor assignee of record applies for an abstract of judgment and represents the following:

a. Judgment debtor's
 Name and last known address
 JOANN MARIE BECKMAN
 16640 ARMSTRONG WOODS ROAD
 GUERVILLE, CA 95446

b. Driver's license no. [last 4 digits] and state:
 c. Social security no. [last 4 digits]: 1362
 d. Summons or notice of entry of sister-state judgment was personally served or mailed to (name and address): JOANN MARIE BECKMAN
 16640 ARMSTRONG WOODS ROAD, GUERVILLE, CA 95446

Unknown
 Unknown

2. Information on additional judgment debtors is shown on page 2.

4. Information on additional judgment creditors is shown on page 2.

3. Judgment creditor (name and address):
 Sonoma County Tax Collector, c/o Barry Glaser
 333 S. Hope St., #3600, Los Angeles, CA90071

5. Original abstract recorded in this county:
 a. Date:
 b. Instrument No.:

Date: 2/18/11
 Barry S. Glaser

(SIGNATURE OF APPLICANT OR ATTORNEY)

(TYPE OR PRINT NAME)

6. Total amount of judgment as entered or last renewed:
 \$ 509,765.82

7. All judgment creditors and debtors are listed on this abstract.

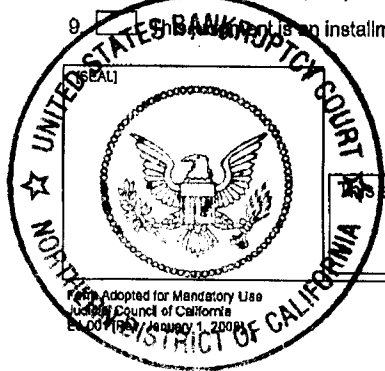
8. a. Judgment entered on (date): 12/14/10
 b. Renewal entered on (date):

9. This abstract is an installment judgment.

10. An execution lien attachment lien is endorsed on the judgment as follows:
 a. Amount: \$
 b. In favor of (name and address):

11. A stay of enforcement has
 a. not been ordered by the court.
 b. been ordered by the court effective until (date):

12. a. I certify that this is a true and correct abstract of the judgment entered in this action.
 b. A certified copy of the judgment is attached.



abstract issued on (date):
 FEB 22 2011

Clerk, by Gloria L. Franklin, Deputy

ABSTRACT OF JUDGMENT—CIVIL AND SMALL CLAIMS

Page 1 of 2
 Code of Civil Procedure, §§ 488.400, 674, 700.180

PLAINTIFF: SONOMA COUNTY TAX COLLECTOR	CASE NUMBER:
DEFENDANT: JOANN MARIE BECKMAN, an individual	10-ap-01034-AJ

NAMES AND ADDRESSES OF ADDITIONAL JUDGMENT CREDITORS:

13. Judgment creditor (*name and address*):

14. Judgment creditor (*name and address*):

15. Continued on Attachment 15.

INFORMATION ON ADDITIONAL JUDGMENT DEBTORS:

16. Name and last known address

17. Name and last known address

Driver's license no. [last 4 digits] and state: Unknown

Driver's license no. [last 4 digits] and state: Unknown

Social security no. [last 4 digits]: Unknown

Social security no. [last 4 digits]: Unknown

Summons was personally served at or mailed to (*address*):

Summons was personally served at or mailed to (*address*):

18. Name and last known address

19. Name and last known address

Driver's license no. [last 4 digits] and state: Unknown

Driver's license no. [last 4 digits] and state: Unknown

Social security no. [last 4 digits]: Unknown

Social security no. [last 4 digits]: Unknown

Summons was personally served at or mailed to (*address*):

Summons was personally served at or mailed to (*address*):

20. Continued on Attachment 20.

Vacation Rentals USA-Beckman TOT
Short Summary

Vacation Rentals USA, a California corporation (“VRUSA”), listed and provided vacation rental management services to approximately 120 homes in Bodega Bay, California. While VRUSA collected transient occupancy taxes that were owed on the rental properties, the taxes were not consistently reported or remitted to the County of Sonoma. VRUSA was several quarters in arrears on paying taxes when the Tax Collector began an audit of the organization and detected potential fraud in June 2009. The Sheriff’s office then began a criminal investigation. The Sheriff was planning to seize the records of VRUSA, when on November 24, 2009, Joann Marie Beckman (“Beckman”) filed for Chapter 7 bankruptcy protection in the Northern District of California (Santa Rosa Division). Beckman is the sole owner of VRUSA. The seizure of records went forward in early 2010.

Our law firm was retained to represent the County’s interests with respect to this bankruptcy proceeding. Thus, we initiated an adversary proceeding against the Debtor in the Bankruptcy Court. Specifically, we filed a Complaint to Determine Dischargeability and Objection/Revocation of Discharge of Debt pursuant to:

- 11 U.S.C. §523(a)(1)(A), (B) and (C) (based Upon A Tax under 507(a)(8)(C));
- 11 U.S.C. § 523(a)(4) (based upon Fraud or Defalcation While Acting in a Fiduciary Capacity),
- 11 U.S.C. §523(a)(7) (based Upon A Fine, Penalty, Or Forfeiture Payable To and For the Benefit of A Governmental Unit);
- 11 U.S.C. §727(a)(2) (alleging that Defendant intentionally diverted taxes collected and to be paid to Plaintiff for her own personal benefit, and in breach of her fiduciary as Operator, and did so through deceit with fraudulent intent to deprive Plaintiff of these amounts within one (1) year prior to the Petition Date);
- 11 U.S.C. §727(a)(3) (alleging that Defendant failed to keep or maintain books, documents and records in connection with the separate trust account as she was required as Operator);
- 11 U.S.C. §727(a)(5) (alleging that Defendant has intentionally diverted monies received from Plaintiff, failed to keep or preserve any recorded information as to the disbursement of funds, and failed to disclose the converted funds in the bankruptcy proceeding);
- 11 U.S.C. §727(C)(1) and (2) (alleging that "a creditor . . . may object to the granting of a discharge under subsection (a) of this section [and] . . . on request of a party in interest, the court may order the trustee to examine the acts and conduct of the Debtor to determine whether a ground exists for denial of discharge).

The Complaint sought damages in the total sum of \$2,208,326.26, of which \$1,366,355.42 was for the unpaid TOTs. The Debtor filed an Answer and denied several of the allegations raised in the Complaint. Subsequently, the parties submitted to mediation and ultimately settled the case by awarding the County a non-dischargeable judgment for \$509,765.82. The reason for the settlement was that VRUSA neglected to file returns for its taxes, and the Tax Collector was required to estimate taxes due according to the department’s procedures. Per the procedures, the estimated amounts were calculated based on the assumption that the rentals were 100% occupied.

CALBOC

California League of Bond
Oversight Committees

Our Role in School Bond
Financing & Oversight



By
Anton Jungherr and Alicia Minyen

CaLBOC

Providing Training and Support for
School Bond Oversight Committees



Knowledge Equals Effective Oversight
Benefitting Taxpayers & Our Students

About CaLBOC

- The California League of Bond Oversight Committees (CaLBOC). CaLBOC is an all volunteer, non-partisan association of Citizen Bond Oversight Committee (CBOC) members, current and past, who are interested in helping other Citizens' Bond Oversight Committee members.
- CaLBOC was formed in 2006 by CBOC members trying to find better training to help them perform their duties. Our first training session was held in San Jose in 2007, and we incorporated in the State of California in 2008. In 2009 we were recognized as a 501(c)3 charitable organization by the IRS.



