

ASSEMBLY BILL

No. 68

Introduced by Assembly Member Beall

December 14, 2010

An act to amend Section 98 of the Revenue and Taxation Code, relating to local government finance.

LEGISLATIVE COUNSEL'S DIGEST

AB 68, as introduced, Beall. Tax Equity Allocation formula: County of Santa Clara.

Existing property tax law requires the county auditor, in each fiscal year, to allocate property tax revenue to local jurisdictions in accordance with specified formulas and procedures, and generally requires that each jurisdiction be allocated an amount equal to the total of the amount of revenue allocated to that jurisdiction in the prior fiscal year, subject to certain modifications, and that jurisdiction's portion of the annual tax increment, as defined. Existing property tax law also reduces the amounts of ad valorem property tax revenue that would otherwise be annually allocated to the county, cities, and special districts pursuant to these general allocation requirements by requiring, for purposes of determining property tax revenue allocations in each county for the 1992–93 and 1993–94 fiscal years, that the amounts of property tax revenue deemed allocated in the prior fiscal year to the county, cities, and special districts be reduced in accordance with certain formulas. It requires that the revenues not allocated to the county, cities, and special districts as a result of these reductions be transferred to the Educational Revenue Augmentation Fund (ERAF) in that county for allocation to school districts, community college districts, and the county office of education.

Existing property tax law requires the auditor of each county with qualifying cities, as defined, to make certain property tax revenue allocations to those cities in accordance with a specified Tax Equity Allocation (TEA) formula established in a specified statute and to make corresponding reductions in the amount of property tax revenue that is allocated to the county. Existing law requires the auditor of Santa Clara County, for the 2006–07 fiscal year and for each fiscal year thereafter, to reduce the amount of property tax revenue allocated to qualified cities in that county by the ERAF reimbursement amount, as defined, and to commensurately increase the amount of property tax revenue allocated to the county ERAF, as specified.

This bill would, for the 2012–13 fiscal year and for each fiscal year thereafter, delete the requirement that the auditor of Santa Clara County reduce the amount of property tax revenues allocated to qualified cities in that county by the ERAF reimbursement amount, and commensurately increase the amount of property tax revenues allocated to the county ERAF.

This bill would make legislative findings regarding the necessity of a special statute.

By imposing new duties in the allocation of ad valorem property tax revenues in the County of Santa Clara, this bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 98 of the Revenue and Taxation Code is
- 2 amended to read:
- 3 98. (a) In each county, other than the County of Ventura,
- 4 having within its boundaries a qualifying city, the computations
- 5 made pursuant to Section 96.1 or its predecessor section, for the

1 1989–90 fiscal year and each fiscal year thereafter, shall be
2 modified as follows:

3 With respect to tax rate areas within the boundaries of a
4 qualifying city, there shall be excluded from the aggregate amount
5 of “property tax revenue allocated pursuant to this chapter to local
6 agencies, other than for a qualifying city, in the prior fiscal year,”
7 an amount equal to the sum of the amounts calculated pursuant to
8 the TEA formula.

9 (b) (1) Except as otherwise provided in this section, each
10 qualifying city shall, for the 1989–90 fiscal year and each fiscal
11 year thereafter, be allocated by the auditor an amount determined
12 pursuant to the TEA formula.

13 (2) For each qualifying city, the auditor shall, for the 1989–90
14 fiscal year and each fiscal year thereafter, allocate the amount
15 determined pursuant to the TEA formula to all tax rate areas within
16 that city in proportion to each tax rate area’s share of the total
17 assessed value in the city for the applicable fiscal year, and the
18 amount so determined shall be subtracted from the county’s
19 proportionate share of property tax revenue for that fiscal year
20 within those tax rate areas.

21 (3) After making the allocations pursuant to paragraphs (1) and
22 (2), but before making the calculations pursuant to Section 96.5
23 or its predecessor section, the auditor shall, for all tax rate areas
24 in the qualifying city, calculate the proportionate share of property
25 tax revenue allocated pursuant to this section and Section 96.1, or
26 their predecessor sections, in the 1989–90 fiscal year and each
27 fiscal year thereafter to each jurisdiction in the tax rate area.

