HOW TAX DOLLARS PAY FOR SERVICES

June 3, 2020

SUMMARY

Special Districts (SD) could cost Mendocino County millions of dollars. Future funding sources may become insufficient, and the County needs a plan to address this financial burden.

The Teeter Plan (TP), enacted in 1949 by the California State Legislature, provides the County with an optional alternative method for allocating property tax revenues to SDs.

The County Board of Supervisors (BOS) voted to join the TP in 1993. This plan mandates a method to disperse assessed property tax revenues to SDs.

Installment payments to SDs are paid in full regardless of actual taxes collected. This method of calculating revenue allows SDs to manage their operations. But budgeting with money that has not been collected eventually created a TP deficit.

The BOS' management of the TP prompted the 2012 Grand Jury (GJ) to review the process. The plan needed to be restructured.

A committee was established to oversee the impact of the TP on the County budget. The GJ found no oversight by this committee at that time. This lack of oversight to repay the TP could directly impact law enforcement, labor and County services to the current date.

In 2015 the BOS developed a repayment plan to the TP fund. The principal and interest were repaid from actual taxes received. This restructuring resulted in a balanced account. The actual revenue was balanced against projected revenue to provide a more realistic picture of the solvency of the TP.

Initially this plan worked, but the County is again fast approaching either a break-even point, or a point of insufficient money coming in from the property taxes, which means that funding for the SDs will come out of the General Fund (GF). The GJ found no plans to prevent a duplication of the 2012 deficit should a recession occur.

GLOSSARY

AC Auditor/Controller – the position/department that oversees the tracking of County revenue and expenditures.

AMPTA Alternative Method of Property Tax Allocation – (aka. Teeter Plan). Allows counties to pay 100% of the assessed tax revenue for SDs regardless of taxes collected. Legislature created California Revenue and Taxation Code CRTC §74701 – 4722 in 1949 which authorized the AMPTA.

BOS Mendocino County Board of Supervisors

CC County Clerk – the position/department that oversees the collection of property taxes and disbursement of money

CEO Chief Executive Officer – position that oversees the County of Mendocino

CC County Counsel – legal advisor to Mendocino County

CRTC California Revenue and Taxation Code §4701–4722: The California State Legislature created CRTC §4701–4722 in 1949 which authorized the AMPTA.

DTAN Delinquent Tax Anticipation Note – is the fund that allows counties to borrow money to pay SD's 100% of the assessed taxes. Created under CRTC §4701 – 4722.

ERAF Education Revenue Augmentation Fund - In 1992, the State of California shifted partial financial responsibility for funding education to local governments.

GF General Fund – The operating capital for the County

GJ Mendocino County Grand Jury

IRC Investment Review Committee

SB742 Senate Bill 742 was passed by the California State Legislature and allowed counties that implemented the TP to take a one-time credit against the ERAF shift.

SD Special Districts – special service operations under independent operation jurisdiction (such as Water, Fire, Ambulance Service, Sewer, Recreation)

TP Teeter Plan – Created the AMPTA in 1949 by Desmond Teeter, Auditor/Controller for Contra Costa County

RESOURCES

California Revenue and Taxation Code CRTC § 4702.7

Ref. League of CA Cities Aug. 2012. ERAF Property Tax Shift

BACKGROUND

Most counties in California have SDs (for example Fire, Cemetery, Hospital, Ambulance). The SDs face annual funding challenges as equipment ages and the cost of doing business increases.

Each SD has the ability to generate revenue from several sources, for example taxes, special assessments and fees.

Current and delinquent taxes, penalties, as well as interest on the delinquent accounts, go into the GF and are deposited into the TP account.

The SDs are able to plan budgets based upon guaranteed full projected revenue from the TP assessed taxes, whether or not the County actually receives 100 % of those property taxes. Historically taxes are received at 95-97% of the assessed total. The problem occurs when the 3-5% deficit is not repaid.

The County budgets TP funds received from taxpayers to pay the SDs. This money equals the total of the year's received property taxes, including the delinquent payments. This deficit needs to be repaid to the County with interest.

These advances are paid to the SDs even if the County was unable to collect property taxes. When property owners do not pay their taxes, or abandon the property, the County is responsible for this portion of the SD funding. Taxpayers have up to five years to pay their assessed property taxes. After that, the County can foreclose on a house and try to recoup the funding distributed to the SDs. We have the example of Brooktrails, where hundreds of properties have been abandoned, leaving the County unable to collect taxes and unwilling to foreclose. The County removed the Brooktrails SD from the TP in 2013.

METHODOLOGY

The GJ reviewed documents, budget printouts, various state and local code sections and interviewed County staff and elected officials.