Proposition 39

- In November 2000, 53.3% of California voters voted yes for Proposition 39, a Constitutional Amendment. This initiative allows property tax increases to pay for school facility bonds by a 55% vote rather than the required two-thirds vote of the local electorate.



Proposition 39 requires school districts that pass Proposition 39 bonds to seat a **Citizens' Bond Oversight Committee (CBOC)** to assure the community that bond funds are expended in the fashion outlined in the district's bond resolution. The CBOC must meet at least once a year and inform the public about the expenditure of bond revenues. The CBOC shall actively review and report on the proper expenditure of taxpayers' money for school construction.

Our Mission Statement

To promote school district accountability by improving the training and resources available to California's Proposition 39 School Bond Oversight Committees and educating the state legislature, local school boards and the public about the oversight and reporting powers these Citizens' Bond Oversight Committees (CBOCs) have, and to advocate on a state level, where appropriate, on issues of common concern to all CBOCs.



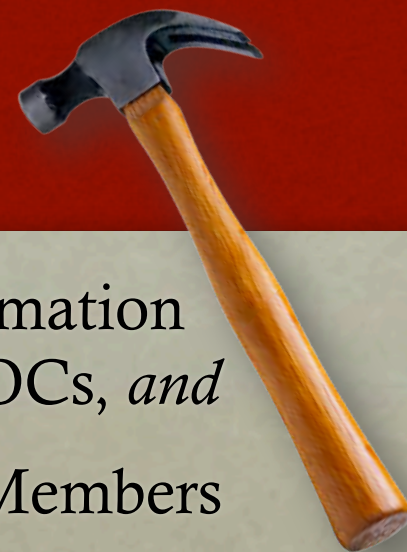
Our Purpose

1. To provide the general public with informational and educational materials and activities on local School Bond Oversight Committees that will help increase public awareness of the valuable role that CBOC's play in the Prop 39 school bond process, *and*
2. To promote comprehensive training and orientation of all new CBOC members throughout the state, *and*
3. To promote adequate funding, staffing and other support as typically required by CBOCs to be provided in all districts throughout the state with Prop 39 Bonds pursuant to fulfilling their lawful duties, *and*
4. To promote the preservation of all CBOC reports throughout the state in both the county of origin education office and a centralized state archive repository accessible to the public, *and*
5. To advocate public distribution of all CBOC reports, *and*



Our Purpose

(continued)



6. To maintain a website to provide current information concerning issues, events and activities of CBOCs, *and*
 7. To sponsor a statewide conference of CBOC Members and interest parties, *and*
 8. To work toward the preservation and enhancement of the CBOC system by sponsoring needed legislation, *and*
 9. To undertake any other efforts consistent with the foregoing that will increase the public knowledge of the CBOC system and the contribution it makes, and continues to make, to California taxpayers and toward good government.
-

Training & Support

CaLBOC.org is our a new website. It is regularly updated with pertinent information for bond oversight.

- CaLBOC has started a series of online Training videos
- Free membership
- A free weekly newsletter with current news and legislative updates
- CaLBOC receives and responds directly to questions from bond oversight members. Concerns include oversight committee compliance, bond finance, and other related issues.



Legislative Program

CaLBOC Co-Sponsored Legislation

- **Senate Bill No. 1473, Chapter 294, Sept. 23, 2010.** An act to add Section 15286 to the Education Code, relating to school facilities. Wyland. School facilities bond proceeds: performance audits. **This bill would require a financial and performance audit to be conducted in accordance with the Government Auditing Standards issued by the Comptroller General of the United States.**
- **Senate Bill No. 423, Chapter 237, Sept. 6, 2011** An act to amend Section 15286 of the Education Code, relating to school facilities. Wyland. The accountability requirements include a requirement that the governing board of either the school district or community college district or the county office of education conduct annual, independent performance and financial audits. **This bill would require the audits for each preceding fiscal year to be submitted by March 31 of each year to the citizens' oversight committee for its review.**
- **Assembly Bill No. 1199, Chapter 73, July 10, 2012.** An act to amend Section 15282 of the Education Code, relating to school bonds. Brownley. School bonds: citizens' oversight committee. ...Existing law also requires members of a citizens' oversight committee to serve for a term of 2 years without compensation and for no more than 2 consecutive terms. **This bill would instead provide that members of a citizens' oversight committee serve for a minimum term of 2 years without compensation and for no more than 3 consecutive terms.**



Upcoming

- **CaLBOC is soliciting suggestions for their 2013 Legislative Program.** This program will be a topic at the Nov. 9. 2012 CaLBOC board meeting. **Please email proposals by Oct. 31, 2012 to calboc1@aol.com**
- **Recruiting for the Board of Advisors.**
Nominate someone or nominate yourself.
The Board of Advisors consists of citizens who are passionate about Citizens' Bond Oversight Committees having independent training and the capacity to provide independent oversight of Proposition 39 bond construction projects. There are no meeting requirements for Board of Advisor members. Members will be requested to provide advice from time to time on various training courses, programs, website, proposed legislation and publications. Communication will be via email and occasional conference calls.

CaLBOC

School Debt in California

- Since 2000, there has been about \$83 billion in general obligation bonds (“GO”) issued by school and community college districts.*
- About 25% of school district GO bonds are Capital Appreciation Bonds (CABs.) *
- Over 9,000 CABs issued by California school districts will mature between 2013 to 2052.**
- Over 900 CABs issued by California community college districts will also mature between 2013 to 2052.**
- About \$5 Billion in CABs sold with maturities over 25 years.***
- The California Debt and Investment Advisory Commission (CDIAC) does not track the cost of CABs.



School Debt in California

(Continued)

- A sample of 59 school and community college districts bonds with a total principal of \$2.1 billion will have a maturity value of \$8 billion.**
- Mini CABs imbedded within the sample cost is as high as 105 times par.
- 45% of Calif. districts have sold CABs (447 districts out of 977).**
- 71% of California community college districts have sold CABs (52 districts out of 72). **
- 73% of all school CABs issued in the US with 25 year+ terms were sold by California schools. **
- 48% of all school CABs issued in the US were sold by Calif. schools (9,488 CA schools out of 19,776 US schools). **

* *Figures provided by the California Debt Investment Advisory Commission "CDIAC").*

** *www.emma.msrb.org*

*** *Thomson Reuters Data*

Oversight of School Bonds

The Effectiveness of CBOCs and Obstacles

Since the passage of Prop 39 local California districts have issued over \$83 billion in school bonds, the main oversight over these bond programs are CBOCs.

