association of california school administrators

BUSINESS SERVICES COUNCIL

Wednesday, May 29, 2024
10:00 AM – 2:00 PM
ACSA Sacramento Office
1029 J Street, Sacramento, CA 95814
3rd Floor Conference Room

Ruben Hernandez, Council President

AGENDA

I. **Welcome & Introductions** (10:00 AM)
Ruben Hernandez, Business Services Council President
Megan Baier, Kristy Gilmore, Kevin Franklin, Vivian Hamilton, Shannon Hanson, Annette Heldman, Ruben Hernandez, Rosa Loza, Kraig Magnusson, Sean Martin, Tim McClellan, Dawnalyn Murakawa-Leopard, Sheldon Smith, Ron Tanimura, Raenel Toste, Frances Ufondu, Rick Wiersma

II. **Council Business** (10:05 AM) Approval of Prior Minutes
Ruben Hernandez, Business Services Council President
   a. Approval of Prior Minutes
      Motion by Tim McClellan, seconded by Kraig Magnussen.
   b. 2024-25 Meeting Dates (Listed on Pg. 2)
   c. Appointment of Council President-Elect, Sean Martin
   d. Appointment of Legislative Policy Committee Liaison, Rick Wiersma

III. **Governor's May Revision & Legislative Update** (10:10 AM)
Megan Baier, ACSA Legislative Advocate
The Education Coalition, which is made up of statewide education labor and management associations, including CTA, ACSA, and CSBA, had expressed concerns about the Governor's proposed "maneuver." This was a difficult position to take, as, unlike other areas of government, K-12 education was not getting a cut and was getting a COLA. CTA ramped up its political pressure last week, and a deal resulted over the weekend. There is nothing on paper, and it's a deal with the Governor and not a deal with the Legislature. In CTA's and the Governor's eyes, it settles how to calculate the minimum guarantee. Part of the deal includes a suspension of Proposition 98.

Based on what is known at this time, the internal borrowing mechanism is maintained for a new amount of $6.2M – if enacted, the state will borrow against special funds to internally finance a zero-interest loan for itself. This amount will be scored to the Proposition 98 calculation. The state will repay this loan in payments of $1.3B per year over 5 years beginning in 26-27. This will put pressure on the General Fund (non-Proposition 98) side of the budget and will tie the Legislature's hands, and the repayment term will extend well beyond the Governor's current term.

There will also be three deferrals – but only one will be "real." In the first, $2.6B will be deferred from 22-23 to 23-24 and then will be immediately retired using Rainy Day Funds. Scoring the $6.2B to Proposition will result in a $4.2B increase to Prop 98 minimum guarantee for 23-24 – this requires an immediate suspension of Prop 98, which will now be scored at $101.3B. A Proposition 98 suspension requires a 2/3 approval vote from the Legislature. If approved, a $1.3B maintenance factor will be deferred from 23-24 to 24-25, and this deferral will also be retired immediately, likely using Rainy Day Funds again. The third, "real," deferral will be a $2.4B deferral from June to July in 24-25.

If this all moves forward, the 2023-24 year will become a Test 2 year. This will happen after budget adoption, based on enactment of the deal.

Additionally, there will be a policy proposal to address this situation. Early information suggests that the proposal will be to keep the fiscal year open for Proposition 98 calculation purposes moving forward. There are many questions about what this means and what the implications are.

The Governor has also indicated that he will support closing the August layoff window and is linking it to the "deal."

In addition, there is a large amount of revenue being paid out of one-time funds, and this has not been resolved.

The Governor will need to declare a Fiscal Emergency in order to fund the deal, as it depends upon a discretionary withdrawal from the Rainy Day Fund.

The original maneuver borrowed $8.8B but did not count that amount in the Prop 98 formula. The internal borrowing under that original maneuver would have required 5 years of repayments, $1.8B per year. By lowering the total "loan" to $6.2B, the internal borrowing under the deal results in a lower payment of $1.3B per year. The two numbers 8B (the $6.2B plus the $2.6B deferral) still appear to add up to the $8.8.

