

CACTTC 2021 Legislative Platform



The 2021 CACTTC Legislative Platform
Approved October 7, 2021

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The Approved 2021 Platform includes four proposals:

- 1) Tax Collectors to waive penalties and interest on late property tax payments should a public health order be instituted by the Governor or County official that directs the public to shelter at home.
- 2) Aligns sections of code that conflict regarding penalties if a taxpayer did not receive a tax bill due to an error by the Tax Collector, providing for consistency across multiple statutes.
- 3) Updates to the financial reporting requirements in the statute to reflect that due to technological advances, financial reporting can be produced daily if desired; the language calls for at least monthly reporting but allows flexibility in that regard; it also removes decades-old language from the statute that establishes penalties for failure to provide the reports.
- 4) Changes to how CalPERS calculates court employees with respect to how counties can pre-pay their pension obligations only for county employees; the long-standing challenges associated with court employees not actually being employees of a county but still appearing as such in their pension reporting complicate pension obligation prepayments.
**Item 4 shall be pursued jointly with other stakeholders.*

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Proposal #1 – Monterey County

Property Tax Payment Deadlines Under a Shelter at Home Order

1. PLEASE PROVIDE A BRIEF DESCRIPTION OF THE PROBLEM AND THE PROPOSED SOLUTION:

Tax Collectors are unable to cancel penalty on late remittances, based on economic hardship alone, as a result of the COVID-19 pandemic. The immediate solution was to seek an executive order by the Governor to allow economic hardship penalty waivers. Since this order is of limited duration, it would be in the best interest of the taxpayers of the State of California to have this type of relief codified in statute should this, or another, pandemic continue after the expiration of the order.

2. WHAT IS THE SPECIFIC RECOMMENDED STATUTORY CHANGE YOU ARE PROPOSING? Change to R&T 4985.2

Any penalty, costs, or other charges resulting from tax delinquency may be canceled by the Auditor or the Tax Collector upon a finding of any of the following:

- (a) Failure to make a timely payment is due to reasonable cause and circumstances beyond the taxpayer's control, and occurred notwithstanding the exercise of ordinary care in the absence of willful neglect, provided the principal payment for the proper amount of the tax due is made no later than June 30 of the fourth fiscal year following the fiscal year in which the tax became delinquent.
- (b) There was an inadvertent error in the amount of payment made by the taxpayer, provided the principal payment for the proper amount of the tax due is made within 10 days after the notice of shortage is mailed by the Tax Collector.
- (c) The cancellation was ordered by a local, state, or federal court.
- (d) Notwithstanding subdivisions (a-c), that the failure to make a timely payment is due to a compulsory order issued by the governor of the state or the local health officer of the city, county, or city and county in which the property is located, or in which the property owner resides and is enforceable under section 101029 or 120295 of the Health and Safety Code and orders all persons to remain in their place of residence, except for essential activities as defined in the order, and the principal payment for the proper amount of tax due is made no later than June 30 of the fiscal year in which the payment first became delinquent.*

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3. WHAT IS THE GENERAL EXPLANATION FOR WHAT THESE CHANGES WILL DO (IN LAYMAN'S TERMS?)

This will allow the Tax Collector the discretion to waive penalty on delinquent property tax payments specifically due to economic hardship or other unavoidable circumstances directly resulting from a health and safety order as outlined above.

4. HOW MANY COUNTIES HAVE BEEN IMPACTED BY THIS PROBLEM? WHICH COUNTIES?

All 58 counties have been and will continue to be impacted by the inability to waive penalty in this circumstance absent the executive order.

5. HAS YOUR COUNTY BEEN HARMED FINANCIALLY BY THE CURRENT LAW? IF SO, HOW MUCH AND BY WHOM? PLEASE INCLUDE SPECIFIC EXAMPLES.

All taxpayers in the state who had to pay penalties on delinquent tax payments during this pandemic have been harmed. The addition, adding this provision to the code section, will prevent this problem in the future.