- CBOCs may have untrained volunteers that may have conflict of interest issues. Members are appointed by school board members and school districts, that may wish to influence their bond program and financing oversight.
 - Therefore CBOCs may have conflicts, may be friends and/or friends of the benefactors receiving bond proceeds. Districts may decide what bond program information is given to CBOCs.
 - CBOCs members may not be qualified, have adequate training, and may not perform the work necessary for adequate oversight. CBOC members may have ulterior motives and may use their position to influence projects at their children's schools or in specific neighborhoods.
-

Oversight of School Bonds

(Continued)



- CBOCs sometimes participate in the selection and engagement of contractors. This compromises CBOC independence.
 - Districts lack adequate internal controls to mitigate and detect misuse of bond proceeds.
 - CBOCs may not be reviewing financial statements and back up documents such as invoices, general ledger detail, and transaction journals. CBOCs may put too much reliance on the auditor's work pertaining to the financial and performance audit.
 - CBOCs may fail to provide an annual report or is not provided timely.
 - CBOCs may allow the school districts to run their meetings, and they allow the district to determine what information will be available to the public.
 - Districts disband CBOCs early and before all bond proceeds have been spent and the final performance audit is completed.
 - **Environment ripe for fraud:
Motivation, Rationalization and Opportunity.**
-

Oversight of School Bonds

School Bond Oversight Duties

- Audits must be reviewed by March 31st of each year.
- Shall advise the public as to whether a school district or community college district is in compliance with the CA Constitution.
- CBOCs shall actively review and report on the proper expenditure of taxpayers' money for school construction.
- Ensure bond proceeds cannot be used for any administrative or teacher salaries or other school operating expenses.
- CBOCs must meet at least once a year and inform the public about the expenditure of bond revenues.
- A report shall be issued at least once a year.
- CBOCs must promptly alert the public to any waste or improper expenditure of bond proceeds.



CBOC Roles in School Financing

Education Code 15278(c)(5) provides various review areas that a CBOC “*may engage*” to undertake, however most don’t review the bond finances

- **CBOCs should review financing deals before and after bonds are sold.**
- **Look out for Red Flags and Costly Terms:**
- Review contracts for compensation terms and services provided
- CBOCs should obtain justification for utilizing CABs
- Bonds always sold on a negotiated basis
- Unrealistic growth rate projections of assessed valuations
- Use of CABs and CIBs where interest and/or principal is deferred for more than 15 years.
- Bond exceeds the district’s debt limit.



CBOC Roles in School Financing

(Continued)

Review the bond offering and documents:

- Bond Resolution (Note type of bond to be issued, maturity term; interest rate/yield; and estimated cost of issuance).
- Ensure use of bond proceeds disclosed in the Bond Resolution is consistent with projects list disclosed to voters in the ballot.
- Reasons for a Negotiated sale of bonds should be justified in the Bond Resolution and prior to execution of the purchase agreement.



Examples of Misuse of School Funds

“Ex-Construction Execs Plead No Contest in School Funds Fraud Case” March 2012. Three former executives of a construction firm hired by Santa Barbara County school district diverted \$3.6 million to lease expensive cars, throw parties, buy artwork, and pay themselves exorbitant cash bonuses. When the firm began to run short on cash, it began submitting false invoices to the district. **The person at the district in charge of the project knew the invoices were fraudulent, but paid them anyway since she had planned on working for the construction company after she left the district.**

Sweetwater Unified - 1/12 – Certain school board members accused of **pay-to-play** transactions with certain contractors awarded work paid by school bonds. The contractor wined and dined certain Board members. In addition, a law firm hired by the district is under investigation - his contract was so broad and invoices showed that the law firm was paid for services not provided or barely related to district business.

Districts skirt law to fund projects

Schools sell cash bonds without going to the voters

By Steven G. ...
The state's new law requires that school districts go through a public process to issue bonds. But some districts are finding ways to skirt the law by selling cash bonds directly to investors. This practice allows districts to raise money for projects without the oversight of voters. The law is intended to ensure transparency and accountability in the use of public funds.



A photograph showing a group of people sitting on a lawn in front of a building, possibly a school or government office.

Laws that Influence Financing Methods



- Debt Limit (*Statutory Law*): May not exceed 2.5% of the taxable property of the district.
(*Ed. Code 15270*)
 - Tax Rate Limit (*Constitutional Law*) – Levies cannot exceed (*Section 18 of Article XVI*):
 - *Unified School Districts: \$60 per \$100k of assessed values*
 - *Elementary School Districts: \$30 per \$100k of assessed values*
 - *Community College Districts: \$25 per \$100k of assessed values*
 - Ballot Disclosure: School Districts promise no increase in taxes (*Sec: 9400 of CA Elections Code*)
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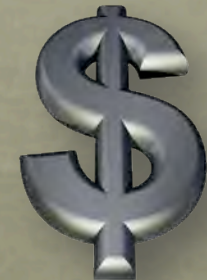
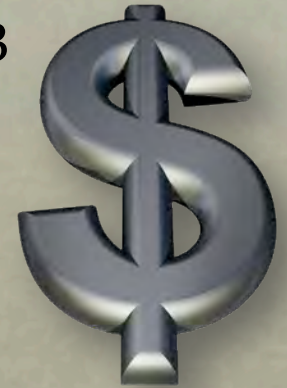
Costly School Financing

- CABs (*greater than 15 years and cost over 3 times principal*)
- CIBs (*greater than 30 years with principal deferred for more than 25 years*)
- Bond Anticipation Notes (“BANs”): School Obligations* (*notably BAN’s sold by Alvord Unified and Fontana Unified*)
- Certificates of Participation (“COPs”): School Obligations* (*Notably COPs sold by Twin Rivers Unified and Western Placer Unified*)
- Lease Revenue Bonds (“LRBs”): School Obligations*



