

## Property Taxes Applied to Basic Aid Districts

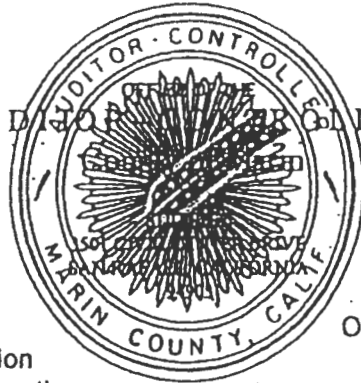
Attached please find a letter dated October 17, 2008 from the County of Marin to the School Fiscal Services Division of CDE, addressing the effect on school funding mechanisms created by Ed Code 401975 as interpreted and applied by the office of the Marin County Auditor Controller and the Marin County Office of Education. This letter is relevant to how property taxes (specifically ERAF) are applied to Basic Aid Districts.

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A U D I T O R - C O N T R O L L E R

Scott Hannan, Director  
School Fiscal Services Division  
California Department of Education  
1430 N Street  
Sacramento, CA 95814-5901

October 17, 2008

Dear Scott:

This memo addresses the effect on school funding mechanisms created by Education Code section 41975, as interpreted and applied by the office of the Marin County Auditor Controller and the Marin County Office of Education.

**ISSUE:** In 2003, the Auditor of the County of Marin questioned the new school funding forms created following the passage of AB 1754. The new forms, if followed without alteration, resulted in excess-ERAF counties paying to non-basic aid school districts an amount equal to the shift in counting \$120 of categorical funding as applying to the state constitutional Article 8 Section 6 obligation to provide a minimum of \$120 in state aid to all school districts. In December, 2003 discussions were held between the Marin County Office of Education, County of Marin and the California Department of Education (CDE) and Department of Finance concerning several ERAF issues, including AB 1754. Following the 2003 meeting, the CDC was to get back to the County Auditor regarding any conclusions regarding the AB 1754, in the meantime, the County and the state agencies focused on resolution of other, significantly larger LC1/01-1C funding issues. In the years following the December, 2003 meeting, since the on-line school funding forms left no room for the correct reporting of school district funds, as interpreted by the County, the Marin County Auditor has reported tax receipts for revenue limit school districts in Marin in a manner that reflected the County's interpretation of AB 1754, reflecting his understanding of the discussions at the December, 2003 meeting. In April, 2005 the County again contacted the state regarding the AB 1754 issues, and was informed that the state was not pursuing the funds affected by the issue raised by the County, based upon the understanding reached at the December, 2003 meeting. Now that the LC/OHC issues have been finally resolved after several years of legislative efforts and negotiations with the Department of Finance, the Auditor wishes to once again inform the state regarding the interpretation of Education Code section 41976 and its interaction with other state funding statutes.

**DISCUSSION:** Article 9, Section 6 of the California Constitution requires that the State School fund provide a minimum of \$120 per pupil in ADA. Other funds are provided to school districts as categorical funds and as part of the Prop. 98 revenue limit guarantee. As part of the 2003-2004 budget bill, Education Code section 41975 was enacted, stating in pertinent part:

(b) State funds apportioned to each school district for categorical education programs, or other state funds apportioned to each school district from the State School Fund, shall be applied to meet the requirement of Section 6 of Article IX of the California Constitution to provide a minimum of one hundred twenty dollars (\$120) of state aid per pupil or two thousand four hundred dollars (\$2400) per school district.

By counting categorical funding as fulfilling the State's California Constitution Art. IX requirement, the state is relieved of that amount of funding under the Prop, 98 revenue limit calculation for basic aid schools. That was the intent of the legislation, as is evidenced by the legislative history. However, for non-basic aid districts, the state is still required to fund up to the revenue limit. In non-Excess ERAF counties, the interpretation of section 41975 by *School Fiscal Services Division (SFS)* has no impact on local public entities. However, in Excess ERAF counties, an interpretation of section 41975 that allows the state to reduce school funding in the amount of the \$120 Article IX requirement that is treated as fulfilled by other categorical funding, and then requiring that ERAF funds be used to fund either the State's Article 9 \$120 per ADA requirement or the equivalent amount of categorical funding, violates existing law. No provisions of ERAF funding legislation or 41975 support this result. The on-line SFS reporting forms make no provision for the correct interpretation of AB 1754.

**CONCLUSION:** Since the ERAF property tax legislation was never intended to require local property taxes to pay either the state's Article IX funding requirement or the state's obligations to fund categorical programs, the SFS should revise its forms to reflect that reality. In the meantime, the Marin County Auditor Controller will continue to report revenue limit district tax receipts in the same manner as it has since 2004 to the Marin County Office of Education, so that the design of the on-line forms does not result in the taxing entities in Marin County being deprived of excess ERAF that should by law be returned to those taxing entities.

Sincerely,

*Richard S. Arrow by Bryan R. Karow*

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Auditor-Controller

Cc: Susan Lange, Deputy Superintendent  
Matthew H. Hymel, Administrator  
Patrick Faulkner, County Counsel  
Mary Jane Burke, Marin County Superintendent of Schools

RSA: rb