DISCUSSION

Since the BOS adopted the TP in 1993, it worked well as long as the delinquent assessed taxes, plus interest, were repaid. But, from 1993 through 2015 this repayment to the GF was neglected. In 2015 this neglect resulted in a TP deficit of $1.2 million.
Property taxes are not necessarily collected at 100%; however, the County is responsible for 100% of the budgeted SD payments. Installments are paid to SDs throughout the year, December 60%, April 30%, and June 10% to the tune of $4.9 million in the 2019-20 budget. These payments are guaranteed even if no funds are received.

The BOS directed that future payment of all interest collected from past due delinquent taxes, penalties and property sales be deposited in the GF to reimburse the TP account.

In a Required Response from the GJ 2012 report, "A Report on the TP," the County Executive Officer (CEO) responded: "While there has been a lack of clarity on planned debt in the past, the CEO formation of a debt committee [CEO, Treasurer, Auditor/Controller, County Counsel (CC)] has remedied the situation." One of the responsibilities of the debt committee, later identified as "Investment Review Committee," (IRC) is to provide oversight of the TP.

At the time of this GJ report, the members of the IRC were unaware of that oversight responsibility. The committee meets on an as needed basis, and from interviews of committee members, the GJ understands that the TP was rarely if ever discussed in those committee meetings. This means **there has been no oversight or accountability of the TP.**
The purpose of the California Revenue and Taxation Code (CRTC) §4701-4717 is to provide an alternative procedure for counties to collect and distribute taxes for SDs. Once the money owed to the SDs was paid, the balance of revenue collected was to be transferred to the GF.

For several years there was an income from the TP to the GF from one to five years delinquent SD assessed taxes and penalties. The payment of taxes could be deferred for up to five years. This provided surges of funding to the GF, giving a somewhat false picture of health. This practice is how the County benefited financially.

This influx of funds has been decreasing annually to the point that for the fiscal year 2019-20, the result may be no additional money deposited into the GF. From year to year there is no guarantee what amount of assessed taxes will be collected and what the County's debt will be.

The County must be prepared to cover the cost of the SD tax obligation if the percentage of uncollected SD taxes becomes insufficient. This negative budget change could impact County services in all areas, including law enforcement and staffing levels.

In light of an anticipated economic downturn, the BOS has the option to exit from the TP and revert to the position used prior to 1993 when SDs received only the amount directly owed to each district from the tax money collected. This would avoid the GF being obliged to bail out the TP for the unfunded portion which currently is 3-5% of the tax base.

It is clear to the GJ that this, along with other changes the BOS has placed on the budget, is going to impact severely the funds of SDs. The BOS needs to study the economic impacts of the budgetary changes they have already implemented on the SDs. Should the BOS end the TP, SDs would have the ability to raise their assessed taxes through a 2/3 vote of its residents.

FINDINGS

F1. SDs are part of the County's method of providing necessary services to the residents

F2. Over the past few years, TP difference between projected revenue and actual revenue collected has been increasing.

F3. The County is responsible for 100% payment to SDs of the projected revenue despite collected taxes.

F4. The County's fiscal responsibility for the TP account could impact law enforcement, labor and County services.

F5. An Investment Review Committee (aka Debt Committee) was established to provide direction on the impact of the TP on the County budget. TP performance was found to be normal and required no specific oversight at this time.

F6. The GJ found no current strategic plan to protect County residential services, such as public works, health and human services, law enforcement, should a recession occur.

F7. In the event of a decrease in income from property assessed taxes, the SD obligation of 100% could create a deficit in the County budget.

RECOMMENDATIONS

The Grand Jury recommends that:

R1. the County provide management/oversight of the TP account, (F1-F7)

R2. the BOS terminate from the TP, SDs which no longer contribute their full amount in taxes to the County, (CRTC §4702.7) (F1-F7)

R3. the BOS considers discontinuing the TP for Mendocino County. Discontinuation requires only a BOS Resolution; CRTC allows the BOS by resolution to opt out of the TP in any fiscal year. (F1-F7)

REQUIRED RESPONSES

Pursuant to Penal Code §933 and §933.05, the Grand Jury requires responses as follows:
From the following County officials within 60 days:

- Mendocino Auditor/Controller (All Findings) (All Recommendations)
- Mendocino Treasurer-Tax Collector (All Findings) (All Recommendations)

From the following governing bodies within 90 days:

- Mendocino County Board of Supervisors (All Findings) and (All Recommendations)

REQUESTED RESPONSES

Pursuant to Penal Code §933 and §933.05, the Grand Jury requests as follows:
From the following County officials within 90 days:

- Mendocino County Chief Executive Officer (All Findings) (All Recommendations)

Reports issued by the Grand Jury do not identify individuals interviewed. Penal Code §929 requires that reports of the Grand Jury not contain the name of any person or facts leading to the identity of any person who provides information to the Grand Jury.

HYPERLINKS

Ref. League of CA Cities Aug. 2012 www.californiacityfinance.com

ERAF Property Tax Shift www.californiacityfinance.com