Toxic CABs

1. Poway Unified School District: Sold \$13.9 million CAB that will cost \$321 million (**23 times principal**)
2. Oceanside Unified School District: Sold \$7.3 million CAB that will cost \$108 million (**14 times principal**)
3. Santee School District: Sold \$1.7 million CAB that will Cost \$40 million (**24 times principal**)
4. **Patterson Joint Unified School District: Sold a \$78 thousand CAB that will cost \$8.1 million (105 times principal)**
5. Aromas - San Juan Unified School District: Sold a \$326 thousand CAB that will cost \$8.7 million (**26 times principal**)
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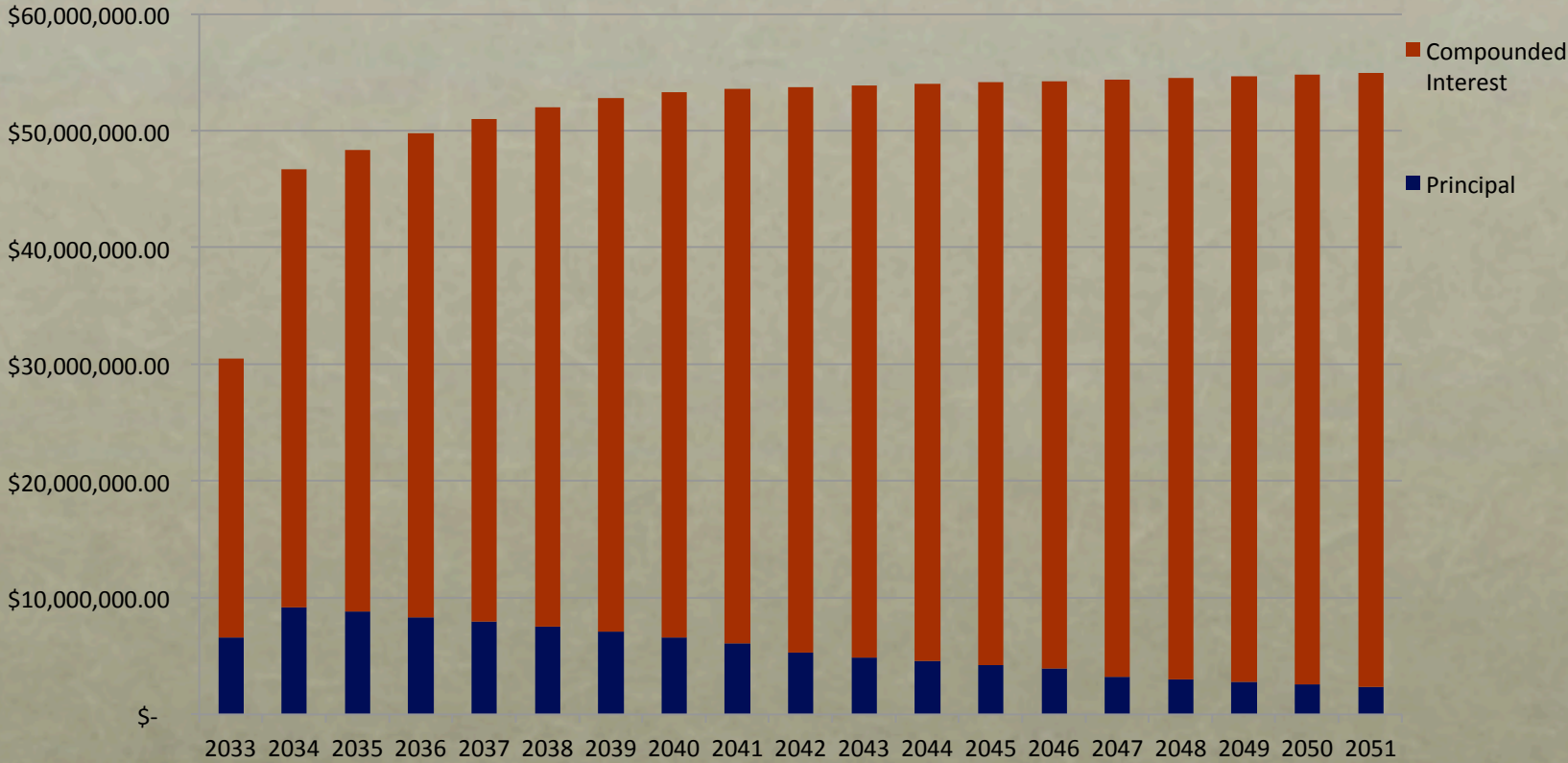
Toxic CABs

(Continued)



7. Westside Union School District: Sold \$3.2 million CAB that will cost \$50.6 million. **(15 times principal)**
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 - 10. Hartnell Community College District: Sold \$167 thousand CAB that will cost \$14.25 million (86 times principal)**
 11. Yuba California Community College District: Sold \$3.4 million CABs that will cost \$51.5 million **(14 times principal)**.
 12. Victor Valley Community College District: Sold \$7.4 million CAB that will cost \$125 million **(17 times principal)**.
-

Poway • Debt Service Schedule



NOTE: Debt Service is ZERO from 2011 to 2032. Total Debt Service Reported on Official Bond Statement: \$982,562,328 (The debt service figures charted above come from the Official Bond Statement at the link provided on the prior slide).

Poway Unified

A Case Study

Motivation for \$1 Billion CAB: General Fund Bailout \$105 million borrowing plan that will cost \$1 billion

- 2004: Proposition 55 provided state matching funds to schools – Poway’s strategy is obtain maximum Prop. 55 matching funds.
- 2004: Poway sells expensive \$100 million COP to obtain State Matching Funds.
- Downside to COP: \$100 million COP provides only \$76 million for building improvements
- Downside to COP: A Capital Appreciation Loan – deferred to 2014.
- 2002 Proposition U, \$198 million voter approved GO Bond
 - Jan '03: Sells \$75 million (Conventional Bonds)
 - Jan '06: Sells \$119 million (CIBs)
 - Jan '09: Sells \$3.7 million (5 year CABs)
 - Generates \$11 million in Bond Premium
- \$80.7 million of Proposition U paid the 2004 COP



Poway Unified

A Case Study

(Continued)

- Proposition U only provided \$128 million for new building projects since \$80 million was used to pay the COP.
 - Lease Revenue Bonds, \$136 million
 - June '07: Sells \$34.7 mil (CABs up to 32 years)
 - June '08: Sells \$92.6 mil (CABs up to 20 years)
 - July '09: Sells \$9 million (CABs up to 30 years)
 - Overall, LRBs sold at lower yields than the Prop C, Series B \$1 billion CABs.
 - Some of the LRBs CANNOT be redeemed early.
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Poway Unified

A Case Study

(Continued)

- Generates \$31 million in Bond Premium
 - About \$98 million of Proposition C is used to payoff the 2007 and 2008 LRBs. (However, some LRBs have no optional redemption.)
 - About \$14 million of Prop C is used to payoff the 2004 COP.
 - About \$9 million is used to pay “Bond Advancement Costs”
 - 2010 Bond Anticipation Note, \$25 million Due Dec '11 (an obligation of Poway, not the taxpayer)
 - Proposition C, Series B \$1 billion CAB is used to pay off the \$25 million 2010 BAN, plus its interest of about \$1.5 million.
-

Poway Unified

Violations of Law and other Issues

- Poway misused Prop. C bond proceeds to pay debt service on prior debt (*i.e., the COP and LRBs*).
 - Prop C's Project List does not disclose that bond proceeds would be used to pay LRBs or COP.
 - COP and LRBs proceeds not subject to Prop. 39 rules. Proceeds may not have been spent on projects listed.
 - Poway's CBOC website missing Prop. U's financial and performance audit for 2003, 2004, 2005, 2008, and 2009.
 - Poway's CBOC website missing Prop. C financial and performance audits for 2009.
 - Questionable BAN. Education Code 15150 states that a BAN may be sold IF it is in the *best interest* of the district.
 - BAN unnecessary since CAB was needed anyway to meet ballot disclosure promise of maintaining the tax rate at \$55 per \$100k.
-

Alford Unified

A Case Study

- 2007 Proposition U: \$196 million voter approved GO Bond.
 - 2008 Alvord sells first \$60M under Proposition U.
 - 2009 Alvord reaches tax rate limit. Sells \$60M BAN.
 - 2010 Alvord's assessed valuation continues to decline. Sells another BAN \$52M.
 - 2011 Alvord sells \$57M CAB under Prop. U with a 12% Bond Premium.
 - 2011 Alvord uses Prop. U proceeds & Bond Premium to payoff 2009 \$60M BAN.
 - 2011 Alvord's sale of Prop. U. CAB causes it to EXCEED the debt limit. Waiver granted for 2.6% instead of 2.5%.
 - Alvord needs to sell Prop. U bonds to payoff 2010 BAN, but can't because it has exceeded the tax rate and debt limit.
 - Alvord is now seeking a new bond ballot measure this November. But have failed to obtain a debt limit waiver from the State.
 - **Failure to pay the 2010 BAN puts Alvord at risk of receivership.**
-

How Can Treasurers Help CBOCs?

