



PROPOSITION 1A SUSPENSION AND SECURITIZATION FREQUENTLY ASKED QUESTIONS

Over the past few weeks, we heard from a number of you with questions about the suspension of Proposition 1A, authorizing the state to borrow property taxes from local agencies, and the authorization to securitize the state's repayment of the 1A "loan" in 2013. In an attempt to address some of these issues, CSAC has prepared the following Frequently Asked Questions document to assist you in preparing for the suspension/securitization.

Please don't hesitate to contact us with any additional questions that may arise. Also, please note that these answers to Frequently Asked Questions may change as a result of cleanup legislation likely to be considered by the Legislature prior to their adjournment on September 11, 2009.

PROPOSITION 1A GENERAL FAQ

What does the suspension of Proposition 1A mean to our county?

The Legislature passed and the Governor signed [ABX4 14](#) and [ABX4 15](#) as part of the 2009-10 budget package. ABX4 14 suspends the property tax protection provisions of Proposition 1A (2004). This means that Article XIII, Section 25.5 (a)(1)(A) is not in effect for the 2009-10 fiscal year.

ABX4 15 provides directions for calculation of the 8% property tax "loan," the constitutionally-required repayment provisions, as well as provisions authorizing the securitization of the state's repayment. Under the provisions of Proposition 1A, the state may "borrow" an amount up to 8% of local agencies' prior year property tax allocations. (Local agencies are defined as cities, counties, and special districts.) The state must repay that loan within a three-year period with interest.

How does our county's 8% "loan" amount get calculated?

ABX4 15 indicates that county auditor-controllers will calculate each local agency's loan amount at 8% of the total amount of ad valorem property tax revenue that was apportioned to the local agency during the 2008-09 fiscal year. The statute explicitly includes amounts that were transferred for the VLF Swap and the Triple Flip.

When will our county see the reduction in our property tax revenues?

County auditor-controllers are tasked with transferring the loan amount in two equal shares at the same time as regular property tax allocations (no later than January 15, 2010 and May 1, 2010).

When is the state required to repay the "loan"? And at what interest rate?

ABX4 15 indicates the state's deadline to repay the loan is June 30, 2013. The interest rate for those agencies that do not sell the receivable to the joint powers

authority will be set by the Director of Finance at a rate no less than the current Pooled Money Investment rate and capped at 6%. The Director of Finance must set this interest rate by September 28, 2009.

Are there any guarantees that the state will repay us?

The State Constitution requires that the state provide repayment within a three-year period. ABX4 15 sets the repayment deadline at June 30, 2013.

The repayment is also continuously appropriated in the General Fund and authorizes the State Controller to make the repayment. The repayment is a priority payment behind General Fund obligations to schools and general obligation bonds. If the state has not fully repaid local agencies by June 30, 2013, local agencies or the bond issuer may seek a writ of mandamus to compel the Controller to fully pay the amounts the state is obligated to pay. The petition for writ of mandamus has priority and preference in setting and review and may be filed in the California Supreme Court.

When can the state suspend Proposition 1A again?

The State Constitution indicates that the property tax protection provisions of Proposition 1A cannot be suspended more than twice in a 10-year period (the first year begins with the first suspension).

Further, the state cannot suspend Proposition 1A until all previous loans are paid in full.

What happens to the funds that are being “loaned” to the state?

The county auditor-controller is directed to deposit the loaned funds into a Supplemental Revenue Augmentation Fund (SRAF) that is then allocated to the county office of education. The county office of education, upon direction by the Department of Finance, will then transfer those funds to the State Controller to reimburse the state for costs of providing health care, trial court, correctional or other state-funded services and costs incurred within that county until the funds are exhausted. Any remaining funds will be held to fund state costs in the following fiscal year. Some funds may be transferred to the Educational Revenue Augmentation Fund (ERAF), but will only be transferred in amounts that allow the state to continue to meet its federal Maintenance of Effort (MOE) requirement to draw down federal stimulus funds for schools.

Are there hardship exemptions? How does our county apply for a hardship exemption?

Yes. For those communities experiencing extreme fiscal hardship, upon written request, the Director of Finance may decrease the reduction amount. Extreme fiscal hardship may include: whether the community is in bankruptcy proceedings or that the reduction would likely cause the local agency to seek bankruptcy protection; or whether the requesting local agency has available reserves and whether the reduction would impair the ability of the local agency to provide a basic level of core services. If the Director of Finance decreases a local agency’s reduction as a result of hardship, the amount of the decrease will be allocated proportionately among other local agencies within the county, not to exceed more than 10 percent of the total reduction amounts for all local agencies within the county.

In addition, two or more local agencies are able to reallocate their reduction amongst themselves.

We keep hearing about “cleanup” legislation - what will be included in a cleanup measure and what is the timing for getting such legislation approved?

Please note that CSAC and others have identified a number of provisions that require cleanup legislation in order to ensure timely issuance of bonds. Many of the dates that are in ABX4 15 will likely need to change, due to the lack of passage of another budget-related measure, ABX4 27. We will continue to keep counties apprised of activities in this area, but keep in mind that some answers to these Frequently Asked Questions may change.

