



**AB-1690 Public safety finance agencies.** (2003-2004)

Current Version: 09/04/03 - Amended Senate Compared to Version:   ⓘ

**SECTION 1.** Article 4 (commencing with Section 55650) is added to Chapter 4 of Part 2 of Division 2 of Title 5 of the Government Code, to read:

**Article 4. Public Safety Finance Agency**

**55650.** (a) Any county or city and county may form, by ordinance, a public safety finance agency for the following purposes:

(1) To finance supplemental fire protection services and finance needed capital improvements for:

(A) Its fire department or other outside agency that provides structural fire protection services within the unincorporated areas of the county.

(B) The fire department or other outside agency that provides structural fire protection services within the boundaries of each city within the county.

(C) The fire department that provides structural fire protection services within the boundaries of a city and county.

(2) To finance supplemental police or sheriff services and finance needed capital improvements for:

(A) The police or sheriff's department or other outside agency that provides police or sheriff services within the unincorporated areas of the county.

(B) The police department or other outside agency that provides police services within the boundaries of each city within the county.

(C) The police and sheriff's department that provides police and sheriff services within the boundaries of a city and county.

(3) To finance supplemental emergency and trauma care services and finance needed capital improvements for the county hospital system or designated facilities, as defined in Section 1797.67 of the Health and Safety Code, that provide emergency medical and trauma care services within the boundaries of the county or city and county. Moneys allocated for these purposes shall be distributed according to the following schedule:

(A) Sixty percent to reimburse physicians and surgeons for providing emergency medical and trauma care services, as described in Section 1797.98a of the Health and Safety Code.

(B) Forty percent to hospitals and designated facilities providing disproportionate trauma and emergency medical care services, as described in Section 1797.98a of the Health and Safety Code.

(b) In the case of a city, county, or city and county that does not directly provide the services described in subdivision (a), that portion of the funds of the public safety agency that are available for the category of services not directly provided may be made available only to the outside agency that directly provides that same category of services within the boundaries of the city, county, or city and county.

(c) (1) (A) The governing body of the county or city and county that forms a public safety finance agency shall be the governing body of the public safety finance agency.

(B) The members of the governing body of a public safety finance agency shall serve in that capacity without compensation or reimbursement for travel, per diem, or other expenses.

(2) When a decision, determination, or other action by the public safety finance agency formed pursuant to this section is required by this article, the governing body of that agency may not delegate the obligation to decide, determine, or act to another entity, unless this article specifically provides for that delegation.

(d) The territorial boundaries of a public safety finance agency are coterminous with the territorial boundaries of the county or city and county that forms the public safety finance agency.

(e) A public safety finance agency formed pursuant to this section may, in addition to any funds allocated to the agency pursuant to Section 99.3 of the Revenue and Taxation Code, accept financial assistance from the state or federal government or any public or private source for any purpose set forth in subdivision (a).

(f) All funds of a public safety finance agency formed pursuant to this section shall be held in trust for the purposes set forth in subdivision (a) and may not be utilized to supplant other funds applied to fire protection or police or sheriff services.

**55651.** (a) The governing body of a public safety finance agency shall establish a separate account for a county, each city within a county, and a city and county to receive the moneys allocated to the public safety finance agency pursuant to Section 99.3 of the Revenue and Taxation Code. In each fiscal year in which a public safety finance agency receives an allocation pursuant to Section 99.3 of the Revenue and Taxation Code, the governing body shall deposit in each account an amount equal to the amount allocated to the agency that is attributable to a reduction in the amount of property tax revenue allocated, respectively, to the county, each city within the county, and a city and county.

(b) In each fiscal year, the governing body of a public safety finance agency shall allocate the moneys from the accounts created pursuant to subdivision (a) in the following manner:

(1) From the account of each city within the county:

(A) Forty percent for the purposes described in subparagraph (B) of paragraph (1) of subdivision (a) of Section 55650.

(B) Forty percent for the purposes described in subparagraph (B) of paragraph (2) of subdivision (a) of Section 55650.

