

Informational Bulletin

District Business & Advisory Services

Nimrat Johal: Director- DBAS: 408-453-6599

Cathy McKim, Manager-DBAS: 408-453-6588

Bulletin: 11-036

Date: April 19, 2011

To: District Fiscal Directors

From: Cathy McKim

Re: Exemption from Apportionment Deferral and Re-Deferral in Fiscal Year 2011-12

The purpose of this email is to notify you that the California Department of Education (CDE) has posted a letter and other materials related to the cash deferrals and re-deferrals that will occur in July, August, October, and March of fiscal year 2011-12. The letter contains time-sensitive information about application requirements and deadlines for those school districts, charter schools, and county offices of education that are eligible to apply for an exemption from these deferrals.

Senate Bill (SB) 70 (Chapter 7, Statutes of 2011) added California *Education Code* (*EC*) Section 14041.65 which re-defers three previous deferrals of fiscal year 2010-11 apportionments from July 2011 to August and September 2011. In addition, SB 82 (Chapter 12, Statutes of 2011) amended *Government Code* (GC) Section 16326 to defer payments of fiscal year 2011-12 K-12 apportionments in July, August, October, and March. SB 82 provides the opportunity for school districts, charter schools, and county offices of education to apply for a dollar-limited exemption from the re-deferral of the 2010-11 payments and to apply for a full exemption from the intra-year deferral of fiscal year 2011-12 payments in July, August, October, and March.

Deferral and Re-Deferral Exemptions. SB 82 permits LEAs to apply by **June 1, 2011**, for an exemption from the July, August, October 2011 and March 2012 deferrals it enacts and repays within the same fiscal year. SB 82 also permits LEAs to apply for a dollar-limited exemption from the *EC* Section 14041.65 re-deferral of February, April, and May 2011 apportionments from July 2011 to August and September 2011, as enacted by SB 70. These applications are due no later than **May 31, 2011**.

SB 82 provides a second opportunity to apply by **January 5, 2012**, for exemption from the March 2012 to April 2012 deferral. The application form and instructions will be available in early December 2011 via separate correspondence.

Please visit the CDE Web page at <u>http://www.cde.ca.gov/fg/fi/ir/julaugoctmardef112.asp</u> to find a copy of the letter, application forms, and helpful links and information.

Please share this information as deemed appropriate.

Approved by: Nimrat Johal- Director- District Business & Advisory Services

County Board of Education: Leon F. Beauchman, Michael Chang, Joseph Di Salvo, Julia Hover-Smoot, Grace H. Mah, Craig Mann, Anna Song 1290 Ridder Park Drive. San Jose, CA 95131-2304 (408) 453-6500 www.scccee.org



CALIFORNIA DEPARTMENT OF EDUCATION TOM TORLAKSON STATE SUPERINTENDENT OF PUBLIC INSTRUCTION

April 15, 2011

Dear County Superintendents of Schools, County Chief Business Officials, District Superintendents, District Chief Business Officials, and Charter School Administrators:

EXEMPTION FROM THE SB 82 and SB 70 APPORTIONMENT DEFERRALS IN FISCAL YEAR 2011-12

On March 24, 2011, the Governor signed Senate Bill (SB) 82 (Chapter 12, Statutes of 2011) and SB 70 (Chapter 7, Statutes of 2011) to address the state's ongoing cash crisis by deferring a variety of K-12 payments within fiscal year 2011-12, including restructuring existing K-12 deferrals (hereafter referred to as re-deferrals). The purpose of this letter is to provide you with pertinent information regarding these deferrals, and the opportunities for local educational agencies (LEAs), which include county offices of education, school districts, and charter schools, to apply for an exemption.

SB 82 Apportionment Deferrals (Deferred and Repaid Within Fiscal Year 2011-12). The legislation requires that 2011-12 K-12 payments that would otherwise be made in four separate months be deferred and repaid later in the 2011-12 fiscal year. Specifically, *Government Code (GC)* Section 16326(a)(2) requires that \$1.4 billion in 2011-12 payments be deferred from July 2011 and paid in September 2011 (\$700 million) and January 2012 (\$700 million), \$1.4 billion deferred from August 2011 to January 2012, \$2.4 billion deferred from October 2011 to January 2012, and \$1.4 billion deferred from March to April 2012. Unlike the similar deferrals within fiscal year 2010-11, the months from which funds are deferred in fiscal year 2011-12 are not authorized to be changed by state agencies by moving deferrals forward or back one month.

