



2011 Public Safety Realignment Frequently Asked Questions



The economic impacts of COVID-19 are anticipated to result in sharp reductions in Vehicle License Fee (VLF) and Sales and Use Tax, creating unprecedented times for 2011 Public Safety Realignment (2011 Realignment)—the first year-over-year decline in revenue for the Local Revenue Fund 2011. This FAQ is intended to provide responses to several questions that counties have asked or may be faced with in the coming days, weeks, and months. If there are additional questions, please reach out for further information.

1. Is the current year “base allocation” guaranteed?

- a. No. Generally, each year’s identified base allocation is based on the prior year’s base plus the growth attributed to the prior fiscal year¹. The Department of Finance “estimates” whether revenue will be sufficient to meet the base and generate growth. The 2011 Realignment statutorily established fiscal structure² and Proposition 30 (2012) together guarantee a **funding source**, but do not guarantee a level of funding. Proposition 30 protects against actions to redirect or eliminate the fund source, but does not protect the amount of revenue generated by the fund source which can – and does – fluctuate with the economy.
- b. Section 36 (d), Article XIII of the California Constitution:

If the taxes described in subdivision (b) are reduced or cease to be operative, the State shall annually provide moneys to the Local Revenue Fund 2011 in an amount equal to or greater than the aggregate amount that otherwise would have been provided by the taxes described in subdivision (b). The method for determining that amount shall be described in the 2011 Realignment Legislation, and the State shall be obligated to provide that amount for so long as the local agencies are required to perform the Public Safety Services responsibilities assigned by the 2011 Realignment Legislation...

The provision cited immediately above would permit a future Legislature to identify a different *source of revenue* to fund 2011 Realignment. Counties would continue to receive, however, the amount that otherwise would have been produced by the initial sources dedicated to support the programs realigned in 2011 (i.e., 1.0625% of the state sales tax and a portion of the VLF).

2. What happens when revenues are insufficient to fulfill the current year base?

- a. If 2011 Realignment revenue is insufficient to meet the identified base level, each subaccount is reduced based on the proportional share of the overall revenue that it received in the prior year. However, two important mechanical aspects of the 2011 Realignment fiscal structure

¹ The Realignment fiscal year runs August 16 – August 15. Growth is therefore calculated and distributed after the close of the normal fiscal year (July 1 – June 30) and is attributed back to the previous fiscal year.

² Government Code Sections [30025 – 30029.12](#)

2011 Public Safety Realignment Frequently Asked Questions

must be noted. Each month the transfer of \$93,379,252 to the Mental Health Account is required off the top from Sales and Use Tax revenue. Additionally, the Enhancing Law Enforcement Activities Subaccount (the only account that receives VLF revenue) is guaranteed a minimum base of \$489,900,000 each year. If VLF revenue is insufficient to meet this minimum annual base, Sales and Use Tax revenue is transferred to the Enhancing Law Enforcement Activities Subaccount to reach that amount. These two aspects of fund flow are executed irrespective of funding level within a fiscal year.

- b. Government Code section 30027.8, subdivision (c), paragraph (3):

If there are insufficient funds in the Local Revenue Fund 2011 to fund paragraphs (1) and (2) at the maximum level described in those paragraphs, the Controller shall allocate the available funding based on a proportional share that the accounts received in the immediately preceding fiscal year.

3. If revenues improve the following year, does the year-over-year increase go toward base or growth?

- a. The year-over-year increase would first go toward fulfilling the previously identified base. In other words, a new base is not established during the year(s) of decline.³
- b. Using 2019-20 as an example: If we assume estimated 2019-20 base allocations (2018-19 base plus 2018-19 growth) are not fulfilled due to declining revenue, as 2020-21 revenue is received, the first priority for funding would be the fulfillment of the original 2019-20 base allocations across all subaccounts. Once base amounts are fulfilled, additional revenue would then be attributed to growth.
- c. Government Code section 33027.9, subdivision (a), paragraph (4):

For the 2015–16 fiscal year, and for each subsequent fiscal year, from the Sales and Use Tax Growth Account, the Controller shall first allocate to the Support Services Account and the Law Enforcement Services Account the amounts necessary to provide full base funding as described in this section. If there are insufficient moneys to fully fund the accounts, the available funds shall be distributed in the same proportions as the two accounts received funding from the Local Revenue Fund 2011 in that fiscal year. If there are funds remaining after base funding has been restored, the Controller shall allocate 65 percent of the remaining funds to the Support Services Growth Subaccount and 35 percent to the Law Enforcement Services Growth Subaccount.

