

ORANGE COUNTY BOARD OF EDUCATION RESOLUTION
TERMINATION of LOCAL PROPERTY TAX REVENUE TRANSFER TO STATE GENERAL FUND
aka
THE 2013-14 TRIAL COURT OFFSET

WHEREAS, because of the 2007 nationwide economic collapse, current state laws require that any excess property tax revenue in certain counties in California be taken from the budgets of the respective county offices of education (COE), and transferred to the state's General Fund to offset state funding for trial courts (the "Trial Court Offset"); and

WHEREAS, property taxes collected in certain COEs that are above Local Control Funding Formula (LCFF) allotments are transferred from county education budgets to the state trial court system at the direction of the Department of Finance and the State Controller's Office the year after the taxes are collected; and

WHEREAS, prior to the Trial Court Offset and the 2010 passage of Proposition 22, the Education Code restricted the use by COEs of these funds, causing a deleterious impact for many county programs as COEs provide vital educational services to the state's most vulnerable student populations, including special education pupils, incarcerated youth, foster and homeless youth, high poverty preschool children, expelled youth and English learners; and

WHEREAS, since the Trial Court Offset, the number of affected counties has grown from six (6) to eleven (11), and will likely increase to include more COEs as county property tax revenues continue to increase in the future; and

WHEREAS, the Orange County office of education is one of the eleven affected counties; and

WHEREAS, as a result of the implementation of the Local Control Funding Formula (LCFF), the eleven COEs are also effectively flat funded, i.e. in future years our COEs will receive no additional revenue, even as the costs and demands for the services we provide our students continue to increase, and, furthermore, because COEs lack the authority to levy local school bonds for classroom and facility needs, there exists an incredible and growing pressure on our stagnant general funds as we try to maintain an aging and deteriorating facilities inventory; and

WHEREAS, consistent with the Governor's budget proposal in January 2019, which sought to reverse many of the "budget gimmicks" implemented during the last decade to help the state navigate the climb out of the Great Recession, the redirection of local education property tax revenues back to COEs would help eliminate the negative impact on their ability to equitably serve all students;

NOW, THEREFORE, BE IT RESOLVED THAT the Orange County Board of Education hereby urges Governor Newsom to include in his January 2020 Budget a proposal to reverse this redirection of education property tax revenues and to provide COEs with the authority to spend those local funds for increasingly essential student services.

AYES: *Gomez, Barke, Sparks, Bedell, Williams*
NOES: *0*
ABSENT: *0*

STATE OF CALIFORNIA, COUNTY OF ORANGE

I, **Mari Barke**, President of the Board of Education of Orange County, California, hereby certify that the foregoing Resolution was duly and regularly adopted by the said Board at a regular meeting thereof held on the eighth day of January 2020 and passed by a vote of 5-0.

IN WITNESS THEREOF, I have hereunto set my hand and seal this eighth day of January 2020.


Mari Barke, Board President
Orange County Board of Education

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Back up Board Material

Copies of this resolution to be sent to:

Ann O' Leary - Chief of Staff, Office of Governor Gavin Newsom

Ana Matosantos - Cabinet Secretary, Office of Governor Gavin Newsom

Keely Bosler - Director, Department of Finance

Jaime Callahan - Deputy Cabinet Secretary, Office of Governor Newsom

Jennifer Johnson - Deputy Legislative Secretary, Office of Governor Newsom

Jeff Bell - Budget Program Manager, Department of Finance

Karen Stapf-Walters - Executive Director, State Board of Education

Background: "Excess Property Tax" County Offices of Education

The primary funding sources for COEs is the LCFF. Each COE's annual LCFF allotment is determined by a formula. A COE's annual LCFF entitlement is funded first with local property tax revenue, with the remainder covered by state Proposition 98 General Fund (GF).

Some COEs do not receive state Prop 98 GF dollars for LCFF because local property tax revenues fund their LCFF entitlement. In fact, in these counties there is more property tax revenue than the LCFF allotment. The state unfortunately refers to this as "excess property tax."

Similarly, some school districts receive property tax revenues beyond their LCFF entitlements and, unlike COEs, are allowed to retain and spend "excess property taxes" for district GF use. These excess property tax school districts are more commonly referred to as "basic aid" school districts.

It is important to acknowledge that property tax revenue must remain within the county where it was collected and must be used exclusively by local governmental entities, such as county and city governments, school districts, COEs, community college districts and special districts. Property tax revenue is distributed by the county treasurer to those various local governmental entities. Notably, article XIII, section 24, subdivision (b) of the California Constitution, as amended in 2010 by the passage of Proposition 22, limits the power of the Legislature: "The Legislature may not reallocate, transfer, borrow, appropriate, restrict the use of or otherwise use the proceeds of any tax imposed or levied by a local government."

Nonetheless, since the 2013-14 trial court offset began, the law has required ALL "excess property tax" revenue that would have accrued to COEs to be transferred to the State Controller's Office to offset General Fund costs of trial courts. (See Senate Floor Analysis of SB 859 (07/14/14).) This transfer occurs at the direction of the Department of Finance and the State Controller the year after the taxes are collected. The Legislative Analysts' Office (LAO) projects the total excess county property tax will grow to over \$100 million by 2020-21.

This offset has a growing negative impact on the affected COEs and the school districts they serve. Vital programs and services for the state's most at-risk students offered by the affected COEs are under significant financial strain, including early childhood education, special education, data governance, alternative education, foster and homeless youth services, and coordination of behavioral health services.

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Students in school districts within these counties are impacted by increased fees (charged to the districts) for essential COE programs and services, if they are not scaled-back or shuttered. The inability to use funds raised by local taxpayers for the intended purposes has contributed negatively and perpetuated inequities across school districts.

To date in 2020 there are eleven (11) “excess property taxed” COEs. They are :

Marin	Placer	San Mateo
Monterey	Riverside	Santa Barbara
Napa	San Diego	Santa Clara
Orange	San Luis Obispo	

Effect of this proposal

While this shift allows the state to offset General Fund costs of providing trial court services, it does so by using dollars intended for county education programs and schools. The EC believes this is inappropriate and changes in the state Budget adoption process will allow funds to serve students, and return to funding those court costs through the State General Fund.