SB 70 Re-Deferrals. SB 70 added California *Education Code* (*EC*) Section 14041.65 which extends, on a one-time basis, the payment date for three previously enacted 2010-11 deferrals which were to be paid in July 2011. The previously enacted deferral of \$2 billion of February 2011 apportionments to July 2011 will be re-deferred with \$24.7 million paid in July, \$1.4 billion paid in August 2011, and \$569.8 million paid in September 2011. In addition, a total of \$1.2 billion in deferrals from April (\$419,020,000) and May 2011 (\$800,000,000), which were to have been paid in July 2011, will be re-deferred to September 2011.

Deferral and Re-Deferral Exemptions. SB 82 permits LEAs to apply by **June 1, 2011**, for an exemption from the July, August, October 2011 and March 2012 deferrals it enacts and repays within the same fiscal year. SB 82 also permits LEAs to apply for a dollar-limited exemption from the *EC* Section 14041.65 re-deferral of February, April, and May 2011 apportionments from July 2011 to August and September 2011, as enacted by SB 70. These applications are due no later than **May 31, 2011**.

SB 82 provides a second opportunity to apply by **January 5, 2012**, for exemption from the March 2012 to April 2012 deferral. The application form and instructions will be available in early December 2011 via separate correspondence.

Ongoing Cross-Year Deferrals Not Subject to This Exemption Process. SB 70 also added two new ongoing deferrals to *EC* Section 14041.6 beginning with fiscal year 2011-12 of \$1.3 billion from March 2012 to August 2012 and \$763.8 million from April 2012 to August 2012. Those entities that receive an exemption from the SB 82 deferrals and SB 70 re-deferrals are not also approved for exemption from these new deferrals or from the *EC* Sections 14041.5 and 14041.6 (a) – (c) deferrals in February, April, May, and June 2012 that are to be repaid in fiscal year 2012-13.

Process for SB 82 and SB 70 Exemptions. Below we describe separately the deferral exemption application processes for county offices of education, school districts, and charter schools because their submission and certification requirements differ. There are two separate exemption applications for the SB 82 deferrals and the SB 70 re-deferrals. LEAs requesting to be exempt from both need to submit both applications. Following that discussion, we provide resources that will help county offices of education, school districts, and charter schools prepare a cash flow projection that is a required part of every application.

School District Applications for Exemption from the SB 82 and SB 70 Deferrals

SB 82 Deferrals. Subject to the approval of the Department of Finance, in order for a school district to be exempt from the SB 82 deferrals, its county superintendent of schools must certify to the State Superintendent of Public Instruction (SSPI) and Department of Finance on or before **June 1, 2011**, that the deferral of 2011-12 payments in July, August, October 2011, and March 2012 during fiscal year 2011-12 will result in the school district being unable to meet its expenditure obligations for the time period during which warrants are deferred. If approved, the school district will receive all scheduled payments

during these four months.

To request an exemption, a school district must complete the form entitled "Application and Certification to Exempt A School District From The July, August, October & March 2011-12 Apportionment Deferrals." The form can be found by selecting the appropriate link on the California Department of Education (CDE) Web page at http://www.cde.ca.gov/fg/fi/ir/julaugoctmardef112.asp.

SB 70 Re-Deferrals. Subject to the approval of the Department of Finance, in order for a school district to be exempt from the SB 70 re-deferrals (*EC* Section 14041.65), its county superintendent of schools must certify to the SSPI and Department of Finance on or before **May 31, 2011**, that the re-deferral of 2010-11 payments that were previously scheduled to be paid in July 2011 will result in the district being unable to meet its expenditure obligations in July or August 2011. If approved, the district will receive a payment of 2010-11 funds in July 2011, up to the amount needed to cover its demonstrated expenditure obligations.

To request an exemption, a school district must complete the form entitled "Application and Certification to Exempt A School District From The July 2011 Apportionment Re-Deferrals." The form can be found by selecting the appropriate link on the CDE Web page at http://www.cde.ca.gov/fg/fi/ir/julaugoctmardef112.asp.