4. How does the concept of an “unfunded mandate” work in the context of 2011 Realignment?

- a. The 2011 Realignment structure was designed to deal with mandates in a different way. In exchange for a constitutionally guaranteed funding source and other protections, counties are prohibited from seeking mandate relief for programs realigned in 2011.
- b. Section 36 (c)(3), Article XIII of the California Constitution:

³ This is a key difference between 1991 Realignment and 2011 Realignment (i.e. “base restoration”).



2011 Public Safety Realignment Frequently Asked Questions

Notwithstanding Section 6 of Article XIII B, or any other constitutional provision, a mandate of a new program or higher level of service on a local agency imposed by the 2011 Realignment Legislation, or by any regulation adopted or any executive order or administrative directive issued to implement that legislation, shall not constitute a mandate requiring the State to provide a subvention of funds within the meaning of that section. Any requirement that a local agency comply with Chapter 9 (commencing with Section 54950) of Part 1 of Division 2 of Title 5 of the Government Code, with respect to performing its Public Safety Services responsibilities, or any other matter, shall not be a reimbursable mandate under Section 6 of Article XIII B.

- c. While these programs are exempt from the mandate claim process, under 2011 Realignment counties are not required to provide a state-imposed higher level of service for a realigned program unless the state provides annual funding for the cost increase.
- d. Section 36 (c)(4)(A), Article XIII of the California Constitution:

Legislation enacted after September 30, 2012, that has an overall effect of increasing the costs already borne by a local agency for programs or levels of service mandated by the 2011 Realignment Legislation shall apply to local agencies only to the extent that the State provides annual funding for the cost increase. Local agencies shall not be obligated to provide programs or levels of service required by legislation, described in this subparagraph, above the level for which funding has been provided.⁴

5. What is the current “full base” for each subaccount/special account?

- a. Below we display the 2019-20 base amount for all subaccounts and special accounts in 2011 Realignment. The amount indicated for each program in the 2019-20 column likely represents the last full base amount prior to the onset of the pandemic and resulting economic decline. We will update this table once the 2020-21 May Revision is released to reflect the Administration’s updated revenue assumptions about revenue allocations at the subaccount level. In all likelihood, available revenue in 2019-20 will fall short – given the sharp decline in revenues from the Sales and Use Tax and VLF – of being able to assure the base amounts expected for 2019-20.

⁴ Section 36 (c)(4)(B) applies these same provisions to regulations, executive orders, or administrative directives, implemented after October 9, 2011, that are not necessary to implement the 2011 Realignment Legislation. Additionally, the constitutional protections are extended to federal actions that increase the level of service required for a realigned program—generally obligating the state to fund 50 percent of the non-federal share of such actions.



