

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

DEPT: Chief Executive Office

BOARD AGENDA # *B-6

Urgent

Routine

AGENDA DATE January 14, 2014

CEO Concurs with Recommendation YES NO
(Information Attached)

4/5 Vote Required YES NO

SUBJECT:

Approval of Payment of the Property Tax Administration Fee of \$2,538,680.28, to the Cities of Ceres, Hughson, Modesto, Newman, Oakdale, Patterson, Riverbank, Turlock and Waterford and Related Actions

STAFF RECOMMENDATIONS:

1. Approve a total payment of \$2,538,680.28 to the cities of Ceres, Hughson, Modesto, Newman, Oakdale, Patterson, Riverbank, Turlock and Waterford.
2. Authorize the use of \$2,538,680.28 in Committed Fund Balance by 4/5 vote of the Board of Supervisors.
3. Direct the Auditor-Controller to increase revenue and appropriations as detailed in the Budget Journal.

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 - \$2.0 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.

(Continued on Page 2)

BOARD ACTION AS FOLLOWS:

No. 2014-21

On motion of Supervisor Withrow, Seconded by Supervisor Monteith,
and approved by the following vote,

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

Noes: Supervisors: None

Excused or Absent: Supervisors: None

Abstaining: Supervisor: None

1) X Approved as recommended

2) _____ Denied

3) _____ Approved as amended

4) _____ Other:

MOTION:

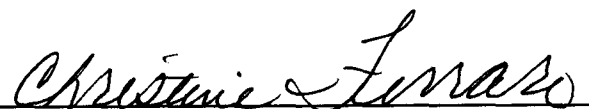
File No.

C-1-B-8; C-2-C-8; C-3-A-3;

C-4-B-4; C-5-E-14; C-6-J-13;

C-7-B-9; C-8-B-5; C-9-B-6

ATTEST:



CHRISTINE FERRARO TALLMAN, Clerk

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FISCAL IMPACT: (Continued)

In Fiscal Year 2012-2013, the amount recovered significantly decreased from prior years because a November 2012 Supreme Court ruling determined 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.

The County has recently entered into settlement agreements with eight of the nine cities. The settlement agreement with the City of Newman is pending with anticipation the city will agree to the terms at a January 14, 2014 city council meeting. The nine cities have the option to choose the more favorable of two different payment formulas.

The first formula for payment includes, based on when a city preserved their rights, 3 ½ to 4 ½ years of back payments with interest on the principal amounts calculated through December 31, 2013. For this formula, interest is calculated using the pooled Treasury rate and is compounded annually. This formula favors the cities of Modesto, Oakdale, Patterson and Riverbank.

A second formula includes 3 years of back payments with interest on the principal amounts calculated through December 31, 2013. For this formula, interest is calculated using a 7% interest rate and is compounded annually. This formula favors the cities of Ceres, Hughson, Newman, Turlock and Waterford.

On May 7, 2013, the Board of Supervisors approved the reallocation of \$410,630.90 to four of the nine cities. The recommended actions today will result in additional payments of \$2,538,680.28, as reflected in the following table.

	Proposal	Recommended Payment
Ceres	3 @ 7%	290,992.41
Hughson	3 @ 7%	37,870.59
Modesto	3.5 @ Pooled	1,372,666.06
Newman	3 @ 7%	49,738.54
Oakdale	3.5 @ Pooled	135,399.07
Patterson	3.5 @ Pooled	114,576.13
Riverbank	3.5 @ Pooled	147,480.03
Turlock	3 @ 7%	342,118.08
Waterford	3 @ 7%	47,839.37
Total		2,538,680.28

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It is further recommended that the aforementioned payments of \$2,538,680.28 be funded through the use of Committed Fund Balance allocated specifically for this purpose as part of the Fiscal Year 2013-2014 Final Budget.

DISCUSSION:

With the passage of the State Budget for Fiscal Year 1990-1991, funding for Stanislaus County programs was 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. 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.

In an attempt to work towards resolution of this matter, on May 7, 2013, the Board of Supervisors approved the reallocation of Property Tax Administration Fees to the cities of Ceres, Newman, Turlock and Waterford. The reallocation of fees was based on the dates the four cities entered into tolling agreements with the County. Turlock received a

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reallocation of fees for Fiscal Years 2010-2011 and 2011-2012 while Ceres, Newman and Waterford received reallocation for Fiscal Year 2011-2012 only. The payments were made with interest based on the applicable pooled Treasury rates and totaled \$410,630.90.

In December, 2013, the County and eight of the nine cities (Ceres, Hughson, Modesto, Oakdale, Patterson, Riverbank, Turlock and Waterford) reached a settlement agreement to resolve the dispute. Negotiations continue with the City of Newman and it is anticipated Newman will agree to a settlement on January 14, 2014.

Eight of the nine cities originally agreed to 3 ½ to 4 ½ years of back payments dependent on when the cities preserved their rights. However, recently a new formula for payment has been developed giving each city two different formulas to choose from. The first formula is for the County to make 3 ½ to 4 ½ years of back payments dependent on when the cities preserved their rights. Interest payments for the periods in dispute at the Treasury pooled rate would also be included. The second formula is for the County to make 3 years of back payments with interest payments for the periods in dispute at a 7% interest rate, which is higher than the Treasury pooled rate. The cities have the choice to select the more favorable formula with Modesto, Oakdale, Patterson and Riverbank selecting 3 ½ to 4 ½ years of back payments with interest paid at the pooled interest rate and Ceres, Hughson, Newman, Turlock and Waterford choosing 3 years of back payments with a 7% interest rate.

Upon approval by the Board of Supervisors, an amount of \$2,538,680.28 will be distributed by lump sum payments to each city within 30-days of their signed settlement agreement or within 30 days of their dismissing their lawsuit against the County on this subject. The County considers including the accumulated interest for the periods in dispute to be fair due to the loss of use of these funds. Combined with the \$410,630.90 reallocated in May 2013, the total settlement with the Cities resulting from the Property Tax Administration Fee is \$2,949,311.18.

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 calculation 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 Supervisors is asked to consider whether the approval of the Property Tax Administration Fees settlement and related payments to the respective cities is consistent with the Board's priorities of the Efficient Delivery of Public Services and Effective Partnerships.

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STAFFING IMPACTS:

There are no staffing impacts associated with this item.

CONTACT PERSON:

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