The Legislature's response is not yet known. It is possible that the Legislature might reject the internal borrowing maneuver, in which case they may ratchet up the deferrals. A proposal that requires a suspension of Proposition 98 provides leverage for legislators. It remains to be seen how the Legislature reacts to all of this. The Legislature's first hearing on this will be held tomorrow.

With regards to his other proposals:

The Governor wants to see the ERAF proposal adopted; ACSA supports this.

Governor continues to stand by his other proposals:

- 1.07% COLA for LCFF and the programs outside of the LCFF. The LAO recommends rejecting this; the COLA may be in jeopardy. A question was asked about whether Special Education funding outside of AB 602 will be receiving the COLA – funds that were formerly known as ERMHS – it is likely that these are *not* included.
- TK will continue to roll out on schedule, with the 1:10 ratio in place in 2025-26. ACSA is pushing for funding to support this; it does not appear that the state will

be able to do so, at least in 2025-26. Some new Legislators are calling TK into question and asking why this isn't being slowed down; it's unclear whether this will result in any changes.

- LREBG restrictions will be put in place – funds can be spent according to preexisting plans in 2024-25; starting in 2025-26, a new needs assessment is required and plans must be reflected in districts' LCAPs due to the Cayla J. lawsuit.
- School Nutrition will be increased to meet uptake costs. There are also some questions being raised in the legislature regarding why we continue to support this mandate. For purposes of maximizing federal funds, LAO recommends that if a district is under 40% UPP it doesn't have to go into the federal CEP; this is being included in the Governor's proposal.
- The Governor continues to support two cuts to preschool – IEEEP and commitments to up the percentage of slots reserved for students with disabilities (as well as the funding to support that) – and diverting these funds to zero emission busses. This is leading to a great deal of discussion – disappointment from the preschool community and concerns about a focus on the zero emission bus program over reducing the deferrals, etc., especially given LEAs' concerns regarding the feasibility of the zero emission bus program.
- Expanded Learning
  - 21-22 and 22-23 allocations must be spent (not encumbered) by September 30, 2024
  - Beginning in 23-24, schools will have two years to spend their funds, or funds will be returned to the state. Recovered funds will be re-directed to Rate 2 districts to try to stabilize the rates for these districts. This also removes pressure on very small districts to try to run a program when the funds are insufficient to support it.
- The Governor proposes a cut to Golden State Teacher Grant Program, along with language to remove LEA-run credential programs from eligibility – ACSA is opposing at least this latter piece. The program is oversubscribed. The proposal also proposes reducing grants from $20,000 for 4 years of service in a Priority 1 school to $10,000 for 2 years of service in a Priority 1 school.
- Proposition 28 – Austin Beutner is advocating on this; there is likely to be litigation on the supplement not supplant issue. Many BSC members expressed concerns regarding the challenges of utilizing this funding when the books for 2022-23 are already closed, when programs are already robust, and when schools are facing declining enrollment and potential staffing attrition.
- The Governor maintains his various attendance relief proposals
  - Attendance Recovery proposal is being maintained, with implementation in 2025-26. There is a requirement for a certificated teacher to provide the instruction, and the instruction is intended to mirror what was done in the regular school day that was missed.
  - Short Term Independent Study, rebranded as Instructional Continuity, will go live in 2024-25, providing some flexibilities (signatures will be required during the year, rather than before it starts, and the program is accessible for any absence even if less than 3 days, for a maximum of 15 days during the year) but also some other changes that are still unclear and that will not be clarified before the program goes into effect. There were examples provided – for instance, students who utilize short term independent study to go to many county fairs and exceed 15 days over

- the course of the year – where there may be unintended consequences. ACSA is trying to slow this down and provide additional input.
- The Emergency Recovery proposal, requiring remote learning after 5 days in order to get a J13 approved, is being actively opposed by ACSA and others.

