Association of Chief Business Officials

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Collective Bargaining: Where Are We Headed?

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State Budget Process 1

- The Legislature passed and Governor Jerry Brown signed an on-time Budget for 2012-13
  - A rare event brought about by Proposition 25, which penalizes legislators for a late budget
    - Has resulted in two on-time Budgets, both with the threat of midyear cuts
- The enacted State Budget relies on the passage of the Governor's tax initiative, with $8.5 billion at stake for the current year

State Budget Process

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- Local school agencies must meet statutory timelines for budget adoptions, revisions, and reporting
  - No matter what is going on with the State Budget
- Local tentative budgets and staffing plans for the next year are prepared in advance of knowing the level of funding in the State Budget
- Therefore, fiscal prudence dictates that local budgets be conservative and have contingency plans
  - Especially in the current environment with potential midyear cuts

The Outlook for Higher Revenues

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- The economy is performing in line with the Budget forecast
  - The U.S. unemployment rate dropped 0.3% in September to 7.8%, a four-year low
    - The long term average unemployment rate is 5.8%
  - California's unemployment rate is 10.6%; it is still one of the highest in the nation
    - Between August 2011 and August 2012, California added about 300,000 jobs, approximately 25,000 per month
- General Fund revenues are slightly below the 2012-13 Budget Act forecast
  - Year-to-date revenues through August are off 2.1%, or about $240 million

The Outlook for Higher Revenues 4

- Housing is a key barometer of the economy and it appears to be turning around
  - Foreclosure filings for the U.S. are at the lowest level in five years
  - In California, defaults have dropped 45% since September 2011
  - The median price for a home in Southern California is up 11% to $309,000, while the median is also up 11% in the Bay Area, with the price reaching $410,000
    - Inventory is down to 3.2 months compared to 16 months at the depths of the recession
- The next official estimate of state revenues will be provided by the Legislative Analyst's Office in mid-November 2012

Risks to the State Budget 5

- Federal law could trigger a recession unless Congress acts first
  - Bush-era tax cuts are set to expire in January 2013
  - Automatic federal spending cuts could take place per last year's Budget agreement
- Like prior years, the courts or the federal government could disallow Budget solutions enacted by the Legislature
  - Medi-Cal reductions have previously been disallowed
  - The state's corrections system is under federal receivership
  - Reductions to safety net programs such as State Supplemental Payments and child care are vulnerable to court challenge
- The state revenue forecasts could be flawed
  - The Legislative Analyst's Office has called into question the Department of Finance's assumptions regarding capital gains income
  - The reliance on RDA reversions becoming state income

Education Funding Initiatives

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Proponent and Title	Total Revenues Generated	Education Revenues Generated	Source of Additional Revenues	Duration
Governor Jerry Brown – "The Schools and Local Public Protection Act of 2012" – Proposition 30	$8.5 billion in 2012-13; $6.5 billion thereafter	Limited – additional funds offset state General Fund (GF) obligation; $2.9 billion increase in Proposition 98 first year	Quarter-cent sales tax increase; up to 3% increase in personal income tax rate for high-income earners ($250,000 and above)	4 years sales tax, 7 years income tax
* Molly Munger (Parent Teacher Association supported) "Our Children, Our Future: Local Schools and Early Education Investment and Bond Debt Reduction Act" – Proposition 38	$5 billion in 2012-13; $10 billion thereafter	First 4 years: 60% K-12 schools 10% Early childhood education (ECE) 30% state GF bond debt Remaining years: 85% K-12 schools 15% ECE	Increase in personal income tax for all but low-income earners, from 0.4% for lowest income individuals to 2.2% for individuals earning more than $2.5 million	12 years

* The Munger initiative provides K-12 funds on a school specific, per-pupil basis, subject to local control, audits, and public input. It also prohibits the state from directing or using these funds.

