

**CALIFORNIA STATE ASSOCIATION OF COUNTIES
EXECUTIVE COMMITTEE**

Thursday, August 17, 2006
10:00am - 1:30pm
CSAC Conference Center, Sacramento

A G E N D A

Presiding: Connie Conway, President

10:00am PROCEDURAL ITEMS

1. Roll Call Page 1
2. Approval of Minutes of May 25, 2006 Page 2

10:15am ACTION ITEMS

3. Consideration of November 2006 Ballot Initiatives
*Proposition 84: Water Quality, Safety and Supply. Flood Control
Natural Resource Protection. Park Improvements, Bonds.* Page 5
 - Karen Keene & DeAnn Baker, CSAC staff
Proposition 86: Tax on Cigarettes Page 11
 - Kelly Brooks, CSAC staff
*Proposition 87: Alternative Energy, Research, Production Incentives.
Tax on California Oil.* Page 17
 - Supervisor Kathy Long
 - Jean Hurst & Karen Keene, CSAC staff
Proposition 88: Education Funding: Real Property Parcel Tax.

Proposition 90: Government Acquisition. Regulation of Private Property
 - Supervisor Kathy Long
 - Jean Hurst, CSAC staff

11:30am INFORMATION ITEMS

4. Status Report on Federal Lobbying RFP Process Page 42
 - James Keene, CSAC Executive Director
 - Karen Keene
5. CSAC Finance Corporation Report Page 43
 - Supervisor Greg Cox, Finance Corporation Board Member
 - James Keene, Finance Corporation Board Member
6. National Association of Counties (NACo) Report
 - Supervisor Valerie Brown, NACo Membership Committee Chair
7. Update on Court Facility Transfer Process Improvements Page 44
 - Rubin Lopez & Elizabeth Howard, CSAC staff
8. Other Items

12:15pm LUNCH

1:30pm ADJOURN

ROSTER

**California State Association of Counties
Executive Committee
2006**

President:	Connie Conway, Tulare
1 st Vice President:	Frank Bigelow, Madera
2 nd Vice President:	Richard Gordon, San Mateo
Immed. Past President:	Greg Cox, San Diego

Urban Section

Keith Carson, Alameda
Federal Glover, Contra Costa
Don Knabe, Los Angeles
John Tavaglione, Riverside
Roger Dickinson, Sacramento
Kathy Long, Ventura
Paul Biane, San Bernardino (alternate)

Suburban Section

Judy Case, Fresno
Joni Gray, Santa Barbara
Mike McGowan, Yolo
Valerie Brown, Sonoma (alternate)

Rural Section

Richard Vinson, Amador
Bill Dennison, Plumas
Tony Oliveira, Kings (alternate)

Advisors

Michael Johnson, Solano County Administrator
Ann Miller-Ravel, Santa Clara County Counsel

MINUTES OF MAY 25, 2006

CALIFORNIA STATE ASSOCIATION OF COUNTIES
EXECUTIVE COMMITTEE

May 25, 2006
CSAC Conference Center, Sacramento

MINUTES

Presiding: Connie Conway, President

1. ROLL CALL

Connie Conway, President	Joni Gray, Santa Barbara
Richard Gordon, 2 nd Vice President	Mike McGowan, Yolo
Greg Cox, Immed. Past President	Valerie Brown, Sonoma (alternate)
Federal Glover, Contra Costa	Richard Vinson, Amador
John Tavaglione, Riverside	Bill Dennison, Plumas
Roger Dickinson, Sacramento	Ann Miller-Ravel, County Counsel advisor
Judy Case, Fresno	

2. APPROVAL OF MINUTES

The minutes of March 16, 2006 were approved as previously mailed.

3. REPORT ON INFRASTRUCTURE BOND PACKAGE

Will Kempton, Director of CalTrans, addressed the Board regarding the infrastructure bond package which will appear on the November statewide ballot. He indicated that Proposition 1B, which provides over \$20 billion for transportation, air quality and security projects, is the heart of the package. This measure contains \$4.5b for corridor improvements, \$1b for State Highway 99, \$4b for public transit and intercity rail, \$2b for California ports and trade infrastructure, \$2b for the State Transportation Improvement Program (STIP), \$2b for local streets and roads, \$1b for the state-local partnership account, \$750m for the State Highway Operation Preservation Program, \$1b for port-related projects and air quality emission reductions, and \$1b for transit safety and disaster preparedness.

Mr. Kempton announced that, as part of the implementation process, a stakeholder meeting would be scheduled to review the bond measure and identify stakeholder issues. He indicated that March 2007 is the deadline for identifying the first round of projects.

4. REPORT ON MAY REVISION OF THE GOVERNOR'S BUDGET

Mike Genest, Director of the State Department of Finance, presented a report on the Governor's Revised Budget. The May Revision includes an increase in projected state revenues of \$4.8 billion in the current year and \$2.7 billion in the budget year, for a two-year increase of \$7.5 billion. This unanticipated revenue will be used primarily to pay down the state's existing debt and settle litigation with the education community over Proposition 98 funding. Mr. Genest distributed a document that outlines the highlights of the May Revision

in support of local government. It notes that the Governor fully funded Proposition 42 in his January Budget. A significant portion of those funds will be dedicated to local roads and transit. A complete analysis of May Revision budget items pertaining to counties was prepared by CSAC staff and sent to all counties on May 12. Mr. Genest also reported that \$45 million has been set aside for special election reimbursement to counties, but the legislation is currently stalled in Senate Rules Committee.

5. CONSIDERATION OF INFRASTRUCTURE BOND PACKAGE

The Legislature passed a comprehensive infrastructure package of bills that would place \$37.3 billion in bonds on the November statewide ballot. The specific measures are:

Proposition 1A: amends the Constitution to limit the ability of the Legislature and Governor to divert Proposition 42 funds. The protections allow Proposition 42 to be suspended twice in any 10-year period and would require the funds to be repaid.

Proposition 1B: Provides \$20.025 billion for transportation, air quality and homeland security.

Proposition 1C: Provides \$2.85 billion for housing and strategic growth.

Proposition 1D: Provides \$10.416 billion for education.

Proposition 1E: Provides \$4.09 billion for flood protection.

Staff outlined the measures and reviewed CSAC's Principles on Infrastructure Investment and Strategic Growth.

Motion and second to support the five measures contained in the infrastructure bond package. Fresno County abstained. Motion carried.