IV. **Lunch & Celebration of Outgoing Members** (11:30 AM)

V. **Budgeting, Staffing, Local Cost Pressures, and Fiscal Solvency** (12:00 PM)
Mike Fine, CEO, Fiscal Crisis & Management Assistance Team (FCMAT)
Patti Herrera, Ed.D., Vice President, School Services of California
Matt Phillips, CPA, Director, Management Consulting Services, School Services of California

Mike Fine
There is no expectation of any local impact from the weekend's deal. The word "deferral" is being thrown around. Some are appropriation deferrals and some are cash deferrals, but it's unclear why cash deferrals would be needed. However, the deferrals are concerningly large this early in the process – with no light at the end of the tunnel, and no confirmation of a budgetary recovery, deferrals can snowball. It's unclear why the state wouldn't simply wipe out the $8.8B problem and move on. The logic is unclear. The Legislature has the option to honor the new "deal" but to do some things differently. The January proposal would have allowed them to completely kick the can down the road, get through the election, and then deal with the budgetary issues afterwards. The proposed cuts to the non-Proposition 98 side of the budget are very painful to some legislators. The Legislature's alternatives could have some local impacts – threats to green busses, etc. – but they likely won't touch LCFF, etc. The Legislature is not likely to initiate a 0% COLA. If it were needed, it would've been in the Governor's deal. A 0% COLA would save the state a billion dollars. Enrollment and ADA continue to be a concern (as well as LEAs' responses to declines in both).

AB 218 claims are also a concern – there is no path to pay those claims without significant local impact. The Assembly has an interest in this topic but won't push; Senator Laird has an interest and may be able to put some language into the final budget language calling for a study on funding mechanisms that assist LEAs with these claims, with a completion date of February 2025. Recommendations from the study will not interfere with victim's compensation, and there will be some other guardrails. It's likely that FCMAT will do this work; there is already a working group, and the idea is to generate ideas that can be worked into the Governor's 2025 January Budget.

FCMAT sees the potential for 100 school districts to need state loans in the next several years.

There are two court cases in Contra Costa that ruled differently and that are now at the appellate court. The argument before the court is that because the legislature retroactively changed the requirements, resulting payments are a gift of public funds. There have also been questions regarding whether payments should be considered mandated costs. Current estimates are that the costs could be approximately equivalent to a 2% COLA. A victim's compensation fund should be part of the solution; however, the right time to use such a fund is when the claim is first filed in order to put limits on it and also to provide wraparound services for the victim. The 9/11 fund may be the best model for this. Starting on July 1, 2024, there will be no statute of limitation on new claims. Tort reform is unlikely to be successful (i.e., special education tort reform has been an effort for 40 years with no progress).

The reserve cap will not be in place due to withdrawal from the Rainy Day Fund.

Current law says that ELO-P funds must be encumbered by June 30, 2024. The Governor proposes that it must be spent by September 30, 2024. There is no mechanism to track either encumbrance or expenditure, so this will be forthcoming. If districts are not offering a program, they will need to develop a plan for cash recapture.

<u>Mike Fine and Matt Phillips</u>
With regards to Proposition 28, a suggestion might be to move existing personnel costs into Proposition 28. The savings on the general fund side would then get allocated to school sites on a discretionary basis. This avoids the supplement/supplant issue and provides for the 80% split. It was pointed out that if costs are paid out of AMIMDBG funds, once the AMIMDBG funds are gone, they are monies that are no longer available and would not be included in the baseline for the subsequent year. It is important to know that the baseline is not an MOE – it's calculated each year. Unless there's continuous appropriation language in the philanthropic funding, that also could be counted as one-time funding. Districts should be working to spend as close to 100% of Proposition 28 funds on staffing as possible to protect against attrition/reductions in staff costs that would jeopardize the 80% requirement.