Impact of November Election

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	Proposition 30		Proposition 38 Passes
	Passes	Fails	
California Community Colleges	▪ $50 million in growth funding ▪ $159.9 million to buy down deferrals ▪ No fee change	▪ $338.6 million reduction, nearly 7.5% workload reduction ▪ No fee change	▪ No direct benefit to higher education ▪ To the extent resources are freed up due to bond debt payment from Proposition 38 passage, segments *could* benefit
California State University	▪ $125 million funding increase ▪ Tuition reduced by 9.1%	▪ $250 million funding reduction ▪ Tuition increased by 5%	
University of California	▪ $125 million funding increase ▪ Flat tuition	▪ $250 million funding reduction ▪ Tuition increase expected	

Recovery Takes a Long Time

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- Recovery for education funding requires:
  - First, the threat of more current or future cuts must end
  - Then, the state must have the money to begin funding current-year cost-of-living adjustments and enrollment growth
  - Then, the state must restore cuts made to apportionments and categorical programs
  - Then, the state must deal with restoration of the deferrals
- During the recession of the early 1990s, the impact on education funding was smaller and there were no deferrals, but recovery still took six years
  - So, the state has a lot of work to do and it will take time
- The construction industry needs to rebound as well

Governor's Budget or the Alternative?

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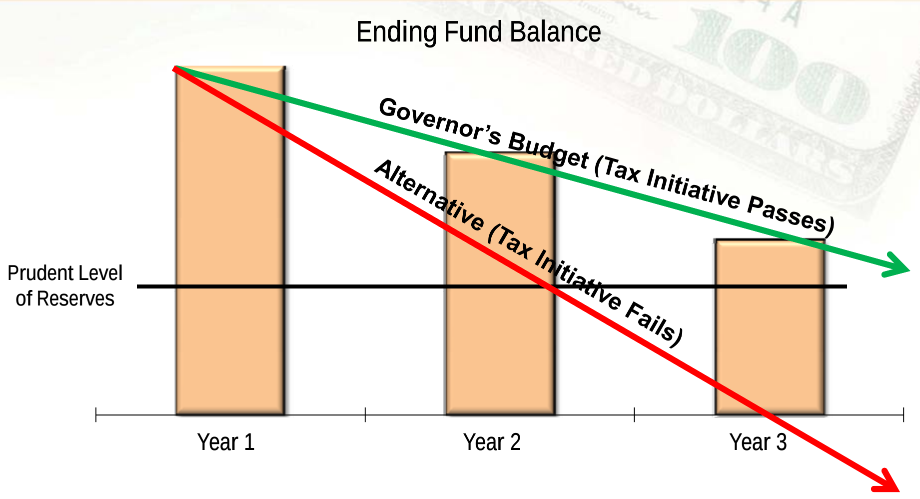

Reserve Levels

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Unrestricted General Fund Net Ending Balance as a Percentage of Unrestricted General Fund Expenditures		
	2009-10	2010-11*
Average Statewide	16.20%	18.80%
Lowest	5.60%	2.60%
Highest	36.80%	38.90%

- Statewide, the average reserve was significantly higher than the 5% prudent level
  - Due to local actions to reduce costs by eliminating course sections, reducing staffing, etc.

* As of the latest statewide data available.

Reserve Levels and Cash

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- This is likely to be short lived
  - A seemingly high ending fund balance is unlikely to carry a district through a multiyear problem
- The 5% prudent level of reserves is only about seven to eight days of payroll
  - But how much of reserves are actually cash?
    - A diminishing portion because of deferrals