6. CSAC FINANCE CORPORATION REPORT

Supervisor Greg Cox reported that this year's Finance Corporation rating agencies trip to New York was successful. He noted that the briefing materials compiled by staff for the trip are an excellent resource for supervisors and encouraged all Executive Committee members to utilize them. Finance Corporation revenues are up this year so it is anticipated that the contribution to CSAC's budget in FY 2007 will be over \$600,000. Contributions from the Finance Corporation allow CSAC to keep dues levels at a lower level. Sonoma County Treasurer Tom Ford, who currently serves as Finance Corporation President, is retiring at the end of the year, but will continue to serve as President.

7. NATIONAL ASSOCIATION OF COUNTIES (NACo) REPORT

Supervisor Valerie Brown reported that Sacramento County hosted this year's NACo Western Interstate Region (WIR) conference. Supervisor Brian Dahle from Lassen County was elected 2nd Vice President of WIR. Supervisor Bill Dennison was presented with the NACo Dale Sowards Award for public lands county official of the year.

Supervisor Roger Dickinson expressed thanks to Betty Flores of Sacramento County for coordinating the Sacramento County hosted events during the WIR conference.

All 58 California counties are now members of NACo. This is the first time California has been a 100% NACo member state. Achieving this status will greatly assist the campaign to elect Valerie Brown as NACo 2nd Vice President in 2006, by bringing the total number of votes from California to 977. There are currently three other candidates running for this office.

8. LEGISLATIVE UPDATE

Staff announced that CSAC has begun weekly state budget briefing calls with county administrative officers which will continue until a state budget agreement is reached. The CSAC Legislative Bulletin will now include a "Budget Watch" section.

The "Anderson" initiative is a draft ballot measure that would restrict the use of eminent domain and significantly restrict land use authority by state and local agencies. The measure has not yet qualified for the November ballot, but is expected to. The League of California Cities and the California Redevelopment Association have been working on an alternative measure to be placed on the November ballot. This measure, which must be placed on the ballot by the Legislature, would include a "poison pill" clause that ensures that if the alternative measure receives more votes than the "Anderson" initiative, the alternative measure would prevail. The draft alternative language is focused more narrowly to respond to concerns raised by the U.S. Supreme Court decision in Kelo vs. City of New London. CSAC has been asked to join the coalition and assist in developing the alternative measure as well as participating in a campaign to defeat the "Anderson" initiative if it does qualify for the November ballot. This issue will go before the CSAC Government Finance and Operations policy committee for consideration and then to the Board of Directors at the June meeting.

Staff reported on numerous issues contained in the May Revision relating to Health and Human Services programs.

The CSAC Administration of Justice policy committee will meet on June 5 to consider a booking fee proposal which was negotiated between the California Police Chief's Association and the California State Sheriff's Association. Staff indicated that the proposal, in its current form, does not benefit counties. A policy committee recommendation will be brought forward to the Board of Directors for consideration at the June meeting.

9. OTHER ITEMS

The CSAC Corporate Associates 4th Annual Bocce Ball Tournament is being held on June 14 in Sacramento. All Executive Committee members were encouraged to attend.

Meeting adjourned.

NOVEMBER 2006 BALLOT INITIATIVES

July 31, 2006

To: CSAC Executive Committee

From: Karen Keene, CSAC Legislative Representative
DeAnn Baker, CSAC Legislative Representative

Re: **Proposition 84: Safe Drinking Water, Water Quality and Supply, Flood Control, River and Coastal Protection Bond Act of 2006 – ACTION ITEM**

Recommended Action:

Support policy committee recommendation, which is to be determined at a joint meeting of the CSAC Agriculture and Natural Resources Policy Committee and CSAC Housing, Land Use and Transportation Committee on August 16.

Background:

Proposition 84 would authorize \$5.4 billion in general obligation bonds to fund water, water-related and resource-related improvements and programs for safe drinking water, local water supply reliability, flood protection and preservation of California's natural landscapes, including parks, forests, lakes, rivers, beaches, bays, ocean and coastline.

Key elements of the "Water Bond" initiative include:

- \$1.5 billion for water quality
- \$928 million for protection of rivers, lakes and streams; \$800 million for flood control, which would include \$180 million for local flood control subventions and \$30 million for floodplain mapping and assistance for local land use planning
- \$580 million for sustainable communities and climate change reduction, which would include \$90 million for planning grants and planning incentives to encourage the development of regional and local land use plans that encourage infill, compact development, protect natural resources and reduce automobile use
- \$540 million for protection of beaches and coastal waters
- \$500 million for parks and natural education facilities
- \$450 million for forest and wildlife conservation
- \$65 million for statewide water planning

The Legislative Analyst's Office breakdown of how the bond monies will be allocated is attached, as is the "Yes on 84" fact sheet and list of supporters.

In respect to CSAC's positions on prior water bonds, in 2000 the CSAC Board of Directors adopted a support position on Proposition 13 (\$1.97 billion); and an oppose position on Proposition 50 (\$3.4 billion) in 2003. CSAC's opposition to Proposition 50 was based on

concerns expressed by members of the Board of Directors regarding the lack of funding for the development of new water supplies, and the large amount of funding that would be allocated for land acquisitions and the consequential impact on local property tax revenues. Concerns were also expressed that Proposition 50's circumvention of the legislative process precluded stakeholder input on its content. CSAC's support of Proposition 13 can be attributed to our involvement in the actual development of the legislative vehicle for the proposition, AB 1584 (Machado/Costa, Chapter 724, Stats. 2000).

While CSAC does not have existing policy direction on all of the issues addressed in the bond, the CSAC County Platform includes policies supportive of funding flood protection through a variety of mechanisms including statewide bond measures. The Platform also acknowledges the need for the development of new and expanded water resources. Land acquisition for public use is somewhat discouraged by our current policy, unless specific criteria is met.

Staff Recommendation:

Because CSAC has competing policy direction on such matters as flood protection funding and land acquisition matters, staff is recommending that Proposition 84 be referred to the CSAC Agriculture and Natural Resources Policy Committee and CSAC Housing, Land Use and Transportation Committee for discussion. The above policy committees are scheduled to hold a joint meeting to discuss Prop. 84 on Wednesday, August 16, and their recommended position will be communicated to the CSAC Executive Committee on Thursday, August 17.