Once the Audit Guide is published, the only way it would change is if there is some kind of new legislative- or litigation-based change.

The state is not in a recession. The state has a revenue consistency issue, where revenues are rising and falling, but this is not a recessionary environment.

There has been a discussion about modifying Proposition 2 and/or making some legislative changes which could make changes to the state's reserve language. There are also groups thinking about how to handle the 2030 sunset of Proposition 30 and 55. There are not, to anyone's knowledge, discussions about modifying the Prop 28 Rainy Day fund or about raising taxes to fund Education.

The issue that the state is facing is not a result of an economic downturn – it is the result of the aggressive revenue assumptions that were included in the Budget Act. (It is a "man-made" problem.) The LAO continues to believe that the Governor's May Revision revenue estimates are still too high, even now.

With regards to the "deal," there is an alternative that would potentially be the worst possible outcome for education. The Governor and Legislature could use $6.2B of the Rainy Day Fund to pay down the "overappropriation" from 22-23. There is language that excludes the inclusion of those funds in Proposition 98 calculations. If they did this, then in order to address the current year issues, they could implement deferrals.

The Legislature is poised to adopt its budgets tomorrow. If this happens, they will likely adopt the deal. However, whether or not this happens remains to be seen, as they have not yet held hearings on the deal.

The key takeaway is that the deal will have very little impact on school districts.

Mike Fine, Matt Phillips, and Patti Herrera
There has been an argument about how to deal with spike protection in the Proposition 98 calculations. When there is a temporary spike (e.g., due to a huge selloff of assets leading to a spike in capital gains), those funds are excluded from the calculations. The question has been whether the overappropriation would be included in the spike protection calculations, with the Governor arguing that it should. If settled policy reduces the minimum guarantee when the government overappropriates, by allowing for the exclusion of the overappropriated amount as a type of spike, this will have long-lasting ripple effects. Each year, the state certifies the prior year guarantee – the trailer bill language will allow the state to re-open the certification if revenue is lower than anticipated. The Ed Coaltion will need to determine how to respond to these potential policy changes. It appears that they will be overly complicated, overly legal, and one of the better outcomes for education. There is not enough detail yet to know how significant this change will be – once the details are known, there will be a decision about advocacy. DOF has said no language will be forthcoming, so there may be a timing issue. There may be only 72 hours to read and respond to the proposed language. Many believe that CTA would not agree to something that would be significantly detrimental to education, as they have the “best lawyers money can buy” who know Proposition 98 really well and as they are “Prop 98 hawks.” The DOF may not have started drafting the language, based on the deal being worked out over the weekend. If the language ends up being too negative and gets enacted, it is statutory language, and not constitutional, so there will be an opportunity to object next year (in 2019 there was a change in the Proposition 98 certification process, and changes made after the education community objected). It is important to note that this deal, Prop 98 will now constitute more than 40% of the budget.

Replacing expiring one-time money and paying back the “loan” will require very significant revenue growth to avoid significant budget reductions.

It was observed that deficit spending within Proposition 98 began when the state paid for a 6.7% and an 8.22% COLA that it couldn’t afford.

Suspending the Proposition 98 guarantee will only happen if Legislators feel safe to do so, which can only happen if the education community helps them to feel safe.

