

LAKE COUNTY OFFICE OF EDUCATION
Office of the Superintendent

**Resolution No. 1516-12 Regarding Use of 2 Percent and AB 1290 Payments
Received from County Auditor-Controller**

ISSUE: The County Superintendent of Schools (Superintendent) wishes to fund expansion of the Science, Technology, Engineering, and Math (STEM) Center, as well as other educational facilities, using pass-through payments received by the County Auditor-Controller from former redevelopment agencies (RDAs). Current law imposes functional and geographic usage restrictions of use of RDA pass-throughs, which requires that the governing board adopt a resolution making certain determinations in order to use RDA pass-throughs in the manner described above. This resolution must be adopted at a regular or special meeting of the governing board.

BACKGROUND: Former RDAs were dissolved by the Legislature on February 2, 2012. Notwithstanding the dissolution of former RDAs, the Superintendent continues to have statutory entitlements to receive inflationary (2 Percent) pass-through payments or other (AB 1290) pass-through payments from three redevelopment project areas (RDA Projects) and three former RDAs, which are now made by the County Auditor-Controller on behalf of the former RDAs. 100 percent of 2 Percent payments and 81.0 percent of AB 1290 payments to Superintendent (including for special education) must be allocated exclusively for educational facilities (Facilities Share). 19.0 percent of AB 1290 payments to Superintendent (including for special education) must be considered and reported as property taxes for revenue limit offset for benefit of the State.

DISCUSSION: The Facilities Share of AB 1290 payments to Superintendent are subject to geographic usage restrictions found in Health and Safety Code Section (HSC) 33607.5(a)(5), that requires the Facilities Share used for school facilities to be spent at schools that are: (A) within the RDA Project, (B) attended by students from the RDA Project, (C) attended by students generated by projects that are assisted directly by the redevelopment agency, or (D) *determined by the governing board of local education agency to be of benefit to the RDA Project.*

Superintendent operates existing school and other educational facilities (Existing Facilities), and may operate new school and other educational facilities, including expansion of and/or improvements to existing facilities (New Facilities”) located throughout the County, serving different Cities and/or unincorporated areas, different former RDAs, and different RDA Projects Superintendent wishes to comply with the requirements of HSC Section 33607.5(a)(5) regarding AB 1290 payments used for Existing Facilities and New Facilities through a determination by the “governing board” that such expenditures from the Facilities Share of AB 1290 payments from RDA Projects have been and are of benefit to any and all RDA Projects in the County, consistent with the requirements of HSC Section 33607.5(a)(5)(D). Superintendent also wishes to clarify that 2 Percent and AB 1290 payments may be used to fund acquisition costs; hard costs; soft costs; related consultant, legal, or planning costs; costs of furniture, fixtures, and equipment; and/or related debt service, lease, or lease purchase payments.

FISCAL, STAFFING, AND FACILITIES: Approving this resolution will minimize the need for General Fund revenues to help fund Existing and New Facilities, and maximum funding for such facilities from non-General Fund sources. Approving this resolution will presumably not affect the staffing requirements.

SUPERINTENDENT’S RECOMMENDATION: The County Superintendent of Schools recommends adoption of Resolution No. 1516-12.

**LAKE COUNTY BOARD OF EDUCATION
RESOLUTION NO. 1516-12
REGARDING USE OF 2 PERCENT AND AB 1290 PAYMENTS
RECEIVED FROM COUNTY AUDITOR-CONTROLLER
ON BEHALF OF FORMER REDEVELOPMENT AGENCIES**

WHEREAS, Lake County (“County”) includes 1,329 square miles of area with a population of 64,665 (2010 Census); and

WHEREAS, there are two former redevelopment agencies (“RDAs”), established by City of Clearlake and City of Lakeport (collectively, “Cities”), plus one former RDA established by the County Lake in unincorporated areas along the north shore of Clearlake Lake, with a combined total of three redevelopment project areas (“RDA Projects”); and

WHEREAS, notwithstanding that the former RDAs were dissolved by the Legislature on February 2, 2012, the Lake County Superintendent of Schools (“Superintendent”) continues to have entitlements to receive pass-through payments from the County Auditor-Controller (paid on behalf of the former RDAs) pursuant to Health and Safety Code (“HSC”) Section 34183(a)(1); and

WHEREAS, the pass-through payments which Superintendent continues to receive include (i) inflationary (“2 Percent”) payments pursuant to former HSC Section 33676(b); and other (“AB 1290”) payments pursuant to HSC Section 33607.5; and

WHEREAS, pursuant to Education Code (“EC”) Section 42238(h)(6), 100% of 2 Percent payments must be allocated exclusively for land acquisition, facility construction, facility reconstruction, facility remodeling, maintenance, or deferred maintenance; and