Proposition 84**Water Quality, Safety and Supply. Flood Control. Natural Resource Protection. Park Improvements. Bonds. Initiative Statute.****Background**

State Spending on Resources Programs. The state operates a variety of programs to conserve natural resources, protect the environment, provide flood control, and offer recreational opportunities for the public. The state also operates a program to plan for future water supplies, flood control, and other water-related requirements of a growing population. In addition to direct state expenditures, the state also provides grants and loans to local governments and nonprofit organizations for similar purposes. These programs support a variety of specific purposes, including:

- *Natural Resource Conservation.* The state has provided funds to purchase, protect, and improve natural areas—including wilderness and open-space areas; wildlife habitat; coastal wetlands; forests; and rivers, lakes, streams, and their watersheds.
- *Safe Drinking Water.* The state has made loans and grants to public water systems for facility improvements to meet state and federal safe drinking water standards.
- *Flood Control.* The state has funded the construction and repair of flood control projects in the state Central Valley flood control system. The state has also provided financial assistance to local agencies for local flood control projects in the Sacramento-San Joaquin River Delta and in other areas outside the Central Valley.
- *Other Water Quality and Water Supply Projects.* The state has made available funds for various other projects throughout the state that improve water quality and/or the reliability of water supplies. For example, the state has provided loans and grants to local agencies for the construction and implementation of wastewater treatment, water conservation, and water pollution reduction projects.
- *State and Local Parks.* The state operates the state park system, and has provided funds to local governments for the acquisition, maintenance, and operation of local and regional parks.

Funding for Resources Programs. Funding for these various programs has traditionally come from General Fund revenues, federal funds, and general obligation bonds. Since 1996, voters have authorized approximately \$11 billion in general obligation bonds for various resources purposes. Of this amount, approximately

\$1.4 billion is projected to remain available for new projects as of June 30, 2006, primarily for water-related purposes. Legislation enacted earlier this year provides \$500 million from the General Fund for emergency levee repairs and other flood control-related expenditures.

Proposal

This initiative allows the state to sell \$5.4 billion in general obligation bonds for safe drinking water, water quality, and water supply; flood control; natural resource protection; and park improvements. (See "An Overview of State Bond Debt" for basic information on state general obligation bonds.) Figure 1 summarizes the purposes for which the bond money would be available for expenditure by various state agencies and for loans and grants, primarily to local agencies and nonprofit organizations. In order to spend most of these bond funds, the measure requires the Legislature to appropriate them in the annual budget act or other legislation.

Figure 1 Proposition 84 Uses of Bond Funds	
	Amounts (In Millions)
Water Quality	\$1,525
<ul style="list-style-type: none"> • Integrated regional water management. • Safe drinking water. • Delta and agriculture water quality. 	1,000 380 145
Protection of Rivers, Lakes, and Streams	\$928
<ul style="list-style-type: none"> • Regional conservancies. • Other projects—public access, river parkways, urban stream restoration, California Conservation Corps. • Delta and coastal fisheries restoration. • Restoration of the San Joaquin River. • Restoration projects related to the Colorado River. • Stormwater pollution prevention. 	279 189 180 100 90 90
Flood Control	\$800
<ul style="list-style-type: none"> • State flood control projects—evaluation, system improvements, flood corridor program. • Flood control projects in the Delta. • Local flood control subventions (outside the Central Valley flood control system). • Floodplain mapping and assistance for local land use planning. 	315 275 180 30
Sustainable Communities and Climate Change Reduction	\$580
<ul style="list-style-type: none"> • Local and regional parks. • Urban water and energy conservation projects. • Incentives for conservation in local planning. 	400 90 90
Protection of Beaches, Bays, and Coastal Waters	\$540
<ul style="list-style-type: none"> • Protection of various coastal areas and watersheds. • Clean Beaches Program. • California Ocean Protection Trust Fund—marine resources, sustainable fisheries, and marine wildlife conservation. 	360 90 90
Parks and Natural Education Facilities	\$500
<ul style="list-style-type: none"> • State park system—acquisition, development, and restoration. • Nature education and research facilities. 	400 100
Forest and Wildlife Conservation	\$450
<ul style="list-style-type: none"> • Wildlife habitat protection. • Forest conservation. • Protection of ranches, farms, and oak woodlands. 	225 180 45
Statewide Water Planning	\$65
<ul style="list-style-type: none"> • Planning for future water needs, water conveyance systems, and flood control projects. 	65
Total	\$5,388

Fiscal Effects

Bond Costs. The cost of these bonds would depend on interest rates in effect at the time they are sold and the time period over which they are repaid. The state would likely make principal and interest payments from the state's General Fund over a period of about 30 years. If the bonds were sold at an average interest rate of 5 percent, the cost would be about \$10.5 billion to pay off both the principal (\$5.4 billion) and interest (\$5.1 billion). The average payment would be about \$350 million per year.

Property Tax-Related Impacts. The initiative provides funds for land acquisition by governments and nonprofit organizations for various purposes. Under state law, property owned by government entities and by nonprofit organizations (under specified conditions) is exempt from property taxation. To the extent that this initiative results in property being exempted from taxation due to acquisitions by governments and nonprofit organizations, local governments would receive reduced property tax revenues. We estimate these reduced property tax revenues would be several million dollars annually.

Operational Costs. State and local governments may incur additional costs to operate or maintain the properties or projects, such as new park facilities, that are purchased or developed with these bond funds. The amount of these potential additional costs is unknown, but could be tens of millions of dollars per year.

August 1, 2006

To: Supervisor Helen Thomson, Chair
Supervisor Liz Kniss, Vice Chair
CSAC Health and Human Services Policy Committee Members

From: Kelly Brooks, CSAC Legislative Representative
Qiana Charles, CSAC Legislative Analyst

Re: Proposition 86, Tobacco Tax Act of 2006 – Action Item

Staff Recommendation – Neutral

CSAC is supportive of the goals of the Tobacco Tax Act of 2006: to reduce smoking, especially among children, and fund critical health care priorities such as disease prevention, medical research, and emergency room care. However, funding statewide health care programs for children and adults on a revenue base that will diminish over time will not effectively address the long-term health care challenges of the state. As a result, the staff recommends that the policy committee take a *'neutral'* position on Proposition 86.