- Offer assistance to school districts with its financing to ensure taxpayers receive best financing terms on a deal by deal basis.
 - Include CBOCs on any correspondence to the district regarding any financing concerns (*Correspondence to the CBOC must be posted on the CBOC website pursuant to the law as a means to keep the public informed*)
 - Maintain requests for bond proceeds, disbursement records and ensure disbursement requests (*such as in the form of Journal Entry Forms*) provide a complete description and explanation so that the purpose of any bond proceed disbursements can be deciphered. (*Some school districts refuse to provide detail financial records regarding disbursed funds to CBOCs. Treasurers can be a secondary resource to CBOCs to obtain such detailed records*).
 - Research any financing concerns expressed by CBOCs and intervene where appropriate.
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CALIFORNIA LEAGUE OF BOND OVERSIGHT COMMITTEES

•••••

Role in School Bond Financing

by

Anton Jungherr and Alicia Minyen

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PROVIDING TRAINING AND SUPPORT FOR SCHOOL BOND OVERSIGHT COMMITTEES
KNOWLEDGE EQUALS EFFECTIVE OVERSIGHT BENEFITTING TAXPAYERS & OUR STUDENTS

About CaLBOC

- The California League of Bond Oversight Committees (CaLBOC). CaLBOC is an all volunteer, non-partisan association of Citizen Bond Oversight Committee (CBOC) members, current and past, who are interested in helping other Citizens' Bond Oversight Committee members and school districts comply with applicable laws.
- CaLBOC was formed in 2006 by CBOC members trying to find better training to help them perform their duties. Our first training session was held in San Jose in 2007, and we incorporated in the State of California in 2008. In 2009 we were recognized as a 501(c)3 charitable organization by the IRS.

Proposition 39

Proposition 39 passed in November 2000: "Small Classes, Safer Schools and Financial Accountability Act". 53.3% of California voters voted yes for Prop 39, a Constitutional Amendment. This initiative allows property tax increases to pay for school facility bonds by a 55% vote rather than the required two-thirds vote of the local electorate.

Proposition 39 requires school districts that pass Prop 39 bonds to seat a Citizens' Bond Oversight Committee (CBOC) to assure the community that bond funds are expended in the fashion outlined in the district's bond resolution. The CBOC must meet at least once a year and inform the public about the expenditure of bond revenues. The CBOC shall actively review and report on the proper expenditure of taxpayers' money for school construction.

A CBOC must be created within 60 days of the date that the governing board enters the election results on its minutes. A CBOC should consist of at least 7 members, including a taxpayer rep.

California Education Code Section 15264: "It is the intent of the Legislature that all of the following are realized: **(a)** Vigorous efforts are undertaken to ensure that the expenditure of bond measures, including those authorized pursuant to paragraph (3) of subdivision (b) of Section 1 of Article XIII A of the California Constitution, are in strict conformity with the law. ... "

Article XIII A requires accountability requirements: Bond proceeds must be spent only on the construction, repair, and replacement of school facilities; equipping and furnishing schools (such as technology); and the acquisition or lease of real property for school facilities. Bond proceeds must only be spent on those projects specified in the bond ballot and in the resolution approved by the Board. An annual financial audit and performance audit to ensure that bond proceeds have been expended only on the specific projects listed.

Our Mission Statement

To promote school district accountability by improving the training and resources available to California's Proposition 39 School Bond Oversight Committees and educating the state legislature, local school boards and the public about the oversight and reporting powers these Citizens' Bond Oversight Committees (CBOCs) have, and to advocate on a state level, where appropriate, on issues of common concern to all CBOCs.

Our Purpose

1. To provide the general public with informational and educational materials and activities on local School Bond Oversight Committees that will help increase public awareness of the valuable role that CBOC's play in the Prop 39 school bond process, *and*
2. **To promote comprehensive training and orientation of all new CBOC members throughout the state, *and***
3. To promote adequate funding, staffing and other support as typically required by CBOCs to be provided in all districts throughout the state with Prop 39 Bonds pursuant to fulfilling their lawful duties, *and*
4. To promote the preservation of all CBOC reports throughout the state in both the county of origin education office and a centralized state archive repository accessible to the public, *and*
5. To advocate public distribution of all CBOC reports, *and*
6. To maintain a website to provide current information concerning issues, events and activities of CBOCs, *and*
7. To sponsor a statewide conference of CBOC Members and interest parties, *and*
8. To work toward the preservation and enhancement of the CBOC system by sponsoring needed legislation, *and*
9. To undertake any other efforts consistent with the foregoing that will increase the public knowledge of the CBOC system and the contribution it makes, and continues to make, to California taxpayers and toward good government.

Training & Support

CaLBOC.org is our a new website. It is regularly updated with pertinent information for bond oversight.

- To CaLBOC has started a series of online Training videos
- Free membership
- A free weekly newsletter with current news and legislative updates
- CaLBOC receives and responds directly to questions from bond oversight members. Concerns include oversight committee compliance, bond finance, and other related issues.

Legislative Program • CaLBOC Co-Sponsored Legislation

- **Senate Bill No. 1473, Chapter 294, Sept. 23, 2010.** An act to add Section 15286 to the Education Code, relating to school facilities. Wyland. School facilities bond proceeds: performance audits. **This bill would require a financial and performance audit to be conducted in accordance with the Government Auditing Standards issued by the Comptroller General of the United States.**
- **Senate Bill No. 423, Chapter 237, Sept. 6, 2011** An act to amend Section 15286 of the Education Code, relating to school facilities. Wyland. The accountability requirements include a requirement that the governing board of either the school district or community college district or the county office of education conduct annual, independent performance and financial audits. **This bill would require the audits for each preceding fiscal year to be submitted by March 31 of each year to the citizens' oversight committee for its review.**
- **Assembly Bill No. 1199, Chapter 73, July 10, 2012.** An act to amend Section 15282 of the Education Code, relating to school bonds. Brownley. School bonds: citizens' oversight committee. ...Existing law also requires members of a citizens' oversight committee to serve for a term of 2 years without compensation and for no more than 2 consecutive terms. **This bill would instead provide that members of a citizens' oversight committee serve for a minimum term of 2 years without compensation and for no more than 3 consecutive terms.**

Upcoming

CaLBOC is soliciting suggestions for their 2013 Legislative Program. This program will be a topic at the Nov. 9, 2012 CaLBOC board meeting. Please email proposals by Oct. 31, 2012 to calboc1@aol.com

Recruiting for the Board of Advisors. Nominate someone or nominate yourself. The Board of Advisors consists of citizens who are passionate about Citizens' Bond Oversight Committees having independent training and the capacity to provide independent oversight of Prop 39 bond construction projects. There are no meeting requirements and Advisers may be requested to provide advice from time-to-time on various training courses, programs, proposed legislation and publications. Communication will be via email and occasional conference calls.