6. WHICH STATE AGENCIES WOULD BE IMPACTED IF THE LAW WERE TO CHANGE? None

7. IS THIS PROPOSAL LIKELY TO ENGENDER OPPOSITION FROM ANYONE? WHO? WHY?

No. This provides needed relief to taxpayers and gives authority to Tax Collectors to cancel penalty in specific situations, including economic hardship, as a result of a pandemic or other situation that falls under the Health and Safety Code.

8. HAS THIS BILL BEEN TRIED BEFORE?

Not to my knowledge. This is our first pandemic in 102 years.

9. WHAT ARE THREE REASONS WHY A LEGISLATOR SHOULD CARRY THIS BILL? (HOW DOES IT MAKE THE LAW BETTER / MORE JUST /MORE EFFICIENT FOR COUNTIES AND TAXPAYERS?)

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Again, this creates much-needed relief where none currently exists. It allows Tax Collector's discretion to cancel penalties under specific situations during a pandemic.

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Proposal #2 –Merced County

Taxpayer Did Not Receive a Tax Bill

1. PLEASE PROVIDE A BRIEF DESCRIPTION OF THE PROBLEM AND THE PROPOSED SOLUTION:

The two statements below in RTC § 2910.1 are contradictory. We cannot state that a taxpayer is responsible for the timely payment of taxes regardless of receipt of the tax bill in one sentence and state that penalties may be waived if the tax bill was not received in the next sentence.

Revenue and Taxation Code (RTC) § 2910.1 states "Failure to receive a tax bill shall not relieve the lien of taxes, nor shall it prevent imposition of penalties imposed by this code. However, the penalty imposed for delinquent taxes as provided by any section in this code shall be canceled if the assessee convinces the tax collector that he or she *did not receive the tax bill mailed to the address provided* on the roll or electronic address provided and authorized by the taxpayer to the tax collector."

A better way to state this is demonstrated in RTC § 2610.5. Instead of saying the property owner must prove *they did not receive* a bill, it should read that the property owner must prove *we did not mail* it to the address as provided on the tax roll. As an example, if the County failed to enter the correct mailing address as shown on the recorded deed, the County would indeed remove the penalty.

RTC § 2610.5 states "However, the penalty imposed for delinquent taxes as provided by any section of this code shall be canceled if the assessee or fee owner demonstrates to the tax collector that delinquency *is due to the tax collector's failure to mail or electronically transmit* the tax bill to the address provided on the tax roll or electronic address provided and authorized by the taxpayer to the tax collector."

This alignment of language in RTC § 2910.1 does not diminish the Tax Collector's ability to cancel penalties in case of county error (RTC § 4985.) when a payment is lost in the mail or when failure to pay is due to circumstances beyond the taxpayer's control (RTC § 4985.2.)

2. WHAT IS THE SPECIFIC RECOMMENDED STATUTORY CHANGE YOU ARE PROPOSING?

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REVENUE AND TAXATION CODE

2910.1 The tax collector may, no later than 30 days prior to the date on which taxes are delinquent and as soon as reasonably possible after receipt of the extended assessment roll, mail or electronically transmit a tax bill for every assessment on the unsecured roll on which taxes are due, unless the total tax bill amount due is too small to justify the cost of collection. Failure to receive a tax bill shall not relieve the lien of taxes, nor shall it prevent the imposition of penalties imposed by this code. However, the penalty imposed for delinquent taxes as provided by any section in this code shall be canceled if the assessee convinces the tax collector that he or she did not receive the tax bill mailed to the address provided on demonstrates to the tax collector that delinquency is due to the tax collector's failure to mail or electronically transmit the tax bill to the address provided on the tax roll or electronic address provided and authorized by the taxpayer to the tax collector.

3. WHAT IS THE GENERAL EXPLANATION FOR WHAT THESE CHANGES WILL DO (IN LAYMAN'S TERMS?)

These changes will bring consistency to the language between RTC § 2910.1 and RTC § 2610.5 as well as within RTC § 2910.1 as a whole.