Background

In December 2005, the California Hospital Association and the Coalition for a Health California (comprised of the American Cancer Society, American Lung Association of California, American Heart Association, The Children's Partnership, PICO California, Children Now, California Primary Care Association and Campaign for Tobacco Free Kids) joined forces to place one unified proposal on the November 2006 ballot. The joint initiative, the Tobacco Tax Initiative of 2006, would increase the state tax on a pack of cigarettes by an additional \$2.60 (\$3.47 total state tax), raising the average price of a pack to \$6.55. If passed, Proposition 86 would collect approximately \$2.1 billion during the first full-year in 2007-08, which will be used to provide direct, tangible improvements in health and health care for all Californians.¹

This would not be the first tobacco tax ballot initiative in California. Please recall that in November 1998 California voters approved Proposition 10, which created the California Children and Families First Program to fund early childhood development programs. Proposition 99, which passed in 1988, provides funding for health services, health education, and other programs, including resources and research programs. The passage of both propositions brought the states tax on cigarettes and other tobacco products to .87 cents per pack.

¹ Legislative Analyst's Office, 2006 Proposition 86: Tax on Cigarettes. Initiative Constitutional Amendments and Statute.

A Closer Look at the Nation's Cigarette Tax Trends

Since 2000, 42 states have raised cigarette taxes. The median state tax per pack is .80 cents, and the federal tax is .39 cents. Currently, California ranks 23rd in the nation with a .87 cent tobacco tax. The 300 percent state only tobacco tax increase proposed by Proposition 86 would make California the leader in the nation in the growing trend of tobacco tax increases.²

Highest	Cigarette Tax	Lowest	Cigarette Tax
California	\$3.47	South Carolina	\$0.07
Rhode Island	\$2.46	Missouri	\$0.17
New Jersey	\$2.40	Mississippi	\$0.18
Washington	\$2.03	West Virginia	\$0.30
Maine	\$2.00	Kentucky	\$0.30
Michigan	\$2.00	Virginia	\$0.30

**If Proposition 86 passes a \$3.47 tobacco tax would be imposed on January 1, 2007.*

In analyzing national tobacco taxes it is also important to examine the taxes in the states bordering California. Currently, in Nevada, the tobacco tax is \$0.80 per pack and in Arizona and Oregon it is \$1.18 per pack. To the extent that Californians can visit other states to purchase tobacco products, it will have an impact on revenues.

How Additional Tobacco Revenues Would Be Distributed

There are three major accounts comprising the initiative. After providing backfill funds to Proposition 10 programs (\$170 million), the funds would be distributed as follows³:

□ Health and Disease Research Account (5%)

This funding would be used to support medical research relating to breast and lung cancer. In addition, it would support research into tobacco-related diseases, as well as the effectiveness of tobacco control efforts. Part of these funds would be used to support a statewide cancer registry, a state program that collects data on cancer cases.

- Tobacco related disease and cancer research = \$96.5 million

□ Health Maintenance and Disease Prevention Account (42.25%)

Almost one-half of these funds would be allocated to expand the Healthy Families Program (HFP) to provide health coverage to include (1) children from families with incomes between 250 percent and 300 percent of the FPL and (2) children from families with incomes up to 300 percent of the FPL who are undocumented immigrants or legal immigrants not now eligible for HFP. Funds in this account would also support media advertising and public relations campaigns, grants to local health departments and other local organizations, and education programs for

² Federation of Tax Administrators, "State Excise Tax Rates on Cigarettes Report", <http://www.taxadmin.org>.

³ Coalition for a Healthy California, Fact Sheet "Tobacco Tax of 2006-Allocation for Treatment, Prevention and Research."

school children to prevent and reduce smoking. Funding would also go to state and local agencies for enforcing laws and court settlements, which regulate and tax the sale of tobacco products.

- Children's health insurance expansion = \$371 million
- Tobacco prevention, education and enforcement programs = \$117 million
- Cancer, heart, asthma and other disease prevention and control programs = \$267 million

□ **Health Treatment and Services Account (52.75%)**

Nearly three-fourths of the funds in this account would be allocated to hospitals to pay their un-reimbursed costs for emergency services and to improve or expand emergency services, facilities, or equipment. Private hospitals and certain public hospitals, including those licensed to the University of California (UC) and operated by counties, cities, and hospital districts would be eligible to receive funding. The California Association of Public Hospital (CAPH) estimates that counties will receive approximately 27 percent of hospital funds, or roughly \$200 million each year. They also estimate that the UC hospitals will receive approximately 5 percent or \$40 million. Funding would also be available to expand nursing education programs in UC, California State University, community college, and privately operated nursing education programs. Funding would also be allocated for the support of nonprofit community clinics; to help pay for uncompensated health care for uninsured persons provided by physicians.

Hospitals would also receive funding reimbursements for uncompensated care cost associated with charity care. Proposition 86 clearly states that each hospital's charity care policy and discount payment policy shall include eligibility criteria based on the income and monetary assets of the patient. Patients that are at or below 350 percent of the federal poverty level shall be eligible to apply for participation under each hospital's charity care policy or discount payment program. However, rural hospitals, may establish eligibility levels for charity care at less than 350 percent of the federal poverty level.

- Hospital emergency care services = \$758 million
- Nurse education = \$92 million
- Community clinics = \$58 million
- Emergency physicians = \$66 million
- Steve Thompson physician education fund = \$7.6 million
- Prostate cancer treatment = \$18 million
- Tobacco cessation services = \$18 million

The Department of Health Services will be required to provide annual reports describing all programs that receive Tobacco Tax Act of 2006 funds and detailing the use of those funds.

Impacts on Current Tobacco Tax-Funded Programs

One of the primary goals of Proposition 86 is to strengthen existing and proven anti-smoking and health care programs. The initiative requires backfill funding for First 5 (Proposition 10) programs for the loss of funding that would result from the enactment Proposition 86. The tax increase over time will result in reduced sales tax for tobacco products and cause a decline in funding for the programs. The Board of Equalization will determine backfill payments needed to offset any loss of funding for Proposition 10. Please note that CSAC supported Proposition 10 in 1998.

The measure does not directly back fill any lost Proposition 99 revenue. The LAO estimates that Proposition 86 would initially result in an annual funding reduction of about \$5 million for the public resources account and almost \$25 million for an account that can be used to support any program eligible for Proposition 99 funding. However, while Proposition 86 would reduce revenues for other Proposition 99 accounts, it would also initially provide significant increases in funding for activities comparable to those now funded through Proposition 99. In the aggregate, these activities could initially experience a net gain in funding of almost \$950 million if this measure were enacted.⁴

Proposition 86 does not backfill funding for the Breast Cancer Fund. However, this measure would allocate a set portion of the new tax revenues for breast cancer research and breast cancer early detection services, with the result that these activities initially would likely experience a net gain of about \$80 million annually.