As directed on both application forms, school districts must provide narrative and/or documents that demonstrate that the school district has exhausted all internal and external sources of borrowing and will need a state emergency loan in order to meet its financial obligations during the period that warrants are deferred. A school district that is qualified or negative in certification status is not deemed to automatically meet the above criteria. A cash flow projection must be included in that documentation. The cash flow projection must show clearly the months in which the deferrals are assumed to be implemented and repaid. In addition, the cash flow projection must identify and recognize the inflow and repayment of all sources of borrowing. If applying for exemption from the SB 70 2010-11 re-deferrals, the cash flow projection ending cash balances in July and August must show clearly the amount of additional funds necessary to meet expenditure obligations for those months. Also, the dollar amount reported on page one of the application should equal the smaller (most negative) of the ending cash balances in July and August.

School districts must submit the completed forms and supporting documentation as described above to their county superintendent of schools for review, comments as appropriate, and certification. Applications that are submitted without the county office's certification will not be accepted. The county superintendents must submit completed, certified application forms and supporting documentation for their school districts to both the Department of Finance and the CDE. Counties may FAX or send via e-mail attachment a scanned copy of the original to the Department of Finance but the FAX/scan must be followed by the submission of the hard copy original. County offices should mail a copy or send via e-mail attachment a scanned copy to the CDE. The contact information is below.

Send original to:

California Department of Educa	tion
School Fiscal Services Division	

Send copy to:

Attention: Ellen Venturino 1430 N Street, Suite 3800 Sacramento, CA 95814 Scan: <u>ab1200@cde.ca.gov</u> Department of Finance Education Systems Unit Attention: Chris Ferguson 915 L Street, 7th Floor Sacramento, CA 95814 Telephone: 916-445-0328 Scan: <u>chris.ferguson@dof.ca.gov</u> FAX: 916-323-9530

If you have any questions regarding the application process for school districts, please call the CDE at 916-327-0538 and ask to be connected to the staff person assigned to the school district's county.

Charter School Applications for Exemption from the SB 82 and SB70 Deferrals

SB 82 Deferrals. Subject to the approval of the Department of Finance, in order for a charter school to be exempt from the SB 82 deferrals, its authorizer (county office, school district or State Board of Education) must certify, in consultation with the county superintendent of schools, to the SSPI and Department of Finance on or before

June 1, 2011, that the deferral of payments in July, August, October 2011, and March 2012 will result in the charter school being unable to meet its expenditure obligations for the time period during which warrants are deferred. If approved, the charter school will receive all scheduled payments during these four months.

Although unlikely, the Charter School Special Advance apportionments for new or significantly expanding charter schools could be deferred. New charter schools, therefore, should apply for an exemption if needed.

To request an exemption, a charter school must complete the form entitled "Application and Certification to Exempt A Charter School From The July, August, October & March 2011-12 Apportionment Deferrals." This form can be found by selecting the appropriate link on the CDE Web page at http://www.cde.ca.gov/fg/fi/ir/julaugoctmardef112.asp.

SB 70 Re-Deferrals. Subject to the approval of the Department of Finance, in order for a charter school to be exempt from the SB 70 re-deferrals (*E.C.* Section 14041.65), its authorizer must certify, in consultation with the county superintendent of

schools, to the SSPI and Department of Finance on or before **May 31, 2011**, that the re-deferral of payments that were previously scheduled to be paid in July 2011 will result in the charter school being unable to meet its expenditure obligations in July or August 2011. If approved, the charter school will receive a payment of 2010-11 funds in July 2011, up to the amount needed to cover its demonstrated expenditure obligations.

To request an exemption, a charter school must complete the form entitled "Application and Certification to Exempt A Charter School From The July 2011 Apportionment Re-Deferrals." This form can be found by selecting the appropriate link on the CDE Web page at http://www.cde.ca.gov/fg/fi/ir/julaugoctmardef112.asp.