School Debt in California

- **Since 2000, there has been about \$83 billion in general obligation bonds (“GO”) issued by school and community college districts. ***
- About 25% of school district GO bonds are Capital Appreciation Bonds (CABs.) *
CABs allow districts to borrow money on future tax revenues and rely on property values to grow in the future before the loan comes due, which may be 40 years out. At that point the money borrowed may have accrued interest many times the principal.
- Over 9,000 CABs issued by California school districts will mature between 2013 to 2052.**
- Over 900 CABs issued by California community college districts will also mature between 2013 to 2052.**
- About \$5 Billion in CABs sold with maturities over 25 years. ***
- California Debt and Investment Advisory Commission (CDIAC) does not track the cost of CABs.
- A sample of 59 school and community college districts bonds with a total principal amount of \$2.1 billion will have a maturity value of \$8 billion. **
- Mini CABs imbedded within the sample cost is as high as 105 times par.
- 45% of California school districts have sold CABs (447 districts out of 977). **
- 71% of California community college districts have sold CABs (52 districts out of 72). **
- 73% of all school CABs issued in the US with 25 year+ terms were sold by California schools. **
- 48% of all school CABs issued in the US were sold by California schools (9,488 CA schools out of 19,776 US schools). **

* *Figures provided by the California Debt Investment Advisory Commission “CDIAC”.*

** *www.emma.msrb.org*

*** *Thomson Reuters Data*

Oversight of School Bonds - The Effectiveness of CBOCs and Obstacles

CaLBOC will refer to bond oversight committees as CBOCs, they may be: Citizens’ Bond Oversight Committees (CBOC) or Citizens’ Oversight Committees (COC) or Bond Oversight Committees (BOC)

Since the passage of Prop 39 local California districts have issued over \$83 billion in school bonds, the main oversight over these bond programs are CBOCs.

- **CBOCs may have untrained volunteers that may have conflict of interest issues. Members are appointed by school board members and school districts, that may wish to influence their bond program and financing oversight.**
- Therefore CBOCs may have conflicts, may be friends and/or friends of the benefactors receiving bond proceeds. Districts may decide what bond program information is given to CBOCs.
- CBOCs members may not be qualified, have adequate training, and may not perform the work necessary for adequate oversight. CBOC members may have ulterior motives and may use their position to influence projects at their children’s schools or in specific neighborhoods.
- CBOCs sometimes participate in the selection and engagement of contractors. This compromises CBOC independence.
- Districts lack adequate internal controls to mitigate and detect misuse of bond proceeds.
- CBOCs may not be reviewing financial statements and back up documents such as invoices, general ledger detail, and transaction journals. CBOCs may put too much reliance on the auditor’s work pertaining to the financial and performance audit.

- CBOCs may fail to provide an annual report or is not provided timely.
- CBOCs may allow the school districts to run their meetings, and they allow the district to determine what information will be available to the public.
- Districts disband CBOCs early and before all bond proceeds have been spent and the final performance audit is completed.
- Environment ripe for fraud: Motivation, Rationalization and Opportunity.

School Bond Oversight Committee Members Roles and Duties

- Audits must be reviewed by March 31st of each year.
- CBOCs shall advise the public as to whether a school district or community college district is in compliance with Section 1(b)(3) of Article XIII A of the CA Constitution.
- CBOCs shall actively review and report on the proper expenditure of taxpayers' money for school construction.
- CBOCs must meet at least once a year and inform the public about the expenditure of bond revenues.
- A report shall be issued at least once a year.
- Ensure bond proceeds cannot be used for any teacher or administrative salaries or other school operating expenses. *(See AG Opinion 04-110)*
- CBOCs must promptly alert the public to any waste or improper expenditure of bond proceeds.
- The Unauthorized expenditures of school construction revenues are vigorously investigated, prosecuted, and that the courts act swiftly to restrain any improper expenditures. *(See Education Code 15284(a) – "School Bond Waste Prevention Action")*

CBOC Roles In School Financing

Education Code 15278(c)(5) provides various review areas that a CBOC "may engage" to undertake, however most don't review the bond finances .

- Education Code 15278(c)(5)(A) states "in furtherance of the CBOCs' purpose, the CBOC may Review efforts by the school district or community college district to maximize bond revenues by implementing cost-saving measures, including:
Mechanisms designed to reduce costs of professional fees.
- Professional fees includes "cost of issuance" paid to bond counsel, financial advisers, and bond underwriters.
- CBOCs should review financing deals before and after bonds are sold.
- **Look out for Red Flags and Costly Terms:**
 - Review contracts for compensation terms and services provided – recalculate fees.
 - CBOCs should obtain justification for utilizing CABs since they more costly than conventional bonds. *For example, underwriters may charge 65 basis points for CABs vs. 40 basis points for CIBs.*
 - Bonds always sold on a negotiated basis
 - Unrealistic growth rate projections of assessed valuations
 - Use of CABs and CIBs where interest and/or principal is deferred for more than 15 years.
 - Bond exceeds the district's debt limit.

Review the bond offering and deal documents:

- Bond Resolution (Note type of bond to be issued, maturity term; interest rate/yield; and estimated cost of issuance).
- Ensure use of bond proceeds disclosed in the Bond Resolution is consistent with projects list disclosed to voters in the ballot.
- Reasons for a Negotiated sale of bonds should be justified in the Bond Resolution and prior to execution of the purchase agreement.
- Bond Resolution (also Note if a Credit Enhancer will be purchased and determine natural rating of bond. Determine if this is cost effective.)

Preliminary and Final Official Bond Statement - Note:

- Proposed use of bond proceeds are consistent with projects list and Bond Resolution
- Type of bond consistent with Bond Resolution
- Debt Service Schedule and Cost of Bond,
- Extrapolate Growth Rate projections and determine if reasonable.
- Sources and Uses of Funds Schedule to determine total bond proceeds raised from the sale of bonds, including Original Issue Premium.
- Sources and Uses of Funds Schedule to determine allocation of bond proceeds among the Building Fund, Debt Service Fund, and Cost of Issuance)
- Review Assessed valuations for properties in district territory
- Determine if bond premium was diverted for unauthorized uses.
- If so, ensure Budget reflects additional receipt of bond proceeds in the form of bond premium.
- Pay to play: Ascertain if the Financial Adviser or Bond Underwriter contributed to a bond ballot election via a PAC or directly.
- Disclose any possible misuse of bond premium and conflict of interests to the public.
- Ensure the Board approves Final Terms (rather than giving staff full discretion and power to carry out final sale without board approval)
- Official Transcript (verify final deal terms, bond proceeds received, and cost of issuance)
- Reconcile bond proceeds and cost of issuance shown on Transcript to the CBOC Budget to ensure that the District is disclosing all bond proceeds received.