4. HOW MANY COUNTIES HAVE BEEN IMPACTED BY THIS PROBLEM? WHICH COUNTIES? Please include specific examples from each county as to what has been problematic and how this proposal would solve the problem.

Every year, a number of taxpayers blame their tax payment delinquency on not receiving a bill and request that penalties be removed. Every year, California County Tax Collectors deny taxpayers' requests citing, "Failure to receive a tax bill shall not relieve the lien of taxes, nor shall it prevent the imposition of penalties imposed by this code." If a taxpayer were to read the next sentence under RTC § 2910.1, they would most certainly argue that they did not receive the bill. While the burden of proof still lies with the taxpayer, it is the Tax Collector's position that the failure to receive a tax bill is not an acceptable reason to waive penalties.

5. HAS YOUR COUNTY BEEN HARMED FINANCIALLY BY THE CURRENT LAW? IF SO, HOW MUCH AND BY WHOM? PLEASE INCLUDE SPECIFIC EXAMPLES.

None.

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6. WHICH STATE AGENCIES WOULD BE IMPACTED IF THE LAW WERE TO CHANGE?

None.

7. IS THIS PROPOSAL LIKELY TO ENGENDER OPPOSITION FROM ANYONE? WHO? WHY?

None.

8. HAS THIS BILL BEEN TRIED BEFORE?

Unknown.

9. WHAT ARE THREE REASONS WHY A LEGISLATOR SHOULD CARRY THIS BILL? (HOW DOES IT MAKE THE LAW BETTER / MORE JUST /MORE EFFICIENT FOR COUNTIES AND TAXPAYERS?)

This change will make the language in Revenue and Taxation Code § 2910.1 consistent with the language in Revenue and Taxation Code § 2610.5.

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Proposal #3 –Madera County

Monthly Financial Reporting

1. PLEASE PROVIDE A BRIEF DESCRIPTION OF THE PROBLEM AND THE PROPOSED SOLUTION:

Current Government Code Section (GC) 27061, 27062, and 27064 enacted in 1947 - 1953 pertaining to the delivery of monthly settlements relating to the collection, care, and disbursement of public revenue are outdated in relation to the most current practices with new technologies being deployed in the Treasurer-Tax Collectors offices. These codes were enacted in 1947-1953 before the modern age usage of computers and automated accounting software systems that integrate reconciliation processes between the Treasurer and Auditor.

The purpose of these codes has been superseded with the use of modern technology systems/software where there is no longer the need to wait until the end of the month because discrepancies or fraudulent items are identified in real-time. Moreover, current systems and software allow for daily settlement and reconciliation of accounts within or between departments without the use of these codes and the required statement from these codes. Whereas, where combined offices of the Tax Collector and Auditor-Controller exist, it serves no value in reporting to self.

Furthermore, the proposed solution is to remove GC 27062 and 27064 and update the language for GC 27061 to align with the most current and future technological work environment.

2. WHAT IS THE SPECIFIC RECOMMENDED STATUTORY CHANGE YOU ARE PROPOSING?

To remove Government Code Section 27062 and 27064 and update the language for Government Code Section 27061 to read as follow:

Recommended Language:

27061. ~~Not later than the tenth of each month.~~—The treasurer shall settle *their* his accounts relating to the collection, care, and disbursement of public revenue in any form ~~whatsoever nature and kind~~ with the Auditor *frequently but no less than monthly*. The treasurer shall provide a monthly settlement of cash receipts and

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disbursements to the Auditor upon request within ten business days following the first business day of the month.

GOVERNMENT CODE - GOV

ARTICLE 2. Statements and Reports [27061 - 27064]

(Article 2 added by Stats. 1947, Ch. 424.)