(C) Twenty percent for the purposes specified in subparagraph (B) of paragraphs (1) and (2) of subdivision (a) of Section 55650, as specified in a written agreement between the following parties:

(i) The chief fire official that directly provides structural fire protection services within the boundaries of the city.

(ii) The police chief that directly provides police services within the boundaries of the city.

(2) From the account of the county:

(A) Forty percent for the purposes described in subparagraph (A) of paragraph (1) of subdivision (a) of Section 55650. If more than one agency provides these services for a county, the amount allocated from these moneys to each of these agencies shall be specified in a written agreement between the governing bodies of each of these agencies.

(B) Forty percent for the purposes described in subparagraph (A) of paragraph (2) of subdivision (a) of Section 55650.

(C) Ten percent for the purposes specified in subparagraph (A) of paragraphs (1) and (2) of subdivision (a) of Section 55650 for that county as specified in a written agreement between the following parties:

(i) The chief fire official or officials that directly provide structural fire protection services in the unincorporated areas of the county.

(ii) As applicable, the sheriff or police chief that directly provides sheriff or police services in the unincorporated areas of the county.

(D) Ten percent for the purposes specified in paragraph (3) of subdivision (a) of Section 55650.

(3) From the account of a city and county:

(A) Forty percent for the purposes described in subparagraph (C) of paragraph (1) of subdivision (a) of Section 55650.

(B) Forty percent for the purposes described in subparagraph (C) of paragraph (2) of subdivision (a) of Section 55650. The amount allocated from these moneys to the sheriff and the police chief in a city and county shall be specified in a written agreement between these parties.

(C) Ten percent for the purposes specified in subparagraph (C) of paragraphs (1) and (2) of subdivision (a) of Section 55650 as specified in a written agreement between the following parties:

(i) The chief fire official that directly provides structural fire protection services within the city and county.

(ii) The sheriff that directly provides sheriff services in the city and county.

(iii) The police chief that directly provides police services in the city and county.

(D) Ten percent for the purposes specified in paragraph (3) of subdivision (a) of Section 55650.

(c) The governing body of a public safety finance agency shall allocate the moneys received pursuant to subdivision (e) of Section 55650 for any purpose specified in subdivision (a) of that section in a manner determined by that governing body.

**55652.** (a) The county auditor shall allocate the revenues a county receives pursuant to Section 18205 of the Revenue and Taxation Code according to the following schedule:

(1) Twenty percent shall be allocated to the county.

(2) (A) The balance shall be allocated among the county and the cities in the county in percentage shares that:

(i) In the case of a county, correspond to the percentage of the county's total population that lives in unincorporated areas of the county.

(ii) In the case of a city, correspond to the percentage of the county's total population that lives in each city in the county.

(B) (i) The county auditor shall determine the percentage share described in clause (i) of subparagraph (A) in the following manner:

(I) Determine the total population in the county.

(II) Determine the population in the unincorporated areas of the county.

(III) Divide the amount determined pursuant to subclause (II) by the amount determined pursuant to subclause (I), rounded to the nearest one-thousandth of 1 percent.

(ii) The county auditor shall determine the percentage share described in clause (ii) of subparagraph (A) for each city in the county in the following manner:

(I) Determine the total population in the county.

(II) Determine the population of the relevant city in the county.

(III) Divide the amount determined pursuant to subclause (II) by the amount determined pursuant to subclause (I), rounded to the nearest one-thousandth of 1 percent.

(b) The population determinations described in subdivision (a) shall be made on the basis of the later of the following:

(1) The most recent population estimates for counties and cities that have been made by the population research unit in the Department of Finance.

(2) The most recent census validated by the population research unit in the Department of Finance.