As directed on both application forms, charter schools must submit narrative and/or documents that demonstrate that the charter school has exhausted all internal and external sources of borrowing and will become insolvent and forced to cease operations given the deferral of payments. A cash flow projection must be included in that documentation. The cash flow projection must show clearly the months in which the deferrals are assumed to be implemented and repaid. In addition, the cash flow projection must identify and recognize the inflow and repayment of all sources of borrowing. If applying for exemption from the SB 70 2010-11 re-deferrals, the cash flow projection ending cash balances in July and August must show clearly the amount of additional funds necessary to meet expenditure obligations for those months. Also, the dollar amount reported on page one of the application should equal the smaller (most negative) of the ending cash balances in July and August.

Charter schools must submit the completed forms and supporting documentation as described above to their charter school authorizer. The authorizer must review and certify the information, in consultation with the county superintendent of schools. Charter school authorizers must submit completed, certified application forms, and supporting documentation on behalf of charter schools to both the Department of Finance and the CDE. Applications that are submitted without the charter authorizer's certification will not be accepted. Charter school authorizers may FAX or send via e-mail attachment a scanned copy of the original to the Department of Finance but the FAX/scan must be followed by the submission of a hard copy original. Charter school authorizers should mail or send via e-mail attachment a scanned copy of the original to the CDE. The contact information is below.

Send copy to:

Send original to:

California Department of Education School Fiscal Services Division Attention: Ellen Venturino 1430 N Street, Suite 3800 Sacramento, CA 95814 Scan: <u>ab1200@cde.ca.gov</u> Department of Finance Education Systems Unit Attention: Chris Ferguson 915 L Street, 7th Floor Sacramento, CA 95814 Telephone: 916-445-0328 Scan: <u>chris.ferguson@dof.ca.gov</u> FAX: 916-323-9530

If you have any questions regarding the application process for charter schools, please call the CDE at 916-327-0538 and ask to be connected to the staff person assigned to the charter school's county.

County Office Applications for Exemption from the SB 82 and SB 70 Deferrals

SB 82 Deferrals. Subject to the approval of the Department of Finance, in order for a county office or school district governed by a county board of education to be exempt from the SB 82 deferrals in fiscal year 2011-12, its county superintendent of schools must apply to the SSPI by **May 25, 2011**. In turn, the SSPI must certify to the Department of Finance on or before June 1, 2011, that the deferrals will result in the county office being unable to meet its expenditure obligations for the time period during which warrants are deferred. If approved, the county office will receive all scheduled payments during these four months.

To request an exemption, the county superintendent of schools should complete and sign the form entitled "Application and Certification to Exempt A County Office of Education From the July, August, October & March 2011-12 Apportionment Deferrals." The form can be found by selecting the appropriate link on the CDE Web page at http://www.cde.ca.gov/fg/fi/ir/julaugoctmardef112.asp.

SB 70 Re-Deferrals. In order for a county office or school district governed by a county board of education to be exempt from the SB 70 re-deferrals (*E.C.* Section 14041.65), the county superintendent of schools must apply to the SSPI by **May 25, 2011**. In turn, the SSPI must certify to the Department of Finance before May 31, 2011, that the re-deferral of payments that were previously scheduled to be paid in July 2011 will result in the county office being unable to meet its expenditure obligations in July or August 2011. If approved, the county office will receive a payment of 2010-11 funds in July 2011, up to the amount needed to cover its demonstrated expenditure obligations.

To request an exemption, the county superintendent of schools should complete and sign the form entitled "Application and Certification to Exempt A County Office of Education From the July 2011 Apportionment Re-Deferrals." The form can be found by selecting the appropriate link on the CDE Web page at http://www.cde.ca.gov/fg/fi/ir/julaugoctmardef112.asp.

As directed on both application forms, county superintendents must submit narrative and/or documents that demonstrate that the county office has exhausted all internal and external sources of borrowing and will need a state emergency loan if the payments are deferred. A county office that is qualified or negative in certification status should not be deemed to automatically meet the above criteria. A cash flow projection should be included in that documentation. The cash flow

projection must show clearly the months in which the deferrals are assumed to be implemented and repaid. In addition, the cash flow projection must identify and recognize the inflow and repayment of all sources of borrowing. If applying for exemption from the SB 70 2010-11 re-deferrals, the cash flow projection ending cash balances in July and August must show clearly the amount of additional funds necessary to meet expenditure obligations for those months. Also, the dollar amount reported on page one of the application should equal the smaller (most negative) of the ending cash balances in July and August.

