



BOARD OF SUPERVISORS
AGENDA LETTER

Agenda Number:

Clerk of the Board of Supervisors
105 E. Anapamu Street, Suite 407
Santa Barbara, CA 93101
(805) 568-2240

Department Name: Auditor-Controller
Department No.: 061
For Agenda Of: June 2, 2015
Placement: Administrative
Estimated Tme:
Continued Item: No
If Yes, date from:
Vote Required: 4/5

TO: Board of Supervisors

FROM: Department Robert Geis, CPA
Director(s) Ext 2100
Contact Info: Ed Price, CPA
Ext 2181

SUBJECT: Impoundment of Various Taxing Entities' 2014-15 Property Tax Revenue

County Counsel Concurrence

As to form: Yes

Auditor-Controller Concurrence

As to form: Yes

Other Concurrence: N/A

As to form: N/A

Recommended Actions:

That the Board of Supervisors:

- a. Approve and authorize the Auditor-Controller to impound \$2,939,333 of 2014-15 current year taxes from various entities' property tax revenues to mitigate potential losses from large assessment appeals filed by taxpayers (majority vote);
- b. Approve Budget Revision Request No 0003956 to establish appropriations of \$1,104,335 in multiple departments and funds for an increase in nonspendable fund balance funded by property tax revenues that have been impounded due to assessment appeals filed by taxpayers (4/5ths vote);
- c. Determine that the decision to approve and authorize the impoundment is not a project under the California Environmental Quality Act (CEQA) pursuant to Section 15378(b)(4) of the CEQA Guidelines, because it is a government fiscal activity which does not involve any commitment to any specific project which may result in a potentially significant physical effect on the environment.

Summary Text:

California Government Code § 26906.1 authorizes the Auditor-Controller, with the approval of the Board of Supervisors, to impound disputed revenues of any tax upon secured or unsecured property levied and collected by the county for the county or any revenue district when a claim or action is filed for the return of the revenues. The significant Assessment Appeals cases described under the Background section below are being recommended for impounding of taxes. This action does not require the Board to conclude that refunds are reasonably likely in whole or in part.

The impounded tax revenues will be held in an interest bearing fund. The Auditor-Controller will continue to impound the revenues until the final disposition of the claim or action, or a refund of the tax is no longer anticipated. If, under final disposition, it is determined that the taxes were properly levied against the property, the Auditor-Controller will release the revenues to the County or revenue district.

By separate correspondence we will inform all impacted entities.

Background:

For the past several years the Board of Supervisors approved the impounding of property taxes for the significant Assessment Appeals cases. As these cases have not yet been settled and new significant Assessment Appeals cases have been filed it is again recommended that a portion of the property taxes in dispute be impounded for 2014-15 as following:

Oil and Energy (continuing and new)

In prior years Breitburn Energy, a petroleum and gas company and one of the county's largest taxpayers, had filed significant assessment appeals disputing escaped tax assessments for fiscal year 2009-10 and regular taxes for 2010-11 and 2011-12. Pacific Coast Energy Holdings, LLC, the successor to Breitburn Energy has filed appeals for fiscal year 2013-14 and again for 2014-15.

The 2009-10 escaped assessments and the 2010-11 regular taxes have been resolved with significant refunds going to the taxpayer. The appeals for 2011-12 and 2013-14 are yet to be resolved and we have impounded disputed taxes of \$664,289 and \$838,424 respectively.

In prior years your board authorized impounding of 50% of the disputed taxes under appeal. We do feel it would again be prudent to again impound 50% (\$694,233) of the disputed 2014-15 taxes (\$1,388,466).

Aerospace (continuing and new)

United Launch Alliance (ULA), a 50-50 joint venture between Lockheed Martin and The Boeing Company providing space launch services for the US Government and one of the county's largest taxpayers, has filed significant assessment appeals on launch facilities and the business unit on Vandenberg Air Force Base. Appeals filed in 2011 and 2012 dispute regular and escaped assessments billed on the unsecured roll of which \$2,890,961 of those disputed taxes were previously impounded.