**SEC. 2.** Section 99.3 is added to the Revenue and Taxation Code, to read:

**99.3.** For the purposes of the computations required by this chapter:

(a) If a public safety finance agency is formed by a county or city and county ordinance pursuant to Section 55650 of the Government Code and is located within a county or city and county for which an income tax authorized by Part 10.1 (commencing with Section 18201) has been approved by the voters, in the fiscal year

that begins during the first taxable year in which that income tax is imposed, the auditor shall do all of the following:

- (1) Reduce the total amount of ad valorem property tax revenue allocated to a city by that city's public safety amount.
- (2) Reduce the total amount of ad valorem property tax revenue allocated to the county by the county public safety amount.
- (3) Reduce the total amount of ad valorem property tax revenue allocated to a city and county by the city and county public safety amount.
- (4) Allocate the cumulative public safety amount to a public safety finance agency.

(b) In the fiscal year that begins during the first taxable year in which a county or city and county ceases to impose an income tax that was imposed pursuant to Part 10.1 (commencing with Section 18201), the auditor shall do all of the following:

- (1) Increase the total amount of ad valorem property tax revenue allocated to a city by that city's adjusted public safety amount.
- (2) Increase the total amount of ad valorem property tax revenue allocated to the county by the county adjusted public safety amount.
- (3) Increase the total amount of ad valorem property tax revenue allocated to a city and county by the city and county adjusted public safety amount.
- (4) Decrease the total amount of ad valorem property tax revenue allocated to a public safety finance agency by the adjusted cumulative public safety amount.

(c) In each fiscal year that follows a fiscal year in which subdivision (a) or (b) applies, ad valorem property tax revenue allocations made pursuant to Sections 96.1 and 96.5 shall fully incorporate the allocation adjustments made by this section.

(d) For purposes of this section:

(1) Upon the approval of an income tax authorized by Part 10.1 (commencing with Section 18201), the governing body of the imposing county or city and county shall give notice of that approval to the Franchise Tax Board and to the auditor of the county or city and county. The notice to the Franchise Tax Board shall specify the county or city and county that has received approval for the imposition of the income tax.

(2) (A) The Franchise Tax Board shall, within 60 days of receiving notice of the approval of the income tax authorized by Part 10.1 (commencing with Section 18201), estimate, based upon historical data on state income tax collections for residents of that county or city and county, the amount of income tax to be collected on behalf of the county or city and county in the first 12 months in which that income tax is imposed, and notify the county auditor of this estimate.

(B) Upon receipt of the estimate described in subparagraph (A), the county auditor shall, based upon this estimate, determine the amount of this estimated amount that would have been allocated to the county and to the cities in the county in that year pursuant to Section 55652 of the Government Code.

(3) A city's "public safety amount" means an amount of ad valorem property tax revenue equal to the lesser of:

(A) Fifty percent of the amount estimated, with respect to that city, by the county auditor pursuant to subparagraph (B) of paragraph (2).

(B) All of the ad valorem property tax revenue that is to be allocated to that city in the fiscal year in which subdivision (a) applies.

(4) The "county public safety amount" of a county means an amount of ad valorem property tax revenue equal to the lesser of:

(A) Fifty percent of the amount estimated, with respect to that county, by the county auditor pursuant to subparagraph (B) of paragraph (2).

(B) All of the ad valorem property tax revenue that is to be allocated to that county in the fiscal year in which subdivision (a) applies.

(5) The "city and county public safety amount" means an amount of ad valorem property tax revenue equal to the lesser of:

(A) Fifty percent of the amount estimated, with respect to that city and county, by the Franchise Tax Board pursuant to subparagraph (A) of paragraph (2).

(B) All of the ad valorem property tax revenue that is to be allocated to that city and county in the fiscal year in which subdivision (a) applies.

(6) "Cumulative public safety amount" means:

(A) With respect to a county, an amount of ad valorem property tax revenue equal to the total of the amounts determined, pursuant to paragraphs (3) and (4), for the county and all the cities in the county in the fiscal year in which subdivision (a) applies.

(B) With respect to a city and county, an amount of ad valorem property tax revenue equal to the total of the amount determined, pursuant to paragraph (5), for the city and county in the fiscal year in which subdivision (a) applies.