28 (4) In lieu of making the allocations of annual tax increment
29 pursuant to subdivision (e) of Section 96.5 or its predecessor
30 section, the auditor shall, for the 1989–90 fiscal year and each
31 fiscal year thereafter, allocate the amount of property tax revenue
32 determined pursuant to subdivision (d) of Section 96.5 or its
33 predecessor section to jurisdictions in the tax rate area using the
34 proportionate shares derived pursuant to paragraph (3).

35 (5) For purposes of the calculations made pursuant to Section
36 96.1 or its predecessor section, in the 1990–91 fiscal year and each
37 fiscal year thereafter, the amounts that would have been allocated
38 to qualifying cities pursuant to this subdivision shall be deemed
39 to be the “amount of property tax revenue allocated in the prior
40 fiscal year.”

(c) “TEA formula” means the Tax Equity Allocation formula, and shall be calculated by the auditor for each qualifying city as follows:

(1) For the 1988–89 fiscal year and each fiscal year thereafter, the auditor shall determine the total amount of property tax revenue to be allocated to all jurisdictions in all tax rate areas within the qualifying city, before the allocation and payment of funds in that fiscal year to a community redevelopment agency within the qualifying city, as provided in subdivision (b) of Section 33670 of the Health and Safety Code.

(2) The auditor shall determine the total amount of funds allocated in each fiscal year to a community redevelopment agency in accordance with subdivision (b) of Section 33670 of the Health and Safety Code.

(3) The auditor shall determine the total amount of funds paid in each fiscal year by a community redevelopment agency within the city to jurisdictions other than the city pursuant to subdivision (b) of Section 33401 and Section 33676 of the Health and Safety Code, and the cost to the redevelopment agency of any land or facilities transferred and any amounts paid to jurisdictions other than the city to assist in the construction or reconstruction of facilities pursuant to an agreement entered into under Section 33401 or 33445.5 of the Health and Safety Code.

(4) The auditor shall subtract the amount determined in paragraph (3) from the amount determined in paragraph (2).

(5) The auditor shall subtract the amount determined in paragraph (4) from the amount determined in paragraph (1).

(6) The amount computed in paragraph (5) shall be multiplied by the following percentages in order to determine the TEA formula amount to be distributed to the qualifying city in each fiscal year:

(A) For the first fiscal year in which the qualifying city receives a distribution pursuant to this section, 1 percent of the amount determined in paragraph (5).

(B) For the second fiscal year in which the qualifying city receives a distribution pursuant to this section, 2 percent of the amount determined in paragraph (5).

(C) For the third fiscal year in which the qualifying city receives a distribution pursuant to this section, 3 percent of the amount determined in paragraph (5).

1 (D) For the fourth fiscal year in which the qualifying city
2 receives a distribution pursuant to this section, 4 percent of the
3 amount determined in paragraph (5).

4 (E) For the fifth fiscal year in which the qualifying city receives
5 a distribution pursuant to this section, 5 percent of the amount
6 determined in paragraph (5).

7 (F) For the sixth fiscal year in which the qualifying city receives
8 a distribution pursuant to this section, 6 percent of the amount
9 determined in paragraph (5).

10 (G) For the seventh fiscal year and each fiscal year thereafter
11 in which the city receives a distribution pursuant to this section,
12 7 percent of the amount determined in paragraph (5).

13 (d) “Qualifying city” means any city, except a qualifying city
14 as defined in Section 98.1, that incorporated prior to June 5, 1987,
15 and had an amount of property tax revenue allocated to it pursuant
16 to subdivision (a) of Section 96.1 or its predecessor section in the
17 1988–89 fiscal year that is less than 7 percent of the amount of
18 property tax revenue computed as follows:

19 (1) The auditor shall determine the total amount of property tax
20 revenue allocated to the city in the 1988–89 fiscal year.

21 (2) The auditor shall subtract the amount in the 1988–89 fiscal
22 year determined in paragraph (3) of subdivision (c) from the
23 amount determined in paragraph (2) of subdivision (c).