Fiscal Impacts of State and County Children's Healthcare Coverage Efforts

The Healthy Families Program offers health insurance to eligible children in families who generally have incomes below 250 percent of Federal Poverty Level (FPL) (about \$50,000 per year for a family of four) who do not qualify for Medi-Cal. The HFP is administered by the Managed Risk Medical Insurance Board (MRMIB) and provides medical coverage for about 781,000 children.

In the short term, the revenues allocated by Proposition 86 to expand HFP would probably exceed the costs to make additional children eligible for health coverage. This would particularly be the case in the early years as enrollment gradually increases. Over time, as the excise tax revenues allocated for this purpose decline and the number of children enrolled in HFP grows, the costs of the expanded HFP could eventually exceed the available revenues. Current state law would permit MRMIB to limit enrollment in the program to prevent this from occurring. However, if actions were not taken to offset program costs at that point, additional state financial support for the program would be necessary.

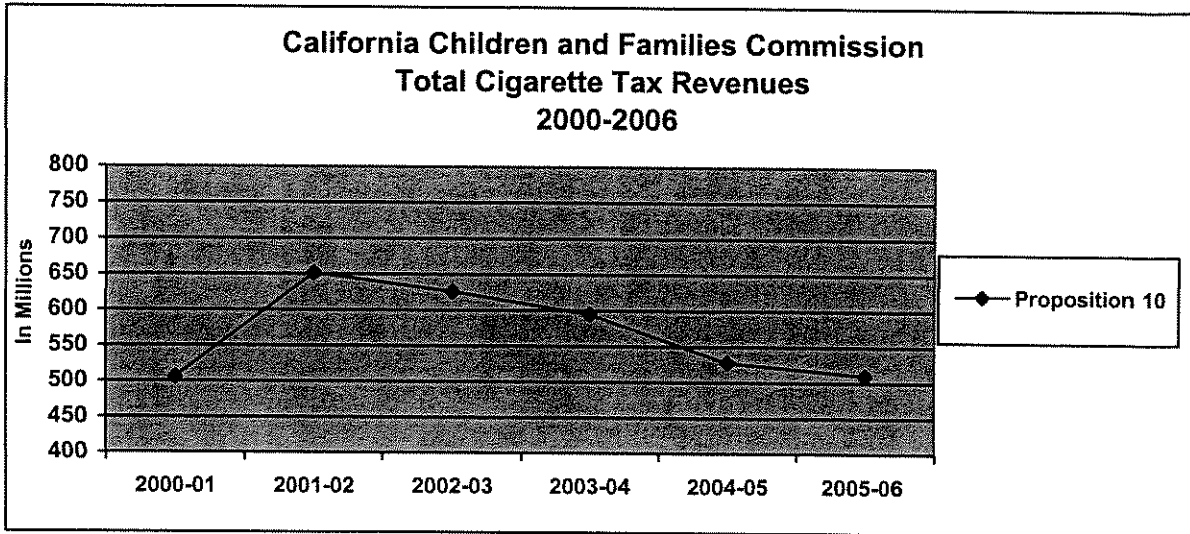
Policy Questions

- Should CSAC support funding statewide health care programs for children and adults, whose costs will increase over time due to medical inflation and caseload increases, with revenues that will diminish over time? Will funding these programs

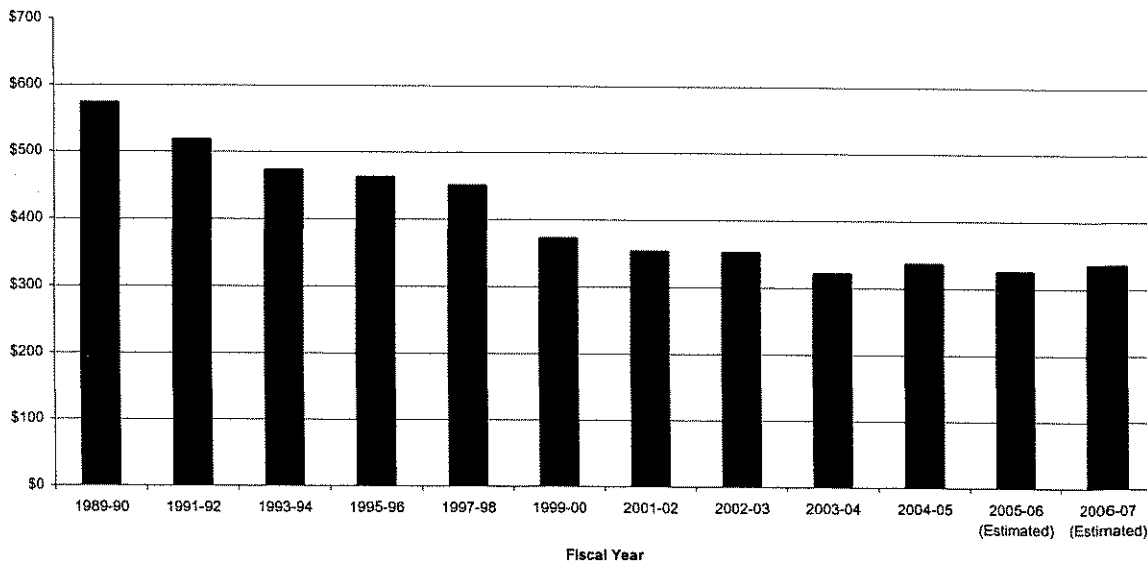
⁴ Legislative Analyst's Office

with a diminishing revenue source effectively address the long-term health care challenges of the state?

Included below is an illustration of the declining revenue streams for current Proposition 10⁵ and Proposition 99 programs.⁶



Proposition 99 Revenues 1989 to 2007 (Dollars in Millions)



Please note that the revenues have not declined as fast as anticipated because smoking is not declining in some segments of the population, particularly among immigrants.

- Will Proposition 86 trigger an increase in “black market” activities or cigarette purchases from outside of the state or on the Internet? Internet sales and black

⁵ California Children and Families Commission, Statement of Operations Report

⁶ Governor’s Budget Summary page 139.

market purchases are estimated to cause California to lose approximately \$30 million in evaded federal and state tax laws. Additionally, California's bordering states (Nevada, Arizona, and Oregon) all offer significantly lower excise tax on tobacco and tobacco products. To the extent that consumers can avoid paying state taxes by purchasing tobacco outside of the state will be contrary to the goals of Proposition 86 addressing critical healthcare issues in the state. It is difficult to assess how much "black market" activities or purchases outside of California or over the Internet will effect revenues. Please note that CSAC is currently supporting a bill (SB 1208, Ortiz) to ban the purchase of cigarettes via the Internet.