(7) A city's "adjusted public safety amount" means an amount of ad valorem property tax revenue equal to the difference between the following two amounts:

(A) The amount of that revenue that would otherwise have been allocated to that city in the fiscal year in which subdivision (b) applies if subdivisions (a) and (c) did not apply in any fiscal year.

(B) The amount of that revenue that would otherwise have been allocated to that city in the fiscal year in which subdivision (b) applies if subdivision (b) did not apply in that fiscal year.

(8) The "county adjusted public safety amount" means an amount of ad valorem property tax revenue equal to the difference between the following two amounts:

(A) The amount of that revenue that would otherwise have been allocated to that county in the fiscal year in which subdivision (b) applies if subdivisions (a) and (c) did not apply in any fiscal year.

(B) The amount of that revenue that would otherwise have been allocated to that county in the fiscal year in which subdivision (b) applies if subdivision (b) did not apply in that fiscal year.

(9) The "city and county adjusted public safety amount" means an amount of ad valorem property tax revenue equal to the difference between the following two amounts:

(A) The amount of that revenue that would otherwise have been allocated to the city and county in the fiscal year in which subdivision (b) applies if subdivisions (a) and (c) did not apply in any fiscal year.

(B) The amount of that revenue that would otherwise have been allocated to the city and county in the fiscal year in which subdivision (b) applies if subdivision (b) did not apply in that fiscal year.

(10) "Adjusted cumulative public safety amount" means:

(A) With respect to a county, an amount of ad valorem property tax revenue equal to the total of the amounts determined, pursuant to paragraphs (7) and (8), for the county and all the cities in the county in the fiscal year in which subdivision (b) applies.

(B) With respect to a city and county, an amount of ad valorem property tax revenue equal to the total of the amount determined, pursuant to paragraph (9), for the city and county in the fiscal year in which subdivision (b) applies.

(e) This section may not be construed to do either of the following:

(1) Require the auditor to reduce or increase the amount of ad valorem property tax revenue required to be contributed by any city, county, city and county, or special district to an Educational Revenue Augmentation Fund.

(2) Require a public safety finance agency to contribute ad valorem property tax revenue to an Educational Revenue Augmentation Fund.

**SEC. 3.** Section 17041.5 of the Revenue and Taxation Code is amended to read:

**17041.5.** Except as provided in Part 10.1 (commencing with Section 18201), notwithstanding any statute, ordinance, regulation, rule or decision to the contrary, no city, county, city and county, governmental subdivision, district, public and quasi-public corporation, municipal corporation, whether incorporated or not or whether chartered or not, shall levy or collect or cause to be levied or collected any tax upon the income, or any part thereof, of any person, resident or nonresident.

**SEC. 4.** Part 10.1 (commencing with Section 18201) is added to the Revenue and Taxation Code, to read:

**PART 10.1. LOCAL INCOME TAX**

**18201.** (a) (1) Any county or city and county that has formed a public safety finance agency by ordinance pursuant to Section 55650 of the Government Code may levy a general tax upon the taxable income of any individual who is a resident of the county or city and county for each taxable year beginning on or after January 1, 2004. The tax may not exceed an amount equal to the net tax defined in Section 17039 multiplied by 10 percent.

(2) Any ordinance adopted by a county or city and county for the purpose of levying a tax on income shall be subject to approval by a majority of the voters voting on that issue at an election.

(b) This section may not be construed so as to prohibit the levy or collection of any otherwise authorized license tax upon a business measured by or according to gross receipts.

**18202.** A local income tax imposed under this part shall be administered in the same manner as a tax imposed under Part 10 (commencing with Section 17001). Part 10.2 (commencing with Section 18401) shall apply to any tax imposed under this part in the same manner and with the same force and effect and to the full extent as if the language of that part has been incorporated in full into this part, except to the extent that any provision is inconsistent with this part or is not relevant to this part.

**18203.** For purposes of this part, the term "resident" means an individual who resides in the county or the city and county for more than six months during the taxable year.