County offices must submit their completed and signed application forms and supporting documentation to the CDE at the address below by **May 25, 2011.** Applications and documents may be scanned and sent via e-mail attachment to the CDE on or before the deadline but the scan must be followed by the submission of a hard copy original to:

Peggy O'Guin School Fiscal Services Division California Department of Education 1430 N Street, Suite 3800 Sacramento, CA 95814 Scan: poguin@cde.ca.gov

If you have any questions regarding the application process for county offices, please call Peggy O'Guin, Administrator, School Fiscal Services Division at 916-322-1770 or by e-mail at poguin@cde.ca.gov.

All LEAs' Applications for Exemption

Cash Flow Projections. All applications must be accompanied by a cash flow projection. The cash flow projection should assume all enacted deferrals, unless otherwise noted below. To assist in the preparation of the projections, the CDE has posted a cash flow schedule on the CDE Web page at http://www.cde.ca.gov/fg/fi/ir/julaugoctmardef112.asp. The schedule shows statewide cash flow projections and assumptions that may be used in developing LEA-level projections. The cash flow schedule assumes an on-time state budget (July 1) and passage of the tax extension. Flexible categorical programs allocated outside the principal apportionment on a 5-5-9 basis are assumed to receive, in fiscal year 2011-12, the same amount received in fiscal year 2010-11, minus .04 percent. If additional cuts are enacted in the absence of a tax extension, we will provide further advice regarding cash flow projections.

In preparing the cash flow projections, LEAs should assume that 100 percent of the 2011-12 principal apportionment payment for July, August, October, and March is deferred. As reflected on the cash flow schedule, LEAs should assume that all 55-9 categorical payments allocated outside the principal apportionment are deferred in March as well as an estimated 44 percent of the Economic Impact Aid (EIA) payment. In addition, the cash flow projection should assume 85 percent of the February principal apportionment is deferred to fiscal year 2012-13, and if the cash flow projection goes beyond March 2012, 79 percent of the April principal apportionment, and 100 percent of the June principal apportionment are deferred to fiscal year 2012-13 (See Tables 1 and 2).

For the SB 70 re-deferral of fiscal year 2010-11 principal apportionment payments, LEAs should assume that the amount of principal apportionment payments deferred from February, April, and May 2011 will be paid as follows: 1.23 percent in July, 70.28 percent in August, and 28.49 percent in September. Principal apportionment amounts by LEA through May 2011 can be found at <u>http://www.cde.ca.gov/fg/aa/pa/pa1011.asp</u>.

Applying for Both SB 82 Deferral and SB 70 Re-Deferral Exemptions. If applying for exemption from both the SB 70 2010-11 re-deferrals and the SB 82 2011-12 deferrals, a separate cash flow projection must be included with each application. The cash flow projection submitted with the SB 70 2010-11 re-deferral exemption application should cover, at a minimum, the period of July and August 2011 and assume all enacted deferrals. The projection must show clearly the amount of additional funds necessary to meet the expenditure obligations in July and August. Moreover, the smaller (most negative) ending cash balance in July or August must equal the additional necessary funds reported on page one of the application.

The cash flow projection submitted with the SB 82 2011-12 deferral exemption application should cover, at a minimum, the period of July 2011 through March 2012, and assume that the SB 70 2010-11 re-deferral exemption application is approved, with the revised ending cash balances for July and August prior to the approval of the SB 82 deferral exemption for 2011-12.

Applying for only SB 70 Re-Deferral Exemption. If applying only for exemption of the 2010-11 re-deferrals from July 2011 to August and September 2011, the cash flow projection should cover, at a minimum, the period of July and August 2011 and must show clearly the amount of additional funds necessary to meet the expenditure obligations in July and August. Moreover, the smaller (most negative) ending cash balance in July or August must equal the additional necessary funds reported on page one of the application.

Applying for only SB 82 Deferral Exemption. If applying only for exemption from the SB 82 2011-12 deferrals, the cash flow projection should cover, at a minimum, the period of July 2011 through March 2012, and assume the deferral of the SB 70 2010-11 apportionment payments from July 2011 to August and September 2011, the intra-year deferral of the July, August, October, and March 2011-12 apportionments and the cross-year deferrals of the February, March, April, May, and June deferrals.

