



February 26, 2024

The Honorable John Laird, Chair  
Senate Budget Subcommittee No. 1  
1021 O Street, Suite 8720  
Sacramento, CA 95814

Re: **Educational Revenue Augmentation Fund: New Entitlements for Charter Schools – OPPOSE**

Dear Senator Laird:

On behalf of the Urban Counties of California (UCC), the Rural County Representatives of California (RCRC), the California State Association of Counties (CSAC), the California Special Districts Association (CSDA), the League of California Cities (CalCities), as well as the Counties of Marin and Santa Clara, we write in opposition to the Administration’s proposal to “clarify” that charter schools are eligible for Educational Revenue Augmentation Funds (ERAF). While we have yet to see the Administration’s draft trailer bill language to execute the proposal, which limits our ability to accurately assess the fiscal impact on affected local agencies that will result, we are confident in our “oppose” position. The Administration’s conceptual proposal not only directly conflicts with constitutional protections approved by voters in 2004, but will result in dramatic losses of local general purpose revenues that will affect critical local programs and services for the foreseeable future. The assertion that charter schools are entitled to ERAF and that this proposal is a “clarification” of existing law also directly conflicts with a recent appellate court decision.<sup>1</sup>

As you are aware, in the early 1990’s, the state – facing a fiscal crisis – required local governments (counties, cities, and special districts) to shift a portion of their local property tax revenues to ERAF. These funds are subsequently transferred to county offices of education, school districts, and community colleges to offset state minimum funding obligations under Proposition 98. Once school funding levels are met, any funds remaining

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<sup>1</sup> *California School Boards Assoc. v. Cohen* (2023) 2023 WL 4853693 (“CSBA”).

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in the ERAF – termed “excess ERAF” – are returned to the county, cities, and special districts in the same proportion from which they were initially shifted.

The rules governing the calculation of excess ERAF, which are performed by county auditor-controllers, are enshrined in the Education Code and Revenue & Taxation Code, and subject to regular audits by the State Controller. Since 1994, when the first county experienced excess ERAF, county auditor-controllers in the affected counties have worked diligently in a transparent and collaborative manner to effectuate a complex set of calculations to ensure that property taxes are accurately allocated.

In 2004, after a lengthy negotiation between the Administration, Legislature, and local governments, Proposition 1A was considered and overwhelmingly approved by voters. Proposition 1A amended the state Constitution to bar the Legislature from “reducing for any fiscal year the percentage of the total amount of ad valorem property tax revenues in a county that is allocated among all of the local agencies in that county below the percentage of the total amount of those revenues that would be allocated among those agencies for the same fiscal year under the statutes in effect on November 3, 2004.”

When the dispute over ERAF and charter schools arose in 2021, the Legislature directed the State Controller’s Office to issue guidance to county auditor-controllers in affected counties; in that guidance, the Controller **did not** include charter schools in the allocation methodology. The California School Boards Association sued on the basis that the guidance violated the ERAF statutes, as well as the constitutional minimum funding guarantee. The trial and appellate courts rejected these arguments, finding that the Association failed to establish that the statute includes charter schools in the allocation of ERAF and that such an exclusion lowers the constitutional minimum funding guarantee.

The Administration’s proposal to “clarify” that charter schools should receive funds from ERAF would clearly violate the constitutional provisions contained in Proposition 1A, as it would reduce the total percentage of property tax revenues allocated to counties, cities, and special districts below what the laws in effect on November 3, 2004 would have provided. The Third District Court of Appeal recently determined in the *CSBA* case that existing provisions in the Education and Revenue and Taxation Codes statutes **do not** give charter schools ERAF, as reflected in the guidance from the State Controller’s Office.

In addition to the constitutional conflict presented by the Administration’s proposal, we must point out that the fiscal and programmatic impacts of the proposal on local agencies and the communities they collectively serve would be significant. (Again, without the ability to review draft trailer bill language it is difficult to assess with precision the anticipated revenue losses that would result. However, we do know that those revenue losses would be permanent and growing.) While we appreciate the state’s difficult fiscal situation, please know that local agencies are also experiencing their own fiscal challenges; many are experiencing difficult budget deficits that will require painful reductions. When contemplating the additional impact of the Administration’s proposal, the final result will

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be dramatic cuts to important public programs and safety net services precisely when they are most in need.

We respectfully urge that your subcommittee reject the proposed trailer bill language when it becomes publicly available. Please reach out if you have questions about our position.

Sincerely,



Jean Kinney Hurst  
Legislative Advocate  
Urban Counties of California



Sarah Dukett  
Policy Advocate  
Rural County Representatives of California



Eric Lawyer  
Legislative Advocate  
California State Association of Counties



Ben Triffo  
Legislative Advocate  
League of California Cities



Marcus Detwiler  
Legislative Representative  
California Special Districts Association



Dennis Rodoni  
President  
Marin County Board of Supervisors



David Campos  
Deputy County Executive Officer  
County of Santa Clara

cc: Members and Consultants, Senate Budget Subcommittee No. 1  
Chris Woods, Office of Senate President pro Tem McGuire  
Misa Lennox, Office of Senate President pro Tem McGuire  
Teresa Calvert, Program Budget Manager, Department of Finance  
Chris Ferguson, Program Budget Manager, Department of Finance