**18204.** (a) (1) The Franchise Tax Board shall revise the personal income tax returns required to be filed pursuant to Part 10.2 (commencing with Section 18401) to allow an individual to report and pay a local income tax in accordance with this part. The returns shall require the taxpayer to include the individual's county or city and county of residence.

(2) If a taxpayer fails to include the taxpayer's county or city and county of residence on the return, the county or city and county of residence will be the county or city and county as may be determined by the Franchise Tax Board.

(3) If a taxpayer fails to include a county or city and county of residence on the return as required by paragraph (1), then any adjustment required to make the local income tax assessment on the return shall be treated as arising out of a mathematical error and shall be assessed and collected under Section 19051.

(b) Paragraph (1) of subdivision (a) does not apply with respect to returns for any taxable year beginning on or after January 1 of a calendar year unless the Franchise Tax Board receives notice of approval of a local income tax, as required by Section 99.3, by June 1 of that calendar year.

**18205.** (a) The Franchise Tax Board shall transmit local income tax revenues and applicable penalties and interest collected pursuant to this part, net of refunds, to the county or the city and county to which the amount due is owing on or before 60 days after the personal income tax return is processed or the income tax is collected, whichever is later.

(b) In the case of a county, the county auditor shall allocate the moneys received by a county pursuant to subdivision (a) among the county and the cities in the county in the manner specified in Section 55652 of the Government Code.

**18206.** (a) A county or city and county that enacts a local income tax in accordance with this part shall enter into an agreement with the Franchise Tax Board to provide for reimbursement to the Franchise Tax Board of expenses incurred by the Franchise Tax Board to implement and administer this part.

(b) Any agreement between the Franchise Tax Board and a county or a city and county shall provide that an amount equal to all start-up costs necessary to administer the income tax of that county or city and county imposed pursuant to this part shall be received by the Franchise Tax Board before it incurs any cost associated with the activity permitted by this part on behalf of that county or city and county. For the purposes of this section, start-up costs include, but are not limited to, costs associated with the purchasing of equipment, the development of processes, and labor.

**SEC. 5.** Section 19533 of the Revenue and Taxation Code is amended to read:

**19533.** If the debtor has more than one debt being collected by the Franchise Tax Board and the amount collected by the Franchise Tax Board is insufficient to satisfy the total amount owing, the amount collected shall be applied in the following priority:

(a) Payment of any delinquencies transferred for collection under Article 5 (commencing with Section 19270) of Chapter 5.

(b) Payment of any taxes, additions to tax, penalties, interest, fees, or other amounts due and payable under Part 7.5 (commencing with Section 13201), Part 10 (commencing with Section 17001), Part 11 (commencing with Section 23001), or this part.

(c) Payment of any taxes, additions to tax, penalties, interest, fees, or other amounts due and payable under Part 10.1 (commencing with Section 18201).

(d) Payment of delinquent wages collected pursuant to the Labor Code.

(e) Payment of delinquencies collected under Section 10878.

(f) Payment of any amounts due that are referred for collection under Article 5.5 (commencing with Section 19280) of Chapter 5.

(g) Payment of any amounts that are referred for collection pursuant to Section 62.9 of the Labor Code.

(h) Payment of delinquent penalties collected for the Department of Industrial Relations pursuant to the Labor Code.

(i) Payment of delinquent fees collected for the Department of Industrial Relations pursuant to the Labor Code.

(j) Notwithstanding the payment priority established by this section, voluntary payments made by a taxpayer designated by the taxpayer as payment for a personal income tax liability, shall not be applied pursuant to this priority, but shall instead be applied solely to the personal income tax liability for which the voluntary payment was made.

**SEC. 6.** If any provision of this act, or any ordinance that is properly proposed by a local governing body pursuant to this act, is held invalid in a final decision of an appellate court, the remaining provisions of this act shall become inoperative.

**SEC. 7.** In enacting this act, the Legislature finds and declares that the provision of government services in the cities in a county is of vital interest to that county. Therefore, the Legislature finds and declares that the revenue transfers from a county to cities in the county required by Section 55652 of the Government Code serve a specific public purpose of the counties that transfer this revenue.