Tables 1 and 2 below summarize the impact of deferrals and re-deferrals on principal apportionment and categorical funds allocated outside the principal apportionment for fiscal year 2011-12.

Deferral Month	Percent of Current Year Monthly Principal Apportionment to be Deferred	Percent of Prior Year Principal Apportionment to be Re-Deferred	Percent of 5-5-9 Categoricals to be Deferred	Percent of Non 5-5- 9 Categoricals to be Deferred	Repayment Month
July 2011	100% (\$1.4 billion)	99% of the \$3,219 million deferred from February, April, and May (\$3,194.3 million)	0%	0%	August 2011 (\$1,405.5 million) September 2011 (\$2,488.8 million) January 2012 (\$700 million)
August 2011	100% (\$1.4 billion)	Not applicable	0%	0%	January 2012 (\$1.4 billion)
October 2011	100% (\$2.4 billion)	Not applicable	0%	0%	January 2012 (\$2.4 billion)
March 2012 (1)	44.6% (\$1.0 billion)	Not applicable	100%	44% of EIA Payment	April 2012 (\$1.4 billion)

Table 1 Implementation of SB 82 Deferrals and SB 70 Re-Deferrals Exemption Available ⁽¹⁾

⁽¹⁾ Second application process for March 2012 exemption will be initiated in early December 2011. Applications due January 5, 2012.

Table 2 Ongoing Cross-Year Deferrals No Exemption Available ⁽²⁾

Deferral Month	Percent of Current Year Monthly Principal Apportionment to be Deferred	Percent of Prior Year Principal Apportionment to be Re-Deferred	Percent of 5-5-9 Categoricals to be Deferred	Percent of Non 5-5-9 Categoricals to be Deferred	Repayment Month
February 2012	85% (\$2 billion)	Not applicable	0%	0%	July 2012 (\$2 billion)
March 2012	55.4% (\$1.3 billion)	Not applicable	0%	0%	August 2012 (\$1.3 billion)
April 2012	79% (\$1.861 billion)	Not applicable	0%	0%	July 2012 (\$419 million) August 2012 (\$1.442 billion)
May 2012	77% (\$1.8 billion)	Not applicable	0%	0%	July 2012 (\$800 million) August (\$1 billion)
June 2012 ⁽²⁾	100% (\$2.5 billion)	Not applicable	0%	0%	July 2012 (\$2.5 billion)

⁽²⁾ Dollar-limited exemption for June is available through a separate process. Further direction to be provided In late February 2012. Applications due April 1, 2012.

A copy of this letter, the certification forms, all legal references related to internal and external borrowing and the SB 82 deferrals and SB 70 re-deferrals, and links to the cash flow schedule can be found by visiting the CDE Web page at http://www.cde.ca.gov/fg/fi/ir/julaugoctmardef112.asp. After the Department of Finance approves the LEAs for exemption, the CDE will post the lists of exempted agencies on this site as well.

If you have further questions regarding the topics listed below, please contact the staff person listed for that topic:

• Regarding a charter school or school district deferral exemption, please contact the staff person assigned to the charter school or school district's county by calling the CDE at 916-327-0538.

- Regarding a county office deferral exemption, please contact Peggy O'Guin, Administrator, School Fiscal Services Division, at 916-322-1770 or by e-mail at poguin@cde.ca.gov.
- Regarding cash flow planning for the principal apportionment, please contact Elizabeth Dearstyne, Fiscal Consultant, School Fiscal Services Division, by phone at 916-327-0398 or by e-mail at edearstyne@cde.ca.gov.
- Regarding cash flow planning for categorical funds allocated by CDE outside the principal apportionment, please contact Nancy Cook, Manager, by phone at 916-323-1314 or by e-mail at <u>ncook@cde.ca.gov</u>.

For general questions regarding this letter, please contact Ellen Venturino, Administrator, School Fiscal Services Division, by phone at 916-327-0538 or by e-mail at eventuri@cde.ca.gov.

Sincerely,

Scott Hannan, Director School Fiscal Services Division

California Department of Education 1430 N Street Sacramento, CA 95814

Last Reviewed: Tuesday, April 19, 2011