Examples of Misuse of School Funds

- ***“Ex-Construction Execs Plead No Contest in School Funds Fraud Case” 3/2012.*** Three former executives of a construction firm hired by Santa Barbara County school district diverted \$3.6 million to lease expensive cars, throw parties, buy artwork and pay themselves exorbitant cash bonuses. When the construction company began to run short on cash, it began submitting false invoices to the district. **The person at the district in charge of the project knew the invoices were fraudulent, but paid them anyway since she had planned on working for the construction company after she left the district.**
- ***“US Attorney General’s Office” 4/24/12*** – Construction Giant perpetrates overbilling scheme by charging for hours not worked from 1999 to 2009. Falsified timesheets were submitted listing unworked hours for laborers when laborers were actually absent.
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Poway Unified School District • A Case Study

Motivation for \$1 Billion CAB: General Fund Bailout

\$105 million borrowing plan that will end up costing taxpayers almost \$1 billion

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- Questionable BAN. Education Code 15150 states that a BAN may be sold IF it is in the *best interest* of the district.
- BAN unnecessary since CAB was needed anyway to meet ballot disclosure promise of maintaining the tax rate at \$55 per \$100k.

Alvord Unified School District • A Case Study

At Risk for Receivership

- 2007 Proposition U: \$196 million voter approved GO Bond.
- 2008 Alvord sells first \$60M under Proposition U.
- 2009 Alvord reaches tax rate limit. Sells \$60M BAN.
- 2010 Alvord' assessed valuation continues to decline. Sells another BAN \$52M.
- 2011 Alvord sells \$57M CAB under Prop. U with a 12% Bond Premium.
- 2011 Alvord uses Prop. U proceeds and Bond Premium to payoff 2009 \$60M BAN.
- 2011 Alvord's sale of Prop. U. CAB causes it to EXCEED the debt limit. Waiver granted for 2.6% instead of 2.5%.
- Alvord needs to sell Prop. U bonds to payoff 2010 BAN, but can't because it has exceeded the tax rate and debt limit.
- Alvord is now seeking a new bond ballot measure this November. But have failed to obtain a debt limit waiver from the State.
- Failure to pay the 2010 BAN puts Alvord at risk of receivership.

How Can Treasurers Help CBOCs?

- Offer assistance to school districts with its financing to ensure taxpayers receive best financing terms on a deal by deal basis.
 - Include CBOCs on any correspondence to the district regarding any financing concerns (Correspondence to the CBOC must be posted on the CBOC website pursuant to the law as a means to keep the public informed)
 - Maintain requests for bond proceeds, disbursement records and ensure disbursement requests (such as in the form of Journal Entry Forms) provide a complete description and explanation so that the purpose of any bond proceed disbursements can be deciphered. (Some school districts refuse to provide detail financial records regarding disbursed funds to CBOCs. Treasurers can be a secondary resource to CBOCs to obtain such detailed records).
 - Research any financing concerns expressed by CBOCs and intervene where appropriate.
-



FIXED INCOME
ACADEMY

USING SOCIAL MEDIA

Social Media & The TTC Office

TODAY WE ARE GOING TO COVER

- Why Social Media For Anyone
- What You Are Doing Now
- The Basics
- Creating a Plan
- Why Social Media For the TTC Office
- Resources Worth Tapping



TRUST ME!

Communication Methods Have Changed

PEER INTERACTION PREFERRED



NEW WAYS TO BUILD TRUST

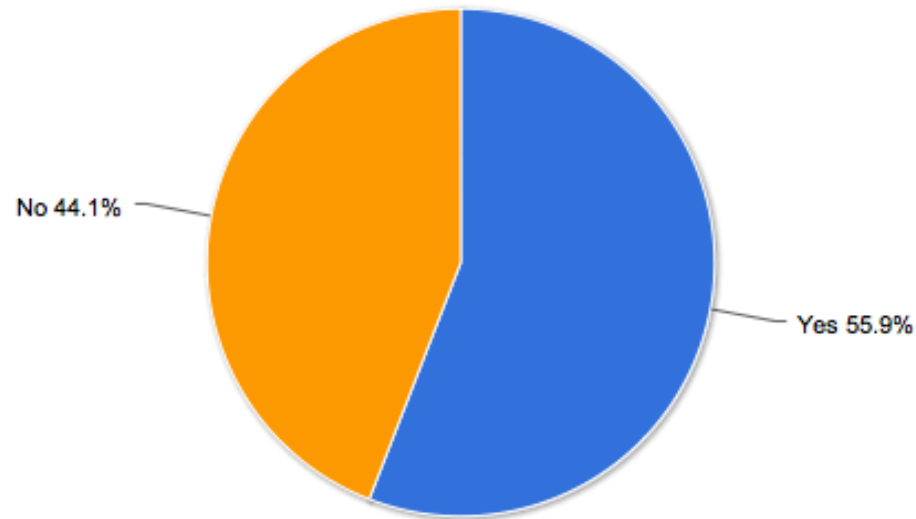
Ways New Tools Can Help:

- Horizontal versus Top Down Communication
- Increase Transparency
- Facilitate Interaction with Your Team
- Facilitate Interaction with Your Constituents
- Enable Peer-to-Peer Sharing of Practices
- Enable Communication with the Next Gen

SURVEY SAYS

What Are You Doing Now?

Is your county currently using social media tools to connect with constituents?

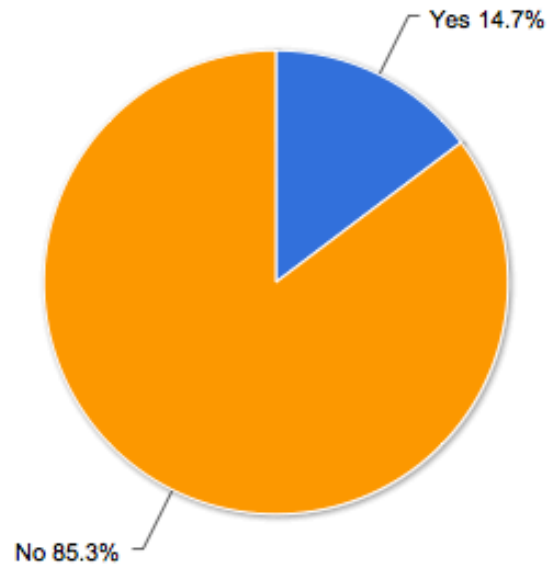


4. Is your county currently using social media tools to connect with constituents?

Value	Count	Percent %
Yes	19	55.9%
No	15	44.1%

Statistics	
Total Responses	34

If yes, are you using social media tools on your Treasurer-Tax Collector website?

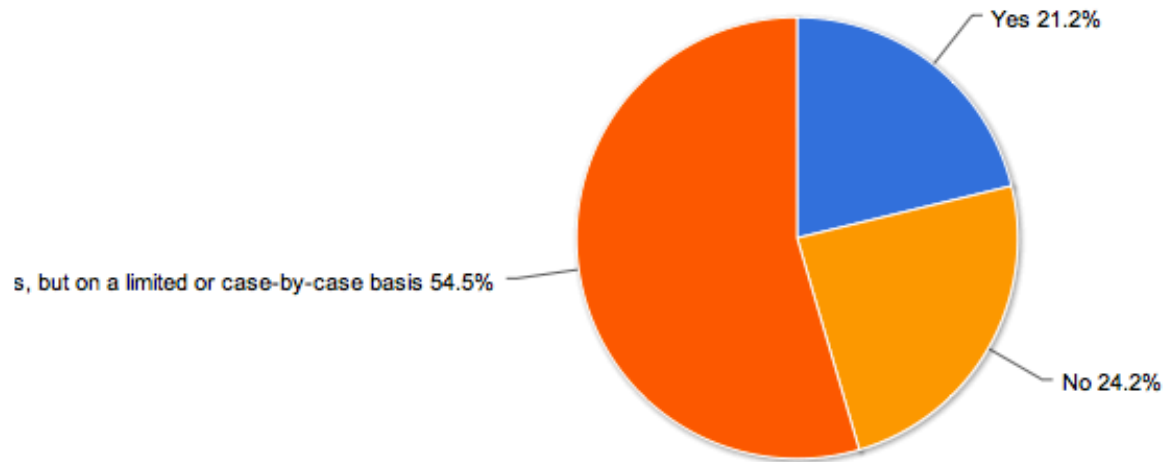


5. If yes, are you using social media tools on your Treasurer-Tax Collector website?

Value	Count	Percent %
Yes	5	14.7%
No	29	85.3%

Statistics	
Total Responses	34

Does your county allow employees to access social media websites (such as FaceBook, YouTube, LinkedIn) from their work computers?