PROPOSITION 1A SECURITIZATION FAQ

What is securitization?

Securitization is a tool which allows an agency to sell future “receivables”, such as the state’s constitutional obligation to repay local agencies for a 1A borrowing, in order to access the cash due from the receivables immediately. In the instance of the Proposition 1A securitization, the California Statewide Communities Development Authority (CSCDA) is authorized to purchase the receivables due to local agencies from the state as a result of the Proposition 1A borrowing.

Who is the California Statewide Communities Development Authority?

The California Statewide Communities Development Authority (CSCDA or California Communities) is a joint powers authority (JPA) sponsored by the California State Association of Counties (CSAC) and the League of California Cities (League). California Communities was created by CSAC and the League in 1988 to enable local government and eligible private entities access to low-cost, tax-exempt financing through a variety of pooled and stand-alone finance programs.

How does the Proposition 1A securitization work?

The legislation for the Proposition 1A securitization authorizes cities, counties, and special districts to sell their state repayment obligations to California Communities. In a simultaneous transaction, California Communities will issue taxable bonds and remit the cash proceeds to the participating local public agencies. Bondholders will receive their repayment from the state at a later date. The legislation provides that local agencies participating in the securitization program will receive 100% of their respective Proposition 1A receivables.

Do I need to become a member of California Communities to participate in the program?

No. All public agencies are eligible to participate in the program without having to join the California Communities JPA.

Is securitization voluntary? What if our county chooses not to securitize?

Yes, this is a voluntary program. Public agencies that do not participate in the Proposition 1A Securitization Program can expect to receive repayment plus interest from the state for its obligations by June 30, 2013. The interest rate to be paid by the state to those local public agencies that do not securitize will be set by the Director of Finance on or before September 28, 2009. That amount must be no less than the current Pooled Money Investment Account rate, but no higher than 6%.

How much will it cost our county to participate in the Proposition 1A Securitization Program?

There is no cost to participate. All bond issuance and interest costs will be paid by the state. This allows agencies to receive 100% of their receivables.

If our county securitizes, will we still get the repayment interest from the state?

No. In the case of securitization, the state will pay the interest due to bondholders and issuance costs associated with the transaction. Only agencies that do not securitize will receive interest from the state in 2013.

Will our county incur any liability by participating in the program?

No. The bonds issued by California Communities are not obligations of any of the local agency program participants. The California Communities joint powers agreement expressly provides that California Communities is an entity separate and apart from the participating public agencies, and "its debts, liabilities and obligations do not constitute debts, liabilities or obligations of any party to the joint powers agreement." Participating public agencies are not responsible for any repayment of debt, nor are they named in any of the bond documents.

Has California Communities conducted a program like this before?

Yes. In 2005, California Communities conducted a similar bond securitization program for local agencies when the state borrowed Vehicle License Fee (VLF) revenues from cities and counties. California Communities securitized \$455 million in VLF payments due from the state to provide advance repayment to 146 participating cities and counties.

How is the Proposition 1A securitization different from the VLF "gap loan" securitization?

Under the VLF financing program in 2005, local agencies in California were required to cover the costs of issuance and pay the interest cost. As a result, local agencies only received about 93 cents on the dollar from their loans to the state. Under the proposed Proposition 1A Securitization Program, the state will pay for the borrowing interest incurred and the costs of issuance required for each agency to participate, allowing local agencies the ability to receive 100% of their receivables.

Who is the financing team for the Proposition 1A Securitization Program?

Bond Counsel: Orrick, Herrington & Sutcliffe, LLP

Underwriters: Goldman Sachs, JP Morgan, Morgan Stanley, De La Rosa, and Stone & Youngberg

Trustee: To be determined – currently in RFP process

What is the application deadline to participate in the Proposition 1A Securitization Program?

All applications and participant documents must be submitted by November 6, 2009.

What is required from our county to participate?

Participating agencies will be required to have a resolution adopted by their governing board (provided by bond counsel) that authorizes the sale of the Proposition 1A receivables to California Communities. This resolution will need to be adopted by the end of October 2009.

Will our county have to go through a credit rating process? How will the credit rating for these bonds be assessed?

No. The bonds are secured by the State of California's constitutional obligation to repay the loan within the three-year time period. The ratings on the bonds will be determined by the rating agencies based upon their assessment of the credit worthiness of the transaction and the state's ability to pay.

Are there other ways to securitize aside from the California Communities program?

California Communities offers the only pooled Proposition 1A securitization program and is the only statutorily-authorized option that allows local agencies to securitize and have bond issuance and interest costs paid by the state.*

Where can I get more information?

Please visit California Communities online at www.cacommunities.org for more information and to sign up as an interested party. There is no obligation on behalf of an agency to express an interest. Informational webinars and regional workshops will be held in September/October.

*Excepting a county of the first class.