

**SUBMITTAL TO THE BOARD OF DIRECTORS OF THE
REDEVELOPMENT AGENCY
COUNTY OF RIVERSIDE, STATE OF CALIFORNIA**



957C

FROM: Redevelopment Agency

SUBMITTAL DATE:
February 10, 2010

SUBJECT: Funding of Supplemental Educational Augmentation Funds to the State of California

RECOMMENDED MOTION: That the Board of Directors:

- 1) Fund the Supplemental Educational Augmentation Funds (SERAF) to the State of California through Redevelopment Tax Increment funds; and,
- 2) Authorize the Chairman to sign the attached letter and submit to the Auditor-Controller of Riverside County.

BACKGROUND: Chapter 21, Statutes of 2009, requires redevelopment agencies to shift \$1.7 billion in property tax revenues during 2009/10 fiscal year via the Supplemental Educational Revenue Augmentation Funds (SERAF) that the Chapter created in each county. The County of Riverside's Redevelopment Agency share is \$27,793,518 for FY 2009/10. The county's redevelopment agency must allocate this amount to the county Auditor-Controller for deposit into the SERAF on or before May 10, 2010.
(Continued)

Robert Field

Robert Field
Executive Director

FINANCIAL DATA	Current F.Y. Total Cost:	\$ 27,793,518	In Current Year Budget:	Yes
	Current F.Y. Net County Cost:	\$	Budget Adjustment:	No
	Annual Net County Cost:	\$	For Fiscal Year:	FY 09/10

COMPANION ITEM ON BOARD OF SUPERVISORS AGENDA: Yes

SOURCE OF FUNDS: Redevelopment Agency Tax Increment	Positions To Be Deleted Per A-30	<input type="checkbox"/>
	Requires 4/5 Vote	<input type="checkbox"/>

C.E.O. RECOMMENDATION:

APPROVE
Jennifer L. Sargent
BY: _____
Jennifer L. Sargent

County Executive Office Signature

Dept't Recomm.: Consent Policy
Per Exec. Ofc.: Consent Policy

Prev. Agn. Ref.: _____ **District:** All **Agenda Number:** _____

4.7

BACKGROUND: (Continued)

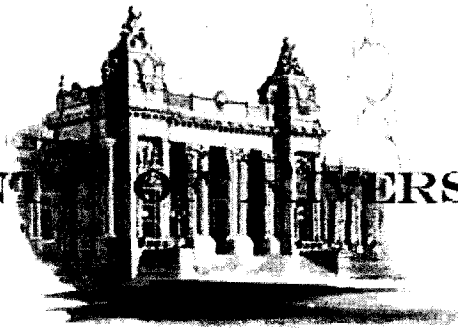
By March 1, 2010 the legislative body is required to report to the Auditor-Controller how the redevelopment agency intends to fund its SERAF obligation. The funding for Riverside County's share will come from tax increment funds.

As of this writing, a lawsuit that has been filed by the California Redevelopment Association (CRA) on behalf of all redevelopment agencies throughout the state on October 20, 2009 is progressing through the courts. The lawsuit challenges the legality of the transfer of funds to the SERAF because it is inconsistent with various state and federal constitutional provisions and is therefore unlawful and unenforceable. On February 23, attorneys are required to submit additional information to the courts regarding the legality of this allocation, and all parties have until March 2 to respond to the other sides' briefs. After that date, the judge is expected to take the case under submission and will have 90 days to rule. Thus, it is likely that there will be no judgment until after the May 10 SERAF payment deadline.

A companion item is submitted on today's agenda through the Economic Development Agency, which the Board of Supervisors will approve funding the SERAF through the Redevelopment Agency. The attached letter is the acknowledgement by the Board of Directors for the Redevelopment Agency for the County of Riverside that the payment will be designated from tax increment and will be submitted for deposit on or before May 10, 2010. The letter will be submitted to the Auditor-Controller as required by law. Failure to make the SERAF payment will result in a "death penalty" for the Redevelopment Agency, in which it will not be allowed to adopt a new redevelopment plan, amend an existing plan to add territory, issue bonds, further encumber funds or expend any monies derived from any source except to pay pre-existing indebtedness.

Specific language recommended by the CRA is included in the attached letter to reserve the right of the Redevelopment Agency to recover the funds after payment is made based on any judgment or order of the court as a result of the lawsuit, *CRA v. Genest*.

COUNTY OF RIVERSIDE



Board of Supervisors

District 1 <i>Vice-Chair</i>	Bob Buster 951-955-1010
District 2	John F. Tavaglione 951-955-1020
District 3	Jeff Stone 951-955-1030
District 4	John Benoit 951-955-1040
District 5 <i>Chairman</i>	Marion Ashley 951-955-1050

Robert Byrd
County of Riverside
4080 Lemon Street
Riverside, CA 92502

February 23, 2010

RE: Redevelopment Agency for the County of Riverside Intention to Fund SERAF Due on May 10, 2010

This letter is to acknowledge the intention to fund the Supplemental Educational Revenue Augmentation Fund (SERAF) for FY 09/10 in the amount of \$27,793,518 with redevelopment tax increment funds. The Board of Directors have approved the submittal of this letter to you as required by law that the Redevelopment Agency for the County of Riverside will deposit said funds of \$27,793,518 on or before May 10, 2010.

As you may know, the validity of the legislation mandating this SERAF transfer has been challenged in litigation pending in the Superior Court for Sacramento County, *California Redevelopment Association et al. v. Genest et al.*, Case No. 34-2009-80000359-CU-WM-GDS (*CRA v. Genest*). This case alleges, among other things, that the duties of county auditors under Health and Safety Code Sections 33690(a) and 33690.5(a) to deposit funds received from redevelopment agencies in County Supplemental Educational Revenue Augmentation Funds are inconsistent with various state and federal constitutional provisions and are therefore unlawful and unenforceable. The Redevelopment Agency for the County of Riverside reserves any rights it may have to withhold the payment of funds to you under Health and Safety Code Section 33690 or to recover those funds after payment or transfer based on any order or judgment of the Court in *CRA v. Genest*.

Sincerely,

MARION ASHLEY, CHAIRMAN
BOARD OF DIRECTORS
REDEVELOPMENT AGENCY FOR THE COUNTY OF RIVERSIDE