

THE BOARD OF SUPERVISORS OF THE COUNTY OF STANISLAUS
ACTION AGENDA SUMMARY

DEPT: Chief Executive Office

BOARD AGENDA # *B-5

Urgent

Routine

AGENDA DATE May 7, 2013

CEO Concurs with Recommendation YES NO
(Information Attached)

4/5 Vote Required YES NO

SUBJECT:

Approval of the Reallocation of Property Tax Administration Fees to the Cities of Ceres, Newman, Turlock and Waterford and Related Actions

STAFF RECOMMENDATIONS:

1. Approve the reallocation of Property Tax Administration Fees to the cities of Ceres, Newman, Turlock and Waterford as detailed in the report.
2. Authorize the use of \$410,630.90 in Appropriations for Contingencies by 4/5 vote of the Board of Supervisors.
3. Direct the Auditor-Controller to make the necessary technical adjustments to implement the adjusted fees.

FISCAL IMPACT:

Under the Revenue and Taxation Code, a county may charge local government entities for the service of assessing, collecting and allocating ad valorem property tax in the county. This is commonly known as Property Tax Administration Fees ("PTAF"). These fees have generated between \$1.7-2 million annually in revenue over the past several years for the property tax administration departments of the Assessor, Auditor-Controller and Treasurer-Tax Collector with a portion going to the Clerk of the Board for Assessment Appeals.
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BOARD ACTION AS FOLLOWS:

No. 2013-217

On motion of Supervisor O'Brien, Seconded by Supervisor Withrow
and approved by the following vote,

Ayes: Supervisors: O'Brien, Withrow, Monteith, De Martini and Chairman Chiesa

Noes: Supervisors: None

Excused or Absent: Supervisors: None

Abstaining: Supervisor: None

1) Approved as recommended

2) Denied

3) Approved as amended

4) Other:

MOTION:

ATTEST:


CHRISTINE FERRARO TALLMAN, Clerk

File No. C-2-C-5, C-3-A-2,
C-5-E-13, C-8-B-3

FISCAL IMPACT: (Continued)

For 2012-2013, the amount recovered has significantly decreased from prior years as the California Supreme Court ruled in November 2012 that the additional property taxes the cities and county receive from the “Triple Flip” and “VLF Swap” (which originated as a result of SB 1096), are not to be included as property tax revenue in the PTAF calculation. This decrease equates to roughly \$800,000 per year.

This report recommends revising the PTAF based on the dates four cities entered into tolling agreements with the County. The payments would be made with interest computed based on applicable pooled Treasury rates. If approved, the following payments would be made:

	FY 2010-2011	FY 2011-2012	Interest	Total
City of Ceres		\$79,704.03	\$677.88	\$80,381.91
City of Newman		\$14,429.31	\$122.72	\$14,552.03
City of Turlock	\$144,361.31	\$298,611.42	\$4,650.25	\$303,261.67
City of Waterford		\$12,330.42	\$104.87	\$12,435.29
Total	\$144,361.31	\$405,075.18	\$5,555.72	\$410,630.90

It is further recommended that the aforementioned payments of \$410,630.90 be funded through the use of Appropriations for Contingencies by 4/5 vote of the Board of Supervisors. This fiscal year’s Final Budget set-aside \$4,420,864 in Appropriations for Contingencies. On April 23, 2013 the Board approved the use of up to \$500,000 in Appropriations for Contingencies to address a shortfall in the Public Defender-Indigent Defense budget. Additionally, the Third Quarter Financial Report contains a recommendation for the use of \$813,489 of these contingency funds to address revenue shortfalls in County Court Funding and County Counsel. If these requests are all approved, \$2,696,744 will remain available in the current fiscal year for unexpected fiscal issues.

DISCUSSION:

With the passage of the State Budget for 1990-1991, funding for Stanislaus County programs were reduced. To restore State funding and avoid significant reductions in health, criminal justice, social service and administrative programs, the Legislature granted authority to recover the cost of property tax administration through legislation, SB 2557. In subsequent legislation, the State exempted school districts, community college districts and county offices of education from paying for the costs of property tax administration. In 2004, the methodology for allocation was further complicated because revenue swaps known as the “Triple Flip” and the “Vehicle License Fee Swap” were added. The majority of counties treated the revenue from the Triple Flip and VLF swap as a form of property tax based on interpretations of Revenue and Taxation Code and guidance from various associations. Beginning in 2006, the County Auditor-Controller revised the PTAF methodology to include the additional property tax revenue.

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Cities in some counties objected to the method of calculation and claimed that the amount charged exceeded the amount specifically authorized by statute.

Several cities in Los Angeles and Fresno sued their respective counties. While the City of Alhambra v. County of Los Angeles case was pending before the California Supreme Court, the City of Turlock was concerned about the effect of the City of Alhambra case on the method used by the Stanislaus County Auditor-Controller to calculate the property tax administration fees and wanted to preserve its legal position. In August 2011, the County and the City of Turlock entered into a tolling agreement to preserve the parties' rights until after the City of Alhambra case was decided. Subsequently, the cities of Waterford, Newman and Ceres were also concerned about the methodology and individually entered into tolling agreements with the County between November 2011 and April 2012.

In November 2012, the Court held that Los Angeles County's interpretation of the applicable statutes was incorrect. This resulted in PTAF charges exceeding what was statutorily allowed in order to perform the calculations. Similarly, the County of Stanislaus had allocated too much of the property tax revenue to administration fees as had a substantial majority of counties in the State of California.

Based upon the failure of the cities to follow Stanislaus County's unique procedures for objecting to the calculation of PTAF charges set forth in Stanislaus County Code Section 4.44.010, the opinion of County Counsel is that the cities waived any claims for miscalculation of PTAF charges and that no property tax administrative fees are required to be reallocated to the cities. However, in an attempt to work towards resolution of this matter, it is reasonable to reallocate the property tax administrative fees to those cities that entered into the tolling agreements rather than pursuing other legal remedies. Additionally, the County considers including the accumulated Treasury pooled rate of interest for the periods in dispute to be fair due to the loss of use of these funds. If approved, the reallocation of PTAF would be for fiscal years 2010/11 and 2011/12 for the City of Turlock and fiscal year 2011/12 for the cities of Ceres, Newman and Waterford.

On April 30, 2013, the Board of Supervisors accepted the Auditor Controller's final Property Tax Administration Fee report for the 2012-2013 Fiscal Year, in which the costs for calculating the Triple Flip and the VLF swap were not charged to any of the County's nine cities based on the City of Alhambra decision.

POLICY ISSUES:

The Board of Supervisor is asked to consider whether the reallocation of Property Tax Administration Fees to the respective cities is consistent with the Board's priorities of the Efficient Delivery of Public Services and Effective Partnerships.

STAFFING IMPACTS:

There are no staffing impacts associated with this item.

CONTACT PERSON:

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