With regards to bargaining, in 2018-19, education was facing a COLA-only environment. LEAs started to buckle down related to growth in expenditures. At the time, Sonoma County was the hot button area of the state. Generally, 10% of at-table negotiations go into impasse (110-120 per year) and 10% of those go into fact-finding (15-20). In 2018-19, most of those were in Sonoma County, based on two individuals who came to CTA from SEIU and used hardline tactics with no understanding of school finance. With the expiration of one-time funds and a tightening budget, CTA is now pursuing these kinds of organizers and organizing strategies. The original two from Sonoma have moved on, and one is in Contra Costa and the other is in North San Diego. Schools are now back into a COLA-only environment, especially coming off of a few years of COLA augmentation and one-time funds. Settlements in 21-22 ranged from 3% to 21.62%. The difference between now and 2018-19 is that there is a difference in the growth rates. There is now a coalition of 20 teachers’ associations in the East Bay (the East Bay Coalition for Student Success). The coalition turned a blind eye to the prior two years and agreed as a group that they wanted at least an 8.22% COLA and fully paid employee benefits. Of those 20 districts, at least half went to mediation, 6 went to fact finding (including a county office). There was no effort to find a reasonable middle ground. It didn't start to taper off until late March/early April (after the P-2 deadline, when a strike doesn't matter as much). These groups got a lot of traction on the health benefits side, where many of their districts had no benefits in their agreements, but they were not as successful on the salary side. Their message was "you got COLA, we want COLA." SSC's messaging point is "we spend dollars not percentages."

There have been a lot of 0.00% deals for 2024-25, some with contingency language. If the funded statutory COLA went above 2%, negotiations would reopen for a number of districts. It's possible that agreeing to this language was facilitated by some kind of knowledge about CTA's background negotiations regarding the deal, with the thought that the legislature might put more money into the LCFF COLA with the increased Proposition 98 funding level. However, if CTA used the deal to leverage an agreement to deem the August layoff window inoperative, it may be that CTA knows that a 2% COLA won't be happening. In any event, the deal will fund the minimum guarantee at a $2B higher level – though this will be deferred – and there is a question about where the legislature will put those funds.

Given that CTA cut the deal, it is likely that they will be telling their members to pursue the additional money at the table. However, the $2B is worked into the education budget, CTA will encourage their members to pursue it.

In order to be prepared for this, it will be important for districts to:

- Localize and contextualize changes in LCFF revenues. Districts will be combatting the narrative that education funding wasn't cut, and that, in fact, CTA got more funding for education. Districts will need to make the argument that they are not seeing those dollars locally.
- Show comparability. While CTA will only focus on the current year, Districts should be able to speak to their historical settlement, not only for salary but also on any h/w benefit cap. (It is recommended that Districts equate increases to h/w to a % increase for ease of explanation.) Districts should keep salary and benefits improvements married as a total compensation figure and show the trend over the past few years. The J-90 for 23-24 won't be available until December, but it will be beneficial if Districts can speak to county-wide settlements if possible.

There was a discussion about the differences between Governor Brown's and Governor Newsom's approach to revenue projections. Governor Brown consistently underestimated revenues to the extent that education saw 5 years in a row of one-time true-up money when revenues came in higher than anticipated and the state had to increase spending to reach the Proposition 98 guarantee. Governor Newsom has been consistently overly optimistic in his revenue estimates, leading to the current situation.

VI. **Closing Thoughts: Actions & Takeaways** (1:50 PM)
Ruben Hernandez, Business Services Council President

The Council thanked Yuri Calderon, Leslie Corder, Sheldon Smith, and Raenel Toste for their service, as their terms come to an end.

VII. **Adjournment** (2:00 PM)

2024-25 Meeting Dates

Date	Location	Time
October 16, 2024 Wednesday	**Business Services Council** | Zoom Meeting	10:00 AM-1:00 PM
October 16, 2024 Wednesday	**Business Services Council** | Zoom Meeting	10:00 AM-1:00 PM
January 15, 2025 Wednesday	**Business Services Council** | Zoom Meeting *Virtual Networking Event for CBOs* *Governor's Proposed Budget Conversation*	2:00 PM- 3:00 PM
February 19, 2025 Wednesday	**Business Services Council Meeting** ACSA Sacramento Office 1029 J St, 3rd Floor Conference Room #320 Sacramento, CA 95814	10:00 AM-2:00 PM
May 21, 2025 Wednesday	**Business Services Council Meeting** ACSA Sacramento Office 1029 J St, 3rd Floor Conference Room #320 Sacramento, CA 95814	10:00 AM-2:00 PM