



# CALIFORNIA

## Education Funding Alert

THE NEWSLETTER ON FUNDING & LEGISLATION

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### CTA vs. Gould Settled — \$373 Million to be Released

The state Department of Finance (DOF) and the California Teachers' Association (CTA) quietly announced Friday, April 12, the "settlement" of *CTA vs. Gould*, the long-standing legal dispute over millions of dollars of Proposition 98-guaranteed education funding (see *CEFA*, March 31, 1996; page 6).

Both parties asserted that this settlement will release more than \$360 million in 1995-96 funding to schools this summer.

However, it may not be that simple. It's not a done deal — and the money to be released is closer to \$373 million.

An unsigned copy of the agreement, obtained from DOF by *CEFA*, reveals that the parties have, in effect, only agreed to support legislation necessary to implement the terms of their settlement. Furthermore, the out-of-court settlement must also be accepted by the Third District Court of Appeal.

Additionally, at least six times in the nine-page agreement, both sides expressly reserved the right to resume litigation if the appellate court declines to ratify the settlement and/or if the implementing legislation fails to resolve about a half-dozen "outstanding issues" noted in the agreement.

On the other hand, if all goes as planned, the settlement releases considerably more than \$360 million, said James Wilson, fiscal policy director for the California Department of Education (CDE). Although \$360 million was originally set aside last year, the reserved amount was adjusted upward to account for updated school district revenue limit data, he told *CEFA*.

According to CTA's April 12 press announcement, the agreement means schools will receive:

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- ▶ \$168 million in "equalization aid" for low-wealth districts and county offices;
- ▶ \$175 million in "deficit reduction funds ... a first payment of the revenue limit debt that the state owes education";
- ▶ \$10 million to expand the Healthy Start program, which funds partnerships to meet the health, mental health, social service and support needs of low-income children;
- ▶ \$5 million for the California Volunteer Mentor Program; and
- ▶ \$15 million to reimburse schools participating in the Pupil Testing Incentive Program (see page 3).

This totals \$373 million. If the court ratifies the settlement, and if the necessary legislation is enacted in time, the funds are to be released Aug. 1, 1996. (Last year's budget legislation held the above funds in a so-called "hostage account," contingent on the settlement of *CTA vs. Gould*.)

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## State Will Repay \$1.76 Billion to Schools

Although neither CTA nor DOF mentioned it in their official press statements, much more money and several critical constitutional issues hinge on the successful resolution of *CTA vs. Gould* through implementing legislation.

According to the settlement agreement supplied by DOF, a total of \$1.76 billion in unconstitutional "loans" is to be repaid to schools in a series of escalating, annual appropriations from General Fund revenues through fiscal year 2001-02.

Furthermore, "outstanding issues exist among the parties relating to the calculation of the Proposition 98 guarantee, including which appropriations are counted toward meeting the guarantee."

These and other outstanding constitutional/financial issues detailed in "this agreement shall not become effective until the implementing legislation has been passed and signed, and each of the parties has agreed in writing," the settlement agreement stipulated.

## Poison Pills Must Be Neutralized

CDE's Wilson confirmed to *CEFA* that among the constitutional issues that must be resolved in the implementing legislation is the repeal of "poison pill" clauses in SB 766 and SB 399, two of the school-funding bills that are contested in *CTA vs. Gould*.

Those clauses automatically and retroactively trigger emergency suspension of Proposition 98 if the "loans" authorized by the legislation are found to be unconstitutional by an appellate court.

The settlement agreement specifically asks the appellate court to affirm the 1994 superior court ruling that the loans were indeed unconstitutional.

In other words, unless the poison pills are repealed or otherwise neutralized by binding agreement, the settlement itself is constitutionally challengeable, according to CTA's Jan. 25, 1995, appellate court brief.

Despite some arguably formidable obstacles that are dependent upon the cooperation of Gov. Pete Wilson (R) and the Legislature, and the Court of Appeal, H.D. Palmer, DOF assistant director, told *CEFA* that he expected all parties to sustain the settlement without objection or delay. -- Tom Durkin ♦