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The State Office of the Comptroller sent notice to the Hudson River-Black River Regulating District Friday that it will not authorize a \$2.6 million budget transfer necessary to help the district pay its school

and county taxes, and affected officials don't know where they will find the money to make up for the shortfall.

In Fulton County alone, the regulating district owes \$936,000 in school taxes: \$256,000 to the Broadalbin-Perth Central School District, \$326,000 to the Northville Central School District and \$354,000 to the Mayfield Central School District. On top of that, it will owe over \$625,000 for its county taxes.

B-P Superintendent Stephen Tomlinson said the news "doesn't surprise" him.

"I believe [the regulating district has] known all along. But whether the shortfall is on the county or the schools, it's going to come back and hurt the taxpayers one way or another," he said.

It will be up to the county to make the schools budgets whole, a seemingly impossible task, said Board of Supervisors Chairman John "Jack" Callery Friday.

"Where in the Lord's name would we find that money?" he asked, noting the county budget already had a \$7 million shortfall that was lessened by a \$4 million application of fund balance — a million dollars more than usually applied.

On Wednesday, Callery was optimistic that the taxes would be paid, even if they were late.

Now, a shocked and startled chairman said he was wasting no time to call Assemblyman Marc Butler, R-Herkimer, to see how he could help.

"We were under the impression the state was going to authorize those funds," Callery said. "I really don't know where we can find that money in this budget."

The comptroller's letter, dated Oct. 23, was sent to regulating district board Chairman Philip W. Klein and Executive Director Glenn A. LaFave from Associate Counsel John K. Dalton.

"On the facts," the letter reads, "we can find no legal authority under which the Black River Regulating District would be authorized to temporarily lend or transfer money to, or expand money on behalf of, the Hudson River-Black River Regulating District."

"The long of the short of it is one fund really can't be used for the other," said comptroller's office spokesman William Reynolds.

Secretaries in the regulating district's Watertown office reported that LaFave was out of the office and would not return until Monday. LaFave told the Recorder Oct. 13 that the board was awaiting approval from the comptroller's office to transfer the funds, "and until those funds are transferred or a different, adequate revenue source is identified, the regulating district will be paying those taxes late."

LaFave also said the board approved the notion of hiring of a consultant to undertake a reapportionment study to identify new downstream beneficiaries to levy property taxes against, though the board does not expect the study will be done until June 1, 2010 at the earliest.

The letter from the comptroller's office was sent as a response to the district's "original" question, posed Aug. 31, of whether or not the district should pay its taxes, if by doing so it will have insufficient revenues to pay salaries and expenses for necessary maintenance of the district's facilities, particularly the Conklingville Dam.

That communication was sent to the comptroller's office concerning the financial difficulties facing the district as a result of the decision of the federal Court of Appeals

ruling in a case of Albany Engineering versus the Federal Energy Regulatory Commission. The ruling determined it was illegal for the regulating district to collect taxes from FERC-licensed headwater beneficiaries, leaving a \$4 million gap in the Hudson River area's \$5.4 million operating budget.

"The question you raised is, essentially, an operational and management issue that must be decided by the district, not this office," Dalton wrote. "Obviously, however, the preferred option would be to pay both the taxes and all other expenses."

LaFave, in the Oct. 13 interview, refuted the idea that paying taxes would leave the regulating district without money to operate with.

Dalton advised the district to determine whether it has the authority to undertake a short-term borrowing under the Local Finance Law.

The district sent supplemental communications to the comptroller's office a month later "requesting advice" about transferring funds from a Black River area account to a Hudson River area account. To remain compliant with Environmental Conservation Law, the legislation establishing the regulating district, the funds would be registered as a loan and the loan principal would be repaid in full.

However, Environmental Conservation Law "does not authorize any transfer of moneys ... and indeed would seem to preclude such a transfer ... The absence of such a provision in the ECL creates a strong implication that the district has no authority to effect such a temporary loan or transfer."

A copy of the entire ECL is available on the regulating district's Web site at [www.hrbrdd.com](http://www.hrbrdd.com), the link promptly labeled at the top of the home page.