~~**27062.** For the purpose of making his settlement, the treasurer shall make a statement under oath of the amount of money or other property received prior to the period of the settlement, the amount of payments or disbursements, and the amount remaining on hand. In the settlements he shall deposit and take the Auditor's receipt for all warrants redeemed by him. *(Amended by Stats. 1953, Ch. 687.)*~~

~~**27064.** If the treasurer neglects or refuses to settle or report as required by this article, he shall forfeit and pay to the county five hundred dollars (\$500) for each neglect or refusal, and the board of supervisors shall institute suits for the recovery thereof. *(Added by Stats. 1947, Ch. 424.)*~~

3. WHAT IS THE GENERAL EXPLANATION FOR WHAT THESE CHANGES WILL DO (IN LAYMAN'S TERMS?)

The proposed changes would align with the current and ever-changing technological advances. The availability of modern systems and software solutions in the Tax Collector and Auditor/Controller's office automatically generates reports and settlements in real-time where discrepancies or fraudulent actions can be identified and corrected on the same day by means of the various county automated accounting systems. Whereas, in counties where the Tax Collector offices are combined and systems or software is shared, the use of technology instantly integrates with the Auditor/Controller's system making the certification to self unnecessary.

Additionally, new social changes have taken place since the codes were enacted in 1947-1953. The language in the codes is inconsistent with the current gender-neutral environment we live in, i.e., "In the settlements, *he* shall deposit and take the auditor's receipt for all warrants redeemed by *him*." Moreover, confusion surrounds the section of codes requiring that the statement be made under oath, what report(s) it should include, where the statement should be posted, and who to file the statement to.

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4. HOW MANY COUNTIES HAVE BEEN IMPACTED BY THIS PROBLEM? WHICH COUNTIES? Please include specific examples from each county as to what has been problematic and how this proposal would solve the problem.

There appears to be an inconsistent application of the code(s) with regards to the interpretation of the code(s) across the state. Below are the results of 17 respondents from a recent CACTTC survey initiated by Madera County:

Do you file a statement each month with the Board or Auditor?

• Files with the Board	6
• Completes a monthly statement but does not file with anyone	8
• Files with Auditor Controller	1
• Files with Clerk Recorder	1
• Files with General Accounting	1
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	17

Some counties are completing reconciliation of accounts daily, and in other counties, the Auditor's office produces monthly reports, which includes the disbursements of expenses and receipts of revenue for each account. In addition, the use of modern systems/software makes this code redundant where every county in the state have moved towards daily electronic reconciliations with the Auditor's office.

Moreover, there are also multiple interpretations as to who to file the statement to each month as demonstrated in the survey results from 17 counties throughout the state.

Additionally, where offices of the Auditor-Controller/Treasurer-Tax Collector are combined in one office, have found that there is no need to formally certify the statement to themselves.

5. HAS YOUR COUNTY BEEN HARMED FINANCIALLY BY THE CURRENT LAW? IF SO, HOW MUCH AND BY WHOM? PLEASE INCLUDE SPECIFIC EXAMPLES.

No. Only in additional work with limited resources.

6. WHICH STATE AGENCIES WOULD BE IMPACTED IF THE LAW WERE TO CHANGE?

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Unknown.

7. IS THIS PROPOSAL LIKELY TO ENGENDER OPPOSITION FROM ANYONE? WHO? WHY?

This is not likely to receive any opposition.

8. HAS THIS BILL BEEN TRIED BEFORE?

No.

9. WHAT ARE THREE REASONS WHY A LEGISLATOR SHOULD CARRY THIS BILL? (HOW DOES IT MAKE THE LAW BETTER / MORE JUST /MORE EFFICIENT FOR COUNTIES AND TAXPAYERS?)

- 1) To eliminate duplicate effort, work, and reports from the County Treasurers.
- 2) Removes government codes that have been superseded by modern software and automated accounting systems.
- 3) Purges government code that is gendered.

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Proposal #4 – Yolo County

COURT EMPLOYEE PENSION OBLIGATIONS

1. PLEASE PROVIDE A BRIEF DESCRIPTION OF THE PROBLEM AND THE PROPOSED SOLUTION:

As part of the Trial Court Separation in approximately 2001-02, the county and Superior Court pension plans were left as commingled for counties that were CalPERS counties. Over the years, this has caused numerous challenges, such as when a county pursues Pension Obligation Bonds, prepares annual financial reports, and in counties being proactive in paying down their pension liability.