WHEREAS, pursuant to HSC Section 33607.5(a)(4)(C)-(D), 81.0 percent of AB 1290 payments to county offices of education and for special education must be allocated exclusively for educational facilities (“Facilities Share”), with 19.0 percent considered to be property taxes for purposes of EC Sections 2558(c)(5) and 2575(c)(3); and

WHEREAS, pursuant to HSC Section 33607.5(a)(5), “local education agencies that use [Facilities Share of AB 1290] funds received pursuant to this section for school facilities shall spend these funds at schools that are: (A) within the [RDA Project] area, (B) attended by students from the [RDA Project] area, (C) attended by students generated by projects that are assisted directly by the redevelopment agency, or (D) determined by the governing board of [the] local education agency to be of benefit to the [RDA] Project area”; and

WHEREAS, the usage restrictions in HSC Section 33607.5(a)(5) constitute alternative requirements, i.e., compliance with (A), (B), (C), or (D), even in the absence of compliance with other conditions set forth in HSC Section 33607.5(a)(5); and

WHEREAS, the usage restrictions in HSC Section 33607.5(a)(5) may be applied differently to different categories of school facilities or facilities expenditures, as deemed appropriate by Superintendent and/or the County Board of Education, including (i) for land acquisition, facility construction, and reconstruction, and (ii) for remodeling, maintenance, or deferred maintenance, as set forth in HSC Section 33607.5(a)(4)(C)-(D); and

WHEREAS, Superintendent operates existing school and other educational facilities (“Existing Facilities”) located throughout the County, serving different parts of the County, including different Cities and/or unincorporated areas, different former RDAs, and different RDA Projects; and

WHEREAS, in the future Superintendent may operate new school and other educational facilities, including expansion of and/or improvements to existing facilities (“New Facilities”) located throughout the County, serving different Cities and/or unincorporated areas, different former RDAs, and different RDA Projects; and

WHEREAS, Superintendent wishes to comply with the requirements of HSC Section 33607.5(a)(5)(D) regarding AB 1290 payments used for Superintendent’s Existing Facilities and New Facilities;

NOW, THEREFORE, BE IT RESOLVED that this Board finds that Existing Facilities located throughout the County may require remodeling, maintenance, or deferred maintenance on schedules that cannot be fully anticipated, depending on the age and type of construction of such school facilities. Expenditures on Existing Facilities for remodeling, maintenance, or deferred maintenance are analogous to self-insurance in order to maintain adequate levels of service provided at Existing Facilities, based on the needs of students living within all Cities and/or unincorporated areas served by Existing Facilities.

AND BE IT FURTHER RESOLVED that this Board finds that New Facilities may require future acquisition of land or facilities, facilities construction or reconstruction, and/or maintenance or deferred maintenance in different parts of the County, depending on demand for educational services identified by Superintendent based on the needs of students living within local Cities and/or unincorporated areas to be served by New Facilities.

AND BE IT FURTHER RESOLVED that this Board determines and ratifies that the Facilities Share of AB 1290 payments from RDA Projects which Superintendent has been entitled to receive in the past, or may be entitled to receive in the future, that are used to fund remodeling, maintenance, or deferred maintenance of Existing Facilities, or acquisition of land or facilities, facilities construction or reconstruction, and/or maintenance or deferred maintenance of New Facilities, have been and may be expended on Existing Facilities and/or New Facilities that are located anywhere within the County. By serving students living within all Cities and/or unincorporated areas served by Existing Facilities and/or New Facilities, such expenditures on Existing Facilities and/or New Facilities from the Facilities Share of AB 1290 payments from RDA Projects are hereby determined to be of benefit to any and all RDA Projects located anywhere within the County, consistent with the requirements of HSC Section 33607.5(a)(5)(D).

AND BE IT FURTHER RESOLVED that this Board determines and ratifies that subject to the limitations set forth above, 2 Percent payments and the Facilities Share of AB 1290 payments that Superintendent has been entitled to receive in the past, or may be entitled to receive in the future, that have been or may be expended on Existing Facilities and/or New Facilities, may be used to fund acquisition costs; hard costs; soft costs; related consultant, legal, or planning costs; costs of furniture/fixtures/equipment; and/or related debt service, lease, or lease purchase payments.

PASSED AND ADOPTED this 22nd day of June, 2016 at a regular meeting of the Lake County Board of Education.

David Browning:	Aye_____	Nay_____	Abstain_____	Absent_____
Mark Cooper:	Aye_____	Nay_____	Abstain_____	Absent_____
Patricia Hicks:	Aye_____	Nay_____	Abstain_____	Absent_____
Melissa Kinsel	Aye_____	Nay_____	Abstain_____	Absent_____
Madelene Lyon:	Aye_____	Nay_____	Abstain_____	Absent_____

ATTEST:

Board President

APPROVED:

Lake County Superintendent of Schools