2011-12 Apportionment Deferrals

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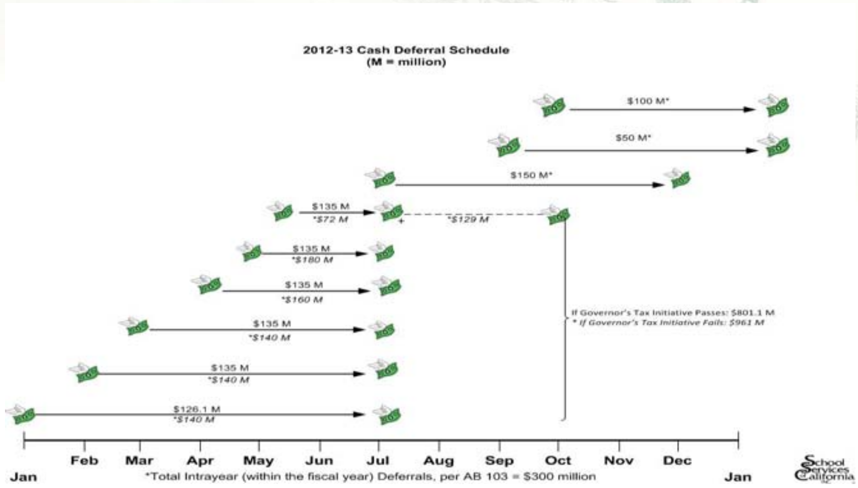

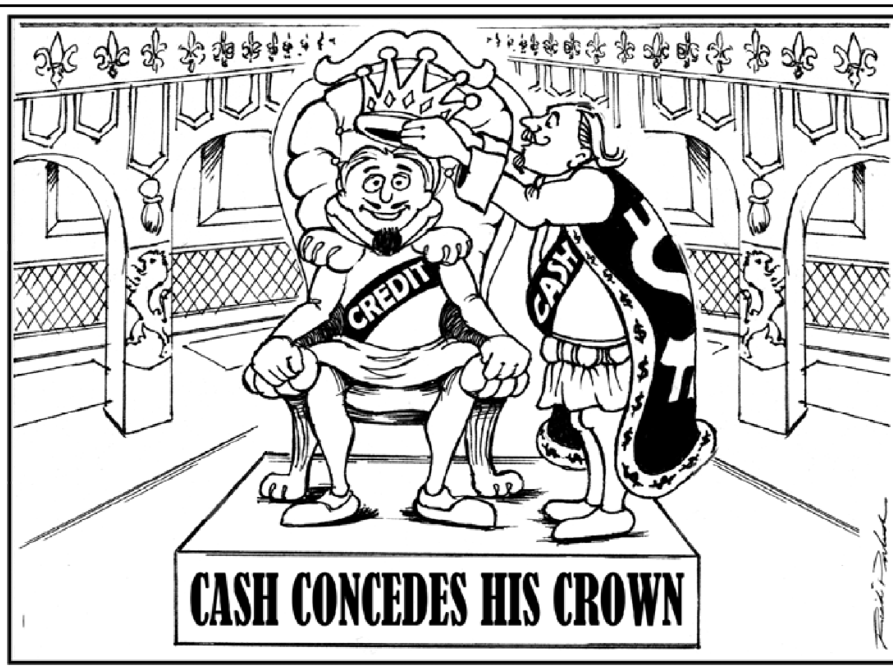

Cash and Credit

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- On the natural, higher ending balances are needed for the cash cushion because of deferrals
  - If you run out of cash, there are several options for borrowing cash
    - Unfortunately, temporary borrowing for cash flow purposes has become a normal routine
    - And it is short term – it has to be paid back typically within a year
  - What if you can't borrow because you can't prove you can pay it back?
    - It's game over – the state takes over and you lose local control

Cash and Credit

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- Do multiyear budget projections
  - And take early action to maintain adequate reserves
- Do cash projections as well to plan for:
  - When you need to borrow
  - How much you need to borrow
  - How long you need to borrow
  - What your borrowing options are
    - And prepare ahead for the best borrowing options available to you

New Collective Bargaining Rules – Represented Employees

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- Assembly Bill (AB) 501 (Chapter 674/2011) amended Government Code Section 3540 et. seq. commonly known as the Educational Employment Relations Act (EERA)
  - Changes "certificated or classified employees" to "public school employees," extending the representation right to other public school employees, such as substitutes, short-term employees, and part-time student workers
  - Expands the definition of "public school employer" or "employer" to include community college auxiliary organizations and certain joint powers authorities (JPAs)
  - Effective January 1, 2012
- Management and confidential employees continue to be excluded