2011 Public Safety Realignment Frequently Asked Questions

2011 Realignment Base Funding Through 2019-20 January 2020 Estimates

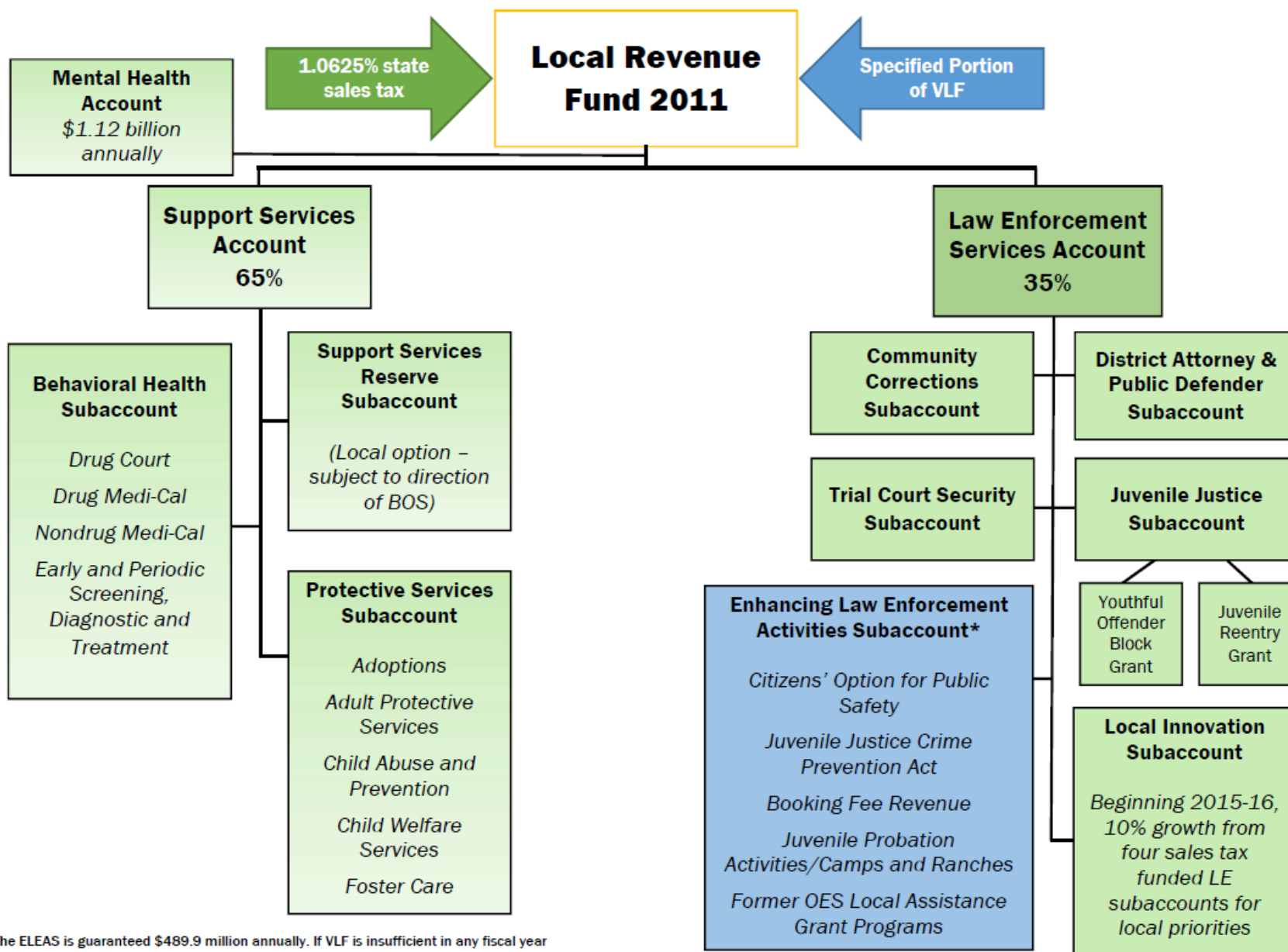
	2018-19	2018-19 Growth	2019-20
Law Enforcement Services	\$2,560.7		\$2,633.8
Trial Court Security Subaccount	559.7	7.3	567.0
Enhancing Law Enforcement Activities Subaccount ²	489.9	221.3	489.9
Community Corrections Subaccount	1,311.2	54.8	1,366.0
District Attorney and Public Defender Subaccount	37.9	3.7	41.6
Juvenile Justice Subaccount	162.0	7.3	169.3
<i>Youthful Offender Block Grant Special Account</i>	<i>(153.1)</i>	<i>(6.9)</i>	<i>(160.0)</i>
<i>Juvenile Reentry Grant Special Account</i>	<i>(8.9)</i>	<i>(0.4)</i>	<i>(9.3)</i>
Growth, Law Enforcement Services		294.4	
Mental Health³	1,120.6	6.8	1,120.6
Support Services	3,756.7		3,885.6
Protective Services Subaccount	2,336.2	61.0	2,397.2
Behavioral Health Subaccount	1,420.5	67.8	1,488.4
<i>Women and Children's Residential Treatment Services</i>	<i>(5.1)</i>	<i>-</i>	<i>(5.1)</i>
Growth, Support Services		135.6	
Account Total and Growth	\$7,868.0		\$8,250.1
Revenue			
1.0625% Sales Tax	7,156.8		7,498.1
General Fund Backfill ⁴	-	-	4.7
Motor Vehicle License Fee	711.2		747.3
Revenue Total	\$7,868.0		\$8,250.1

Additionally, the below chart may also be helpful in understanding the flow of funding sources within the 2011 Realignment fiscal structure.





2011 Realignment – State Level Account Structure



* The ELEAS is guaranteed \$489.9 million annually. If VLF is insufficient in any fiscal year to reach that minimum, Sales and Use Tax is used to satisfy the guarantee.