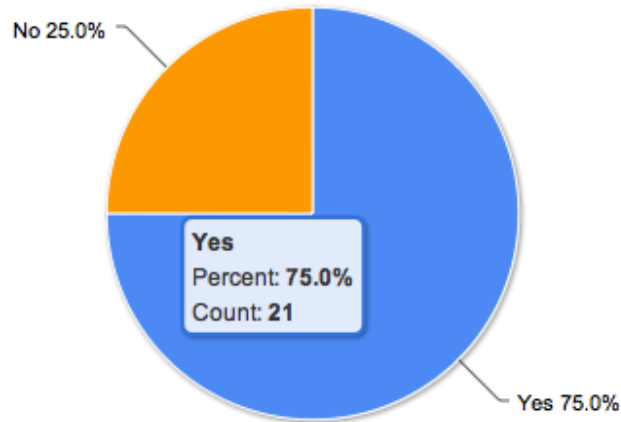


10. Does your county allow employees to access social media websites (such as FaceBook, YouTube, LinkedIn) from their work computers?

Value	Count	Percent %
Yes	7	21.2%
No	8	24.2%
Yes, but on a limited or case-by-case basis	18	54.6%

Statistics	
Total Responses	33

If you are not using social media, is it something you are interested in exploring?



11. If you are not using social media, is it something you are interested in exploring?

Value	Count	Percent %	Statistics	
Yes	21	75.0%	Total Responses	28
No	7	25.0%		

THE BASICS

Definitions, Legal & Compliance

“SOCIAL MEDIA”

Social Media

A way to transmit information to a broad audience

Think: You Tube

Social Networks

A tool for connecting with groups of people with common interest.

Think: LinkedIn

Twitter & Facebook

Merging Social Media and Social Network Utilities

BASIC STRATEGIES

- “Distributed” – Organic, Authentic, Free-Flowing
 - Appropriate in less regulated environments
- “Coordinated” – Set Practices, Takes Time, Consistent
 - Works well in medium regulated environments
- “Centralized” – Less Authentic, Takes Most Time, Set Rules
 - Common in most regulated environments

REALLY NOTHING NEW

- Only Post What You Would Say Publicly
- Act As If You Are Addressing Your Audience Directly
- Be Professional and Courteous
- You Represent Your Organization
- Disclosure and Transparency are CRITICAL
- Keep Confidential Information Confidential
- Think: “Behavior Becoming An Officer”

Except: Your Actions Live FOREVER

JUST DO IT?

Remember less than 20 years ago...

First, FINANCIAL FIRMS PROHIBITED USING EMAIL TO COMMUNICATE WITH CLIENTS.

Then, WE COULD AS LONG AS EACH MAIL WAS PRINTED AND SIGNED.

WE ADAPTED THEN. WE WILL ADAPT NOW.

FOR THOSE IN REGULATED ENVIRONMENTS:

THREE MAIN COMPLIANCE CONSIDERATIONS:

- PUBLIC RECORD AND INFORMATION ACTS
- ARCHIVING
- SUPERVISION

THINK OF COMPLIANCE AS THE BRAKES ON THE CAR...BRAKES DON'T SLOW THE CAR DOWN, THEY ALLOW THE CAR TO GO FASTER.

STEP BY STEP

When It Is Time For A Plan

CREATING A PLAN

- Step One: Build Your Team
- Step Two: Research Regulations
- Step Three: Identify Measurable Goals
- Step Four: Write Use Guidelines
- Step Five: Research Suitable Tools
- Step Six: Review, Revise, Repeat

STEP ONE: BUILD YOUR TEAM

- Organize a Cross-Section of Talent
 - Include Multiple Generations
 - Even the non-techie types
 - Include “Customer Service” Professionals
 - Rule One: Know Your Audience
 - Include Senior Management
 - Organizational Buy-In Is Key
 - Involve Legal and Compliance
 - Encourage Cooperation versus Push Back

STEP TWO: RESEARCH REGULATIONS

- Determine Which Regulations Apply
 - Does Your Entity Have A Policy in Place?
 - Often appropriate for Departments to have Individual Policies; Check Entity First
 - FINRA Rules Provide Good Guidelines
 - Required for FINRA Regulated
 - Can Provide Good Guidance For Non-FINRA
 - Public Information and Records Acts
 - May Differ at the State Level
 - Organizations Have Different Interpretations

STEP THREE: MEASURE GOALS

- Define Measurable Goals Linked to Your Entity's Mission and Objectives
 - Don't Plan Around the Technology
 - Understand Purpose First!
 - Decide Which Tech Tools Align with Advancing Your Organization's Objectives
 - "What gets measured gets done"
 - *Management 101* – Peter Drucker

STEP FOUR: WRITE GUIDELINES

- Can Draw From Samples of Other Entities
 - Some of the Issues to Address:
 - Copyright
 - Security
 - Review Process
 - Appropriate Conduct
 - Confidentiality
 - Retention Requirements

STEP FIVE: RESEARCH TOOLS

- “Hey, we should be on YouTube!”
 - Not So Fast...

Best Practice:

Research the available tools and implement the ones the committee determines will accomplish the goals of your organization;
and the ones you will be able to *sustain*.

STEP SIX: REVIEW, REVISE, REPEAT

- Stay Abreast of Trends
- Ensure Content is Fresh *and* Relevant
- Implement Process for Identifying Issues
- Implement Process for Addressing Issues
- Track it!
 - Measurement Metrics (as always) Are Key!

IS IT FOR YOU?

What Do YOU Want To Say?

JUST ANOTHER COMMUNICATION TOOL

What Would YOU Like To Say?

- What Does a Treasurer Tax Collector Do?
- Notify Taxpayers About Payments Due?
- Advertise Investment Results
- Advertise Investment Procedures?
- Announcements
- Answer Constituent Questions in a open forum?

RESOURCES

Email or Call for Direct Links

RESOURCES WORTH TAPPING

- FINRA 11-39 Notice dated August 2011
- Digital Government: Creating the Social Media Game Plan
 - By Spencer Stern and Patrick Ibarra
- Social Media and Public Agencies: Legal Issues To Be Aware Of
 - By Institute for Local Government

THANKS FOR LISTENING!

Questions Always Welcome

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