New Collective Bargaining Rules – Represented Employees

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- What does this mean for community college districts, auxiliary organizations, and JPAs?
  - They may, or may not, receive a request for a unit modification
  - Public Employment Relations Board Regulations 32781-32786 set forth the rules and procedures for modifying an existing bargaining unit
  - If you receive a unit modification request, contact your labor attorney

New Legislation Impacting Employees 18

- AB 1908 (Chapter 860/2012) modified Education Code Section 88017 to increase the notice requirement for classified employee layoffs from 45 days to 60 days
- AB 1203 (Chapter 804/2012) expands the requirement to grant paid leaves of absences to elected officers of classified employee organizations to include the granting of paid leaves of absence to any classified employee for any reason when requested by the employee organization
  - The limiting factor is that the bargaining unit must pay the full cost of salary and benefits for that employee regardless of whether a substitute is needed or not
  - Both bills are effective January 1, 2013

Pension Reform 19

- Pension reform is here
  - First, the Legislature passed and Governor Brown signed AB 178 (Chapter 135/2012) in July 2012
    - Extended only certain CalSTRS earnings limitation exemptions
      - But all other exemptions expired after June 30, 2012
    - Revised the calculation of the earnings limitation to be half of the median final compensation for the previous year's retirees
      - The limitation is $40,011 for 2012-13
    - Eliminates the one-year waiting period for reinstated retirees to retire again

Pension Reform

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- Most notably, though, AB 340 (Chapter 296/2012) enacted sweeping reforms to public pensions
- The most significant provisions apply only to new members of California's public pension systems after January 1, 2013
  - But some provisions affect current public employees

- This 60-page bill is still being digested and open to many interpretations
  - There will likely be a clean-up bill for the next legislative session

Postretirement Work

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- Any member that retires on or after January 1, 2013, will be subject to a 180-day waiting period before returning to work
  - Applies to current and new members
  - Applies to both California State Teachers' Retirement System (CalSTRS) and California Public Employees' Retirement System (CalPERS) members that return to work in a CalSTRS or CalPERS position, respectively
    - Whether paid as an employee, an independent contractor, or an employee of a third party

Postretirement Work

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- Exceptions are allowed
  - For a CalPERS retiree, if the employer certifies that the appointment is necessary to fill a critically needed position and the appointment is approved at a public meeting of the Board where the action item was not on the consent calendar
  - For a CalSTRS retiree, if he/she did not take an early retirement incentive, his/her retirement was not the reason for the appointment, and the Board approves a resolution similar to the CalPERS requirement above

Employee Contributions

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- All new members hired on or after January 1, 2013, must pay at least 50% of the normal costs or the contribution level of current employees, whichever is higher, as a contribution to the system
  - Employers cannot pay any of the employee's contribution
- Current members are not subject to these requirements, but employers can choose to increase their contributions to a maximum of 8% through collective bargaining
  - But the impasse process cannot be used to accomplish this until after January 1, 2018

Early Retirement Incentives

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- Early retirement incentive plans may be a useful tool to lower salary costs, depending on your district's employee age and service demographics
  - By retiring employees whose salaries are high on the salary schedule and replacing them with employees whose salaries are lower on the schedule, a district can achieve cost savings
  - Savings occur, however, only at the margin: the difference between the number of retirees before vs. after the incentive
  - Certificated nonmanagement employees typically generate the most savings due to their salary schedule design
  - Classified and management employees typically generate little or no savings due to their salary schedule design

Early Retirement Incentives

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- If you have recently offered an early retirement incentive, do not assume you cannot offer another one this year
- In determining if another incentive might be cost effective, the local education agency should:
  - Evaluate the status of the last incentive to see if the savings are on track
  - Ask "If offered again this year, are we likely to double our normal attrition rate?"
  - Determine what it will do with the vacancies created
    - Keep all or most open
    - If you are going to fill them, be sure you reduce the estimated savings
- If you can reduce your costs, it may make sense to offer a second incentive this year