Where I believe this ties into the Treasurer-Tax Collectors Association is from the standpoint of using the full range of tools to pay down county pension liabilities. This unfairly damages counties as it makes pension pay-down tools difficult to use for counties that are commonly available to cities and special districts that are not in these type of commingled pension plans. Some of these tools may be used but only when the County and Court can collaborate effectively; however, court and county finances often differ and each agency lacks the autonomy to fully own and address their pension liability proactively resulting in long term savings.

2. WHAT IS THE SPECIFIC RECOMMENDED STATUTORY CHANGE YOU ARE PROPOSING?

My proposal is to adjust the portion of the Trial Court separation that requires the continuation of the combination of Courts and Counties in CalPERS pension plans. That specific code is Government Code 20815(b):

(a) Notwithstanding any other provision of this part, including, but not limited to, Sections 20225 and 20790, the board shall not combine the assets and liabilities of public agency employers into a single account for the purpose of setting a uniform rate of employer contributions for all public agency employers. The rate at which a public employer's contribution to this system shall be fixed shall be based upon its own experience. Provisions of law that provide authority for this system to combine the assets and liabilities of public employers into a single account for purposes of establishing a uniform rate are superseded to the extent that they provide that authority. For purposes of this section only, references to public employers shall not be construed to include school employers.

(b) Notwithstanding subdivision (a), the assets and liabilities of a county and a trial court jointly contracting with the board under Section 20460.1 shall be

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combined for purposes of setting the employer contribution rate for both the county and the trial court.

(Amended by Stats. 2000, Ch. 1010, Sec. 10. Effective January 1, 2001.)

My recommendation would be to provide a requirement that CalPERS separate the assets of the County and the Trial Courts. CalPERS shall do so effective with the Actuarial valuations for June 30, 2023 and shall convene a working group including a representative from the Actuarial office of CalPERS, CACTTAC, SACA, CSAC,

Administrative Office of the Courts, and State Controllers Office. This working group would develop the method for CalPERS to separate the assets in a fair and equitable manner that is supported by Actuarial Standards of Practice and Generally Accepted Accounting Principles. The language will include that the contract for pension benefits would be unchanged by this legislation and CalPERS, if administratively required, could have the Courts and/or document through a pension contract at the same benefit provisions as those currently contracted through the Joint Agreement.

3. WHAT IS THE GENERAL EXPLANATION FOR WHAT THESE CHANGES WILL DO (IN LAYMAN'S TERMS?)

Allows counties to be proactive in addressing their pension liabilities and have all the same tools and options available to them that Cities, Special Districts and others have and after separation, simplifies financial reporting and transparency to the public, employees, elected officials, and others regarding county pension funding status and total liability.

4. HOW MANY COUNTIES HAVE BEEN IMPACTED BY THIS PROBLEM? WHICH COUNTIES? Please include specific examples from each county as to what has been problematic and how this proposal would solve the problem.

Approximately 38 counties may be impacted or affected by this problem, which are those counties that participate in CalPERS. To my knowledge, the other approximately 20 counties participate in 1937 Act pension systems or their own local pension system and thus are unaffected.

As I am most familiar with the impacts to Yolo County, those are described below further. The impact also depends on whether the County is attempting to be proactive on their funding of long-term liabilities. For counties that are not taking

a pro-active measure, the impact may be minimal at this time but could affect them in the future.

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5. HAS YOUR COUNTY BEEN HARMED FINANCIALLY BY THE CURRENT LAW? IF SO, HOW MUCH AND BY WHOM? PLEASE INCLUDE SPECIFIC EXAMPLES.

The County of Yolo has adopted a Pension Pre-funding program. We thus are charging departments a supplemental rate of payroll and are accumulating those funds to pay down our pension liability. We received approval of this mechanism as part of the County of Yolo cost plan by the State Controller's Office.