- Without the ballot initiative would the Governor or the Legislature be proposing to increase funds for these health programs? Will there be another opportunity to raise revenues for much needed health care services?

Staff Comments

A number of CSAC Health and Human Services affiliates are reviewing Proposition 86:

- California Association of Public Hospitals and Health Systems – Support
- Local First 5 Association – The board has not taken a position. Initial concerns about backfilling Proposition 10 were alleviated with the final version of the initiative. To date one Local First 5 Commission (Tulare) has taken a formal position of support.
- County Health Executives Association of California – under review.
- California Mental Health Directors Association – under review.

July 31, 2006

To: CSAC Executive Committee

From: Supervisor Kathy Long, Chair, CSAC Government Finance and Operations Policy Committee

Re: Government Finance and Operations Policy Committee Meeting of July 26, 2006

The CSAC Government Finance and Operations Policy Committee met on Wednesday, July 26, 2006 to recommend positions on three measures that will be on the November ballot. Informational materials on all ballot measures considered by the Government Finance and Operations Policy Committee are attached to this document.

Proposition 87: Alternative Energy. Research, Production, Incentives. Tax on California Oil.

Recommendation: Oppose

Proposition 87 would impose an assessment on oil extracted in California, revenues from which would fund alternative energy-related research, venture capital incentives, loans, and other measures designed to decrease oil consumption in the state by 25% over ten years. The assessment is expected to raise about \$4 billion over that time. Such a tax would impact property tax revenues in oil-producing counties by decreasing the assessed value of the oil wells due to their incremental loss of profitability.

The Committee voted to recommend that CSAC take an "oppose" position on Prop. 87. The Agriculture and Natural Resources Policy Committee will be considering this measure on August 16.

Proposition 88: Education Funding, Real Property Parcel Tax.

Recommendation: Oppose

Proposition 88 would impose a statewide \$50 parcel tax, administered by counties, to benefit K-12 schools. The money would be used for class size reduction; textbooks and other materials; policing, gang-risk intervention, afterschool and intersession and development programs; facility grants for districts that do not receive state general obligation bond money, such as charter schools; and a teacher/student achievement data system to evaluate efficiency and effectiveness of programs and investments. Counties' share for implementation of the parcel tax would be limited to 0.2%, or ten cents per successfully taxed parcel. County auditor-controller's staff tells us that such a parcel tax is administratively complex and costly. More importantly, Prop. 88 significantly erodes the link between the local property tax and local property-related services. Because funds would be allocated on a per student basis statewide, revenues raised in some counties would presumably be spent on school services in others.

The Committee voted to recommend that CSAC take an "oppose" position on Prop. 88. (Inyo County abstained.)

Proposition 90: Government Acquisition, Regulation of Private Property.

Recommendation: Oppose

Proposition 90, formerly known as the Anderson Initiative, would require the state and local governments to pay property owners for the loss of economic expectation caused by any government action - including citizen initiatives and implementations of federal law. It would prohibit the state and local governments from taking property unless that agency owned and

occupied the taken land. It would change the definition of "just compensation" to require much higher payments for all government property acquisition, by eminent domain or otherwise.

After a lengthy discussion, the Committee voted to recommend that CSAC take an "oppose" position on Prop. 90. (Inyo County abstained.) The Committee also directed staff to develop a Prop. 90 fact sheet that is geared to a rural audience and to report back on coalition activities.

Again, informational materials on all ballot measures considered by the Government Finance and Operations Policy Committee are attached to this document. For additional information, please contact Jean Hurst at jhurst@counties.org or 916.327.7500 ext. 515 or Geoffrey Neill at gneill@counties.org or 916.327.7500 ext. 567.

Proposition 87

Alternative Energy. Research, Production, Incentives. Tax on California Oil. Initiative Constitutional Amendment and Statute.

Background

California Oil Production. In 2005, California's estimated oil production (excluding federal offshore production) totaled 230 million barrels of oil—an average of 630,000 barrels per day. California's 2005 oil production represents approximately 12 percent of U.S. production, making California the third largest oil-producing state, behind Texas and Alaska. Oil production in California peaked in 1985, and has declined, on average, by 2 percent to 3 percent per year since then. In 2005, California oil production supplied approximately 37 percent of the state's oil demand, while Alaska production supplied approximately 21 percent, and foreign oil supplied about 42 percent.

Virtually all of the oil produced in California is delivered to California refineries. In 2005, the total supply of oil delivered to oil refineries in California was 674 million barrels, including oil produced in California as well as outside the state. Of the total oil refined in California, approximately 67 percent goes to gasoline and diesel (transportation fuels) production.

Oil-Related Taxation in California. Oil producers pay the state corporate income tax on profits earned in California. Oil producers also pay a regulatory fee to the Department of Conservation (which regulates the production of oil in the state) that is assessed on production, with the exception of production in federal offshore waters. This regulatory fee is used to fund a program that, among other activities, oversees the drilling, operation, and maintenance of oil wells in California. Currently, producers pay a fee of 6.2 cents per barrel of oil produced, which will generate total revenues of \$14 million in 2006-07. Additionally, property owners in California pay local property taxes on the value of both oil extraction equipment (such as drills and pipelines) as well as the value of the recoverable oil in the ground.

Proposal

Severance Tax on Oil Production in California. Beginning in January 2007, the measure would impose a severance tax on oil production in California to generate revenues to fund \$4 billion in alternative energy programs over time. (The term "severance tax" is commonly used to describe a tax on the production of any mineral or product taken from the ground, including oil.) The measure defines "producers," who are required to pay the tax, broadly to include any person who extracts oil from the ground or water, owns or manages an oil well, or owns a royalty interest in oil.

The severance tax would not apply to federal offshore production beyond three miles from the coast. The measure is unclear as to whether the severance tax would

apply to oil production on state-owned lands (which includes offshore production within three miles of the coast) or production on federal lands in the state. Additionally, the severance tax would not apply to oil wells that produce less than ten barrels of oil per day, unless the price of oil at the well head was above \$50 per barrel. At current prices and levels of production, the tax would apply to about 230 million barrels of oil produced in the state annually if state and federal lands are included, or about 200 million barrels of oil production annually if they are not included.