24 (3) The auditor shall subtract the amount determined in
25 paragraph (2) from the amount of property tax revenue determined
26 in paragraph (1) of subdivision (c).

27 (4) The auditor shall divide the amount of property tax revenue
28 determined in paragraph (1) of this subdivision by the amount of
29 property tax revenue determined in paragraph (3) of this
30 subdivision.

31 (5) If the quotient determined in paragraph (4) of this subdivision
32 is less than 0.07, the city is a qualifying city. If the quotient
33 determined in that paragraph is equal to or greater than 0.07, the
34 city is not a qualifying city.

35 (e) The auditor may assess each qualifying city its proportional
36 share of the actual costs of making the calculations required by
37 this section, and may deduct that assessment from the amount
38 allocated pursuant to subdivision (b). For purposes of this
39 subdivision, a qualifying city’s proportional share of the auditor’s

1 actual costs shall not exceed the proportion it receives of the total
2 amounts excluded in the county pursuant to subdivision (a).

3 (f) Notwithstanding subdivision (b), in any fiscal year in which
4 a qualifying city is to receive a distribution pursuant to this section,
5 the auditor shall reduce the actual amount distributed to the
6 qualifying city by the sum of the following:

7 (1) The amount of property tax revenue that was exchanged
8 between the county and the qualifying city as a result of negotiation
9 pursuant to Section 99.03.

10 (2) (A) The amount of revenue not collected by the qualifying
11 city in the first fiscal year following the city's reduction after
12 January 1, 1988, of the tax rate or tax base of any locally imposed
13 tax, except any tax that was imposed after January 1, 1988. In the
14 case of a tax that existed before January 1, 1988, this clause shall
15 apply only with respect to an amount attributable to a reduction
16 of the rate or base to a level lower than the rate or base applicable
17 on January 1, 1988. The amount so computed by the auditor shall
18 constitute a reduction in the amount of property tax revenue
19 distributed to the qualifying city pursuant to this section in each
20 succeeding fiscal year. That amount shall be aggregated with any
21 additional amount computed pursuant to this clause as the result
22 of the city's reduction in any subsequent year of the tax rate or tax
23 base of the same or any other locally imposed general or special
24 tax.

25 (B) No reduction may be made pursuant to subparagraph (A)
26 in the case in which a local tax is reduced or eliminated as a result
27 of either a court decision or the approval or rejection of a ballot
28 measure by the voters.

29 (3) The amount of property tax revenue received pursuant to
30 this chapter in excess of the amount allocated for the 1986–87
31 fiscal year by all special districts that are governed by the city
32 council of the qualifying city or whose governing body is the same
33 as the city council of the qualifying city with respect to all tax rate
34 areas within the boundaries of the qualifying city.

35 Notwithstanding this paragraph:

36 (A) Commencing with the 1994–95 fiscal year, the auditor shall
37 not reduce the amount distributed to a qualifying city under this
38 section by reason of that city becoming the successor agency to a
39 special district, that is dissolved, merged with that city, or becomes
40 a subsidiary district of that city, on or after July 1, 1994.

1 (B) Commencing with the 1997–98 fiscal year, the auditor shall
2 not reduce the amount distributed to a qualifying city under this
3 section by reason of that city withdrawing from a county free
4 library system pursuant to Section 19116 of the Education Code.

5 (4) Any amount of property tax revenues that has been
6 exchanged pursuant to Section 56842 of the Government Code
7 between the City of Rancho Mirage and a community services
8 district, the formation of which was initiated on or after March 6,
9 1997, pursuant to Chapter 4 (commencing with Section 56800) of
10 Part 3 of Division 3 of Title 5 of the Government Code.

11 (g) Notwithstanding any other provision of this section, in no
12 event may the auditor reduce the amount of ad valorem property
13 tax revenue otherwise allocated to a qualifying city pursuant to
14 this section on the basis of any additional ad valorem property tax
15 revenues received by that city pursuant to a services for revenue
16 agreement. For purposes of this subdivision, a “services for revenue
17 agreement” means any agreement between a qualifying city and
18 the county in which it is located, entered into by joint resolution
19 of that city and that county, under which additional service
20 responsibilities are exchanged in consideration for additional
21 property tax revenues.