Collective Bargaining Continues to be Difficult

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- The economic realities of the last four years are taking a toll on the labor-management relationship
- Management and the union share an interest in the fiscal solvency of the district and minimizing the impact of cuts on students and staff – but that doesn't mean reaching agreement at the table comes easy
- Employees who have agreed to concessions in the past will find it difficult to agree to additional concessions or to maintain those concessions set to expire
- A majority of districts continue to settle at the table, but of those that end up at impasse, a higher percentage are not settling in mediation and go to factfinding

Negotiation Process

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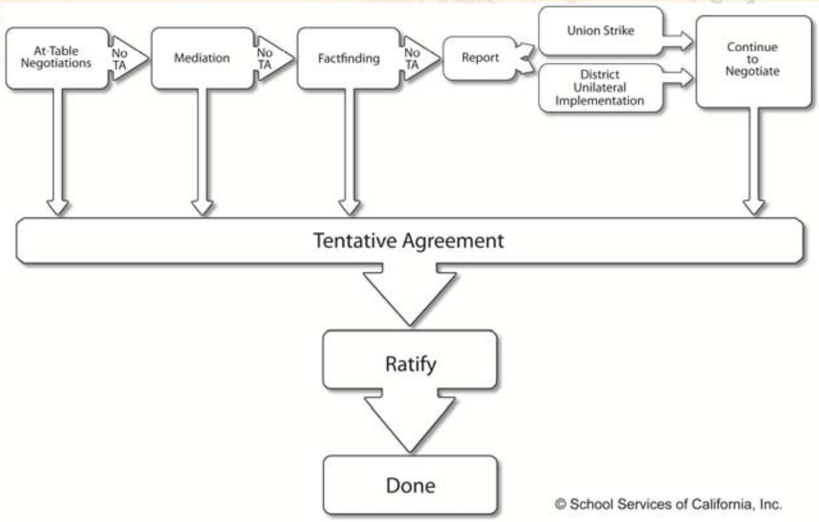

Funding Uncertainty Makes Matters Worse

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- Costs continue to increase, even if revenues don't
- The midyear "trigger" will cause an additional loss of revenue
- Another round of legislatively induced funding uncertainty creates financial risk and harms the labor-management relationship
- Sharing accurate financial information is important
  - However, developing positive communications and relationships is far more important
- Bargaining preparation will be essential this year

Educational Employment Relations Act

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- Factfinders shall consider Educational Employment Relations Act 3548.2:
  1. State and federal laws applicable to the employer.
  2. Stipulations of the parties.
  3. Interest and welfare of the public, and the financial ability of the public school employer.
  4. Comparison of the wages, hours, and conditions of employment with other employees generally in public school employment in comparable communities.

Educational Employment Relations Act

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5. The Consumer Price Index for goods and services, commonly known as the cost of living.
6. Overall compensation, including wages, vacations, holidays, insurance, pension, medical, and hospitalization benefits received.
7. Any other facts not included in 1 to 6 above that normally are taken in to consideration in making findings and recommendations.

In the Meantime

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- Negotiations continue in the face of uncertainty
- And both the union and the district will bring forth issues
- What are our issues?
  - We want to focus on total compensation
  - We want to control health benefit costs
  - Salaries are a big part of total compensation
    - Just as in "good" years, we give more and in "bad" ones – it is okay to give less
    - There is no duty to give a salary increase every year
    - Be careful about giving up language in years when there is nothing to give in compensation

Implications for Collective Bargaining

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- We know that some of you have had five consecutive years of difficult bargaining
  - While ongoing funding cuts total more than 20%, many districts have used up most options for reducing costs
  - And employees have received only step and column, and in some cases health benefit contribution, increases over the past five years
- We have fewer employees, working harder, with little appreciation for the job that they do under very difficult circumstances
  - It is up to the employer to think about the effect of actions on employees
  - Do not cede this responsibility to the bargaining unit
  - Become part of the solution
- The unit likely understands your need for expenditure reductions
  - Express clearly your understanding of the conditions that face a bargaining unit that is recommending that its members take cuts for the fifth straight year