In 2014, escaped assessments spanning seven tax years totaling \$33 million (\$24.6 million of taxes plus \$8.4 million of interest penalties) were billed, appealed, and as allowed by law were put on a payment plan over 4 years per the taxpayer's request. As taxes collected on payment plans are held in trust and are not distributed until the entire bill plus associated interest is collected, these disputed taxes are

effectively impounded. Should resolution of the appeal take more than four years we will analyze at the time of final payment the need to impound those collected taxes prior to distribution. In addition to the escapes for prior years, 2014 regular taxes of almost \$4.9 million were billed and appealed. While we feel it is unlikely that the entire amount in dispute would be required to be refunded to the taxpayer, we do feel it would be prudent to set aside via this impound a portion of these revenues. We feel impoundment of 75% (\$2,245,100) of the disputed tax amount for these appeals is warranted.

Other Outstanding Impounds

In prior years your board authorized impounding portions of disputed taxes which are summarized by category below. The appeals related to two of the three Mobile Home Parks and the Fractional Aircraft have reached a conclusion and are expected to be released. When released the portion of impounded taxes, if any, not needed to pay refunds to the taxpayers will be distributed back to the taxing entities.

Category	Taxes Impounded
Mobile Home Parks	\$588,336
Fractional Aircraft	\$122,747

Fiscal and Facilities Impacts:

Budgeted: No.

The impounding of property taxes establishes accounts receivables for multiple departments and funds under the control of the County. Accordingly nonspendable fund balance must be increased to reflect these property tax accounts receivables. Budget Revision Request 0003956 funds this increase of nonspendable fund balance with the property tax revenues that have been impounded.

Fiscal Analysis:

The schedule below delineates the impacts to the affected taxing entities for the proposed 2014-15 impounds as well as those taxing entities under your board’s control requiring budget revisions for nonspendable fund balance increase.

Proposed 2014-15 Impounds by Taxing Entity and
 Related BOS Controlled Taxing Entities Requiring Budget Revisions for
 Nonspendable Fund Balance Increase
 As of May 20, 2015

Fund	Oil & Energy		Aerospace	Total Impound Request	Included in BRR 0003956
	Pacific Coast Energy Holdings		United Launch Alliance		
0001 - General	\$ 139,676		\$ 534,220	\$ 673,896	\$ 673,896
2280 - Fire Protection Dist	83,500		320,981	404,481	404,481
2400 - Flood Ctrl/Wtr Cons Dst Mt	1,895		7,268	9,163	9,163
2500 - Los Alamos Flood Zone Number 1	3,972		-	3,972	3,972
2510 - Orcutt Flood Zone Number 3	1,026		-	1,026	1,026
3050 - Water Agency	2,437		9,360	11,797	11,797
3210 - Santa Maria Public Airport Dst	7,917		-	7,917	N/A
3290 - Lompoc Cemetery District	-		18,735	18,735	N/A
3320 - Santa Maria Cemetery District	4,124		-	4,124	N/A
3750 - Lompoc Healthcare Dist	-		46,811	46,811	N/A
4160 - Mosquito & Vector Mgt District	133		506	639	N/A
4500 - Cachuma Resource Cons Dist	339		2,178	2,517	N/A
7401 - Orcutt Union Sch Dist-Gen	167,586		-	167,586	N/A
8301 - SMJH District-General	138,824		-	138,824	N/A
8901 - Lompoc Unified Sch Dist-Gen	-		786,646	786,646	N/A
9401 - Allan Hancock CC Dist-Gen	36,939		141,847	178,786	N/A
9801 - County School Service	25,505		97,997	123,502	N/A
9802 - Education Revenue Augmentation	80,360		278,551	358,911	N/A
	<u>\$ 694,233</u>		<u>\$ 2,245,100</u>	<u>\$ 2,939,333</u>	<u>\$ 1,104,335</u>

Attachments:

BRR/BJE 0003956

Authored by:

Ed Price, Property Tax Division Chief