22 (h) In any fiscal year in which a qualifying city is to receive a
23 distribution pursuant to this section, the auditor shall increase the
24 actual amount distributed to the qualifying city by the amount of
25 property tax revenue allocated to the qualifying city pursuant to
26 Section 19116 of the Education Code.

27 (i) If the auditor determines that the amount to be distributed to
28 a qualifying city pursuant to subdivision (b), as modified by
29 subdivisions (e), (f), and (g) would result in a qualifying city having
30 proceeds of taxes in excess of its appropriation limit, the auditor
31 shall reduce the amount, on a dollar-for-dollar basis, by the amount
32 that exceeds the city’s appropriations limit.

33 (j) The amount not distributed to the tax rate areas of a
34 qualifying city as a result of this section shall be distributed by the
35 auditor to the county.

36 (k) Notwithstanding any other provision of this section, no
37 qualifying city shall be distributed an amount pursuant to this
38 section that is less than the amount the city would have been
39 allocated without the application of the TEA formula.

(l) Notwithstanding any other provision of this section, the auditor shall not distribute any amount determined pursuant to this section to any qualifying city that has in the prior fiscal year used any revenues or issued bonds for the construction, acquisition, or development, of any facility which is defined in Section 103(b)(4), 103(b)(5), or 103(b)(6) of the Internal Revenue Code of 1954 prior to the enactment of the Tax Reform Act of 1986 (P.L. 99-514) and is no longer eligible for tax-exempt financing.

~~(m) (1) The amendments made to this section, and the repeal of Section 98.04, by the act that added this subdivision shall apply for the 2006–07 fiscal year and each fiscal year thereafter.~~

~~(2) For the 2006–07 fiscal year and for each fiscal year thereafter, all of the following apply:~~

~~(A) The auditor of the County of Santa Clara shall do both of the following:~~

~~(i) Reduce the total amount of ad valorem property tax revenue otherwise required to be allocated to qualifying cities in that county by the ERAF reimbursement amount. This reduction for each qualifying city in the county for each fiscal year shall be the percentage share, of the total reduction required by this clause for all qualifying cities in the county for the 2006–07 fiscal year, that is equal to the proportion that the total amount of additional ad valorem property tax revenue that is required to be allocated to the qualifying city as a result of the act that added this subdivision bears to the total amount of additional ad valorem property tax revenue that is required to be allocated to all qualifying cities in the county as a result of the act that added this subdivision.~~

~~(ii) Increase the total amount of ad valorem property tax revenue otherwise required to be allocated to the county Educational Revenue Augmentation Fund by the ERAF reimbursement amount.~~

~~(B) For purposes of this subdivision, “ERAF reimbursement amount” means an amount equal to the difference between the following two amounts:~~

~~(i) The portion of the annual tax increment that would have been allocated from the county to the county Educational Revenue Augmentation Fund for the applicable fiscal year if the act that added this subdivision had not been enacted.~~

~~(ii) The portion of the annual tax increment that is allocated from the county to the county Educational Revenue Augmentation Fund for the applicable fiscal year.~~

1 (m) *The amendments made to this section by the act that added*
2 *this subdivision shall apply for the 2012–13 fiscal year and each*
3 *fiscal year thereafter.*

4 SEC. 2. The Legislature finds and declares that a special law
5 is necessary and that a general law cannot be made applicable
6 within the meaning of Section 16 of Article IV of the California
7 Constitution because of the unique fiscal pressures being
8 experienced by qualifying cities, as defined in Section 98 of the
9 Revenue and Taxation Code, in the County of Santa Clara.

10 SEC. 3. If the Commission on State Mandates determines that
11 this act contains costs mandated by the state, reimbursement to
12 local agencies and school districts for those costs shall be made
13 pursuant to Part 7 (commencing with Section 17500) of Division
14 4 of Title 2 of the Government Code.