Tax Rate Structure. The measure states that the tax would be “applied to all portions of the gross value of each barrel of oil severed as follows:”

- 1.5 percent of the gross value of oil from \$10 to \$25 per barrel;
- 3.0 percent of the gross value of oil from \$25.01 to \$40 per barrel;
- 4.5 percent of the gross value of oil from \$40.01 to \$60 per barrel; and
- 6.0 percent of the gross value of oil from \$60.01 per barrel and above.

The wording of the measure regarding the application of the tax rates could be interpreted in two different ways. On one hand, it could be interpreted such that the tax would be applied on a *single rate* basis on the *full* gross value of oil per barrel. For example, if the gross value is \$70 per barrel, the tax would be applied at a rate of 6.0 percent on the full \$70—yielding a tax of \$4.20 per barrel. On the other hand, it could be interpreted to apply on a *marginal rate* basis similar to the income tax. For example, if the gross value is \$70 per barrel, the first \$10 is not taxed, the value from \$10 to \$25 is taxed at 1.5 percent, and so on—yielding a tax of \$2.17 per barrel.

In general, for a given period of time, the single rate interpretation would generate twice as much tax revenue as would the marginal rate interpretation. The issue of the application of the tax would presumably be resolved by regulations adopted by the California State Board of Equalization (BOE) and interpretation by the courts.

Passing Along the Cost of the Tax to Consumers. The measure states that producers would not be allowed to pass on the cost of this severance tax to consumers through increased costs for oil, gasoline, or diesel fuel. The BOE is charged with enforcing this prohibition against passing on the cost of the tax. While it may be difficult to *administratively* enforce this provision (due to the many factors that determine oil prices), economic factors may also limit the extent to which the severance tax is passed along to consumers. For example, the global market for oil means that California oil refiners have many options for purchasing crude oil. As a result, oil refiners facing higher-priced oil from California producers could, at some point, find it cost-effective to purchase additional oil from non-California suppliers, whose oil would not be subject to this severance tax.

Term of the Tax. The measure directs that the new California Energy Alternatives Program Authority (Authority), discussed below, shall spend \$4 billion for specified purposes within ten years of adopting strategic plans to implement the measure. The

revenues are to be used for new spending (that is, they cannot be used to replace current spending). Under the measure, the Authority has the ability to raise program funds in advance of collecting severance tax revenues by selling bonds that would be paid back with future severance tax revenues.

The severance tax would expire once the Authority has spent \$4 billion and any bonds issued by the Authority are paid off. The length of time that the tax would be in effect will depend on several factors, including the interpretation of the tax rate, the future price and production of oil, and decisions about using bonds. Because the measure directs the new authority to spend \$4 billion within ten years, the tax will be in effect at least long enough to generate this amount of revenue and longer if bonds are issued.

Depending on these variables, the term of the tax would range from less than ten years to several decades. For example, the shorter period would result under the single tax rate and/or higher oil prices and production levels. Alternatively, a longer period would result under the marginal tax rate and/or lower oil prices and production.

Tax Revenues to be Deposited in New Special Fund. The proceeds of the severance tax would be deposited in a new fund created by the measure, the California Energy Independence Fund. These revenues would not be eligible for loan or transfer to the state's General Fund and would be continuously appropriated (and thus, not subject to the annual state budget appropriation process).

Reorganized State Entity to Spend the Tax Revenues. The measure would reorganize an existing body in state government, the California Alternative Energy and Advanced Transportation Financing Authority, into a new California Energy Alternatives Program Authority (Authority). This reorganized authority would be governed by a board made up of nine members, including the Secretary for Environmental Protection, the Chair of the State Energy Resources Conservation and Development Commission, the Treasurer, and six members of the public who have specific program expertise, including: economics, public health, venture capital, energy efficiency, entrepreneurship, and consumer advocacy. The Authority is required to develop strategic plans and award funds to encourage the development and use of alternative energy technologies. The board would appoint a staff to administer various programs specified in the measure.

One of the stated *goals* of the measure, to be achieved through the various programs funded by it, is to reduce the use of petroleum in California by 25 percent from 2005 levels by 2017. The *actual* reduction would depend on the extent to which the measure was successful in developing and promoting—and consumers and producers used—new technologies and energy efficient practices.

Allocation of Funds. The funds generated from the severance tax, as well as any bonding against future severance tax revenues, would be allocated as follows, after first covering debt-service costs and expenses to collect the severance tax:

- ***Gasoline and Diesel Use Reduction Account (57.50 Percent)***—for incentives (for example, consumer loans, grants, and subsidies) for the purchase of alternative fuel vehicles, incentives for producers to supply alternative fuels, incentives for the production of alternative fuel infrastructure (for example, fueling stations), and grants and loans for private research into alternative fuels and alternative fuel vehicles.
- ***Research and Innovation Acceleration Account (26.75 Percent)***—for grants to California universities to improve the economic viability and accelerate the commercialization of renewable energy technologies and energy efficiency technologies.
- ***Commercialization Acceleration Account (9.75 Percent)***—for incentives to fund the start-up costs and accelerate the production and distribution of petroleum reduction, renewable energy, energy efficiency, and alternative fuel technologies and products.
- ***Public Education and Administration Account (3.50 Percent)***—for public education campaigns, oil market monitoring, and general administration. Of the 3.5 percent, at least 28.5 percent must be spent for public education, leaving a maximum of 71.5 percent of the 3.5 percent (or roughly 2.5 percent of total revenues) for the Authority's administrative costs.
- ***Vocational Training Account (2.50 Percent)***—for job training at community colleges to train students to work with new alternative energy technologies.

Fiscal Effects

New State Revenues to Be Used for Dedicated Purposes. Our estimates below are based on 2005 oil production levels and the average price of oil for the first six months of 2006. The severance tax would raise from about \$225 million to \$485 million annually. The level of revenue generated would depend both on (1) whether the tax was interpreted using the marginal rate interpretation or the single rate interpretation and (2) whether oil production on state and federal lands is taxed. However, *actual* revenues collected under the measure will depend on both future oil prices and oil production in the state. As these variables are difficult to predict, there is uncertainty as to the level of revenue collections.

State and Local Administrative Costs to Implement the Measure. Because programs of the size and type to be overseen by the Authority have not been undertaken before in the area of transportation fuels, the administrative costs to the Authority to carry out the measure are unknown. Under the provisions of the measure, up to 2.5 percent of revenues in the new fund would be available to the Authority for its general administration costs. This would on average set aside from about \$5 million to \$12 million annually for administration. The amount of administrative funds available would depend both on (1) whether the tax was interpreted using the marginal rate

interpretation or the single rate interpretation and (2) whether oil production on state and federal lands is taxed.