However, the County does not have the ability that Cities, Special Districts, or Other Government Agencies do of doing an Additional Discretionary Contribution or pay-down to CalPERS to reduce our pension liability. The restriction is that the Yolo Superior

Courts are included in our Pension Plans, which was required to be maintained at the Trial Court Separation in 2001-02. We have been good partners with our local Superior Courts, and they are willing to collaborate with us to try to match each other and make these additional contributions to CalPERS. However, the County and Court finances differ in our ability to pay down the liability.

As a result, the County is unable to fully execute our plan to tackle our pension liability. The County thus is losing out on future investment earnings and unable to fully attack our liability in as disciplined a manner as we desire. The County of Yolo has \$5 million + as of June 30, 2020 that we would like to remit to CalPERS but are unable to do so without collaborative efforts with our local courts. Thus there is lost investment earnings and higher costs by not having full local control and autonomy to pay down our liability.

We believe that other counties are impacted by this same situation but to differing levels.

6. WHICH STATE AGENCIES WOULD BE IMPACTED IF THE LAW WERE TO CHANGE?

The following State agencies would be impacted by the change:

- CalPERS – Initially, CalPERS would be required to work to execute or enact the separation of the pension plan assets and liabilities from counties and their Superior Court. This work however, would be one-time in nature and minimal ongoing effort would be involved (commensurate

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with other plans administered by CalPERS). The level and scope of the work would depend on how complex of a method is determined to be needed to perform a fair and equitable separation for the Court and the county of their pension plan.

- Superiors Courts – Superior Courts would be affected if they are currently linked to a CalPERS county. They would then be able to be separate and would receive their own actuarial determination as well as have the ability to pre-fund.
- Administrative Office of the Courts – The Administrative Office of the Courts currently gathers fiscal information from the Courts for year end consolidated reporting as well as has a role in Court budgets and thus would be an interested entity.
- State Controller's Office – The State Controller's Office requires counties to submit Pension and OPEB costing as part of the County's Cost Plan. They also prepare the State's financial statements and thus would also be an interested entity.

7. IS THIS PROPOSAL LIKELY TO ENGENDER OPPOSITION FROM ANYONE? WHO? WHY?

CalPERS – CalPERS generally doesn't like to do extra things that are not required. They have taken the position they don't have the authority to perform a separation without legislation. I hope that they would take a neutral position but it would require this legislation to provide adequate time to make the transition and it would be best to gather support from their Actuarial Office at a minimum.

Labor Groups – Unless there is a clear expression that this law does not change pension benefits but only improves the ability of local agencies to fund their pension, there could be opposition. However, I believe well-drafted legislation would not then engender this type of opposition and could, on the opposite side, gain support.

Superior Courts – Again, I believe unless well-drafted, Superior Courts may not understand that this benefits them. Thus outreach would need to be done in order to gain their support.

8. HAS THIS BILL BEEN TRIED BEFORE?

Something similar has been tried; however, I don't have the full details. SB 733 in 2005 was attempted for a fix for just Butte and Solano County. Please see the attached presentation for the knowledge that I have.

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9. WHAT ARE THREE REASONS WHY A LEGISLATOR SHOULD CARRY THIS BILL? (HOW DOES IT MAKE THE LAW BETTER / MORE JUST /MORE EFFICIENT FOR COUNTIES AND TAXPAYERS?)
- 1) Local Control - The proposal would allow for more local control of counties and Superior Courts to address their unfunded pension liabilities.
 - 2) Financial Savings - The more proactive agencies can be in addressing the liability, the higher the long term savings that can be garnered as additional discretionary payments against the pension liability result in substantial savings as those payments would be invested and should earn 7% per year should CalPERS meet their investment target annually.
 - 3) Long-term fiscal sustainability - As Treasurer-Tax Collectors, we are looking out for our agency's effective financing of our liabilities. Not having the ability to pay down our liabilities in an effective manner jeopardizes our ability to efficiently finance government operations.