Costs to BOE to collect the severance tax and administrative costs associated with the issuance and repayment of bonds by the Treasurer's Office are not counted as part of the Authority's administration budget and are to be paid from the severance tax revenues. Additionally, in oil-producing counties, local administrative costs would increase by an unknown but probably minor amount, due to increased reassessment activity by local property tax assessors to account for the effects of the severance tax on oil-related property values.

Reduction in Local Property Tax Revenues. Local property taxes paid on oil reserves would decline under the measure relative to what they otherwise would have been, to the extent that the imposition of the severance tax reduces the value of oil reserves in the ground and its assessed property value for tax purposes. Although the exact size of this impact would depend on future oil prices, which determine both the severance tax rate and the value of oil reserves, it would likely not exceed a few million dollars statewide annually.

Reduction in State Income Tax Revenues. Oil producers would be able to deduct the severance tax from earned income, thus reducing their state income tax liability under the personal income tax or corporation tax. The extent to which the measure would reduce state income taxes paid by oil producers would depend on various factors, including whether or not an oil producer has taxable income in any given year, the amount of such income that is apportioned to California, and the tax rate applied to such income. We estimate that the reduction would likely not exceed \$10 million statewide annually.

Potential Reduction in State Revenues From Oil Production on State Lands. The state receives a portion of the revenues from oil production on state lands, including oil produced within three miles of the coast. If the measure is interpreted to apply to production on these state lands, then the severance tax would reduce state General Fund revenues by \$7 million to \$15 million annually, depending on whether the measure is interpreted using the marginal rate or the single rate.

Potential Reductions in Fuel Excise Tax and Sales Tax Revenues. The measure could change both the amount and mix of fuels used in California, and thus excise and sales tax revenues associated with them. For example, to the extent that the programs funded by the measure are successful in reducing the use of oil for transportation fuels, it would reduce to an unknown extent the amount of gasoline and diesel excise taxes paid to the state and the sales and use taxes paid to the state and local governments. These reductions would be partially offset by increased taxes paid on alternative fuels, such as ethanol, to the extent that the measure results in their increased use.

Potential Indirect Impacts on the Economy. In addition to the direct impacts of the measure, there are potential indirect effects of the measure that could affect the level of economic activity in the state.

On the one hand, by increasing the cost of oil production, the severance tax could reduce production, reduce investment in new technologies to expand production, and/or modestly increase the cost of oil products to Californians. This could have a negative impact on the state's economy.

On the other hand, using revenues from the severance tax to invest in new technologies may spur economic development in California. This would occur to the extent that new technologies supported by the measure are developed and/or manufactured in the state. This could have a positive impact on the state's economy.

Taken together, these economic factors could have mixed impacts on state and local tax revenues.

Proposition 88 Education Funding, Real Property Parcel Tax

Background

State and local governments in California impose several types of taxes and use the resulting revenue to support a variety of government activities. The most significant state taxes are on personal income, the sale of most types of goods (such as cars, appliances, and furniture), and corporate profits. At the local level, the most significant tax is on the assessed value of property (such as family-owned land and houses, retail stores, and industrial facilities). In California, the revenue generated from these various taxes is used to fund many types of government programs, including education, health, social, and environmental programs.

Local Property Taxes. Local governments in California impose a tax based on the assessed value of property. Under such a tax, the amount owed increases as the value of the property increases. Some local governments also impose a type of property tax known as a parcel tax. Under this type of tax, the amount owed is typically the same for each parcel—or unit—of land. (Currently, state government does not impose either type of property-related tax.)

Use of Local Parcel Tax Revenue. Local parcel tax revenue may be used for virtually any designated purpose. In recent years, for example, parcel taxes have been approved by voters in several school districts and used to fund class size reduction (CSR), school libraries, education technology, and other education programs. In those school districts that have a parcel tax, this revenue can be a significant source of funding for kindergarten through grade 12 (K-12) education programs. Statewide, however, the parcel tax is a minor source of funding for school districts.

Proposal

Proposition 88 creates a statewide parcel tax and uses the resulting revenue to fund specific K-12 education programs. It would take effect July 1, 2007.

Creates a Statewide \$50 Parcel Tax

The measure adds a new section to the State Constitution that establishes an annual \$50 tax on most parcels of land in California. (This dollar amount would not change over time.) For purposes of the measure, a "parcel" is defined as any unit of real property in the state that currently receives a separate local property tax bill. This definition would result in the vast majority of individuals and businesses that currently pay property taxes being subject to the new parcel tax. The measure exempts from the new tax any parcel owner who: (1) resides on the parcel, (2) is eligible for the state's

existing homeowner's property tax exemption, *and* (3) is either 65 years of age or older or a severely and permanently disabled person.

The measure also includes a provision that ensures funding for other government programs is not affected. Specifically, the measure authorizes a transfer of parcel tax revenue to the state General Fund to offset any loss in state income tax revenue. A loss would occur because of additional property-related deductions resulting from the state parcel tax.

Funds Specific K-12 Education Programs With Tax Proceeds

Most of the revenue generated by the statewide parcel tax would be transferred to a new state special fund. Of the monies initially deposited in this fund, the measure allocates \$470 million for various K-12 education programs and initiatives, as shown in Figure 1. The annual allocation of funding would be adjusted on a proportional basis—up or down—to reflect actual revenues received. These monies would have to supplement existing monies provided for these programs.

Figure 1 Proposition 88 Allocation of Parcel Tax Revenues	
Program	Annual Target Amount (In Millions)^a
K-12 class size reduction	\$175 ^b
Instructional materials	100 ^b
School safety	100 ^b
Facility grants	85 ^c
Data system	10 ^d
Total	\$470

^a Amounts adjusted annually, on a proportional basis, to reflect actual revenues available.
^b School districts, county offices of education, and public charter schools would be eligible to receive funding. Funding to be distributed using a weighted per student formula.
^c School districts and public charter schools meeting certain criteria would be eligible to receive funding. Funding to be based on an equal per student amount that is capped at \$500.
^d The measure does not specify how or to whom funds would be distributed.

The measure allocates monies to school districts (and other local education agencies) in various ways. The bulk of funding (amounts for K-12 CSR, instructional materials, and school safety) would be allocated to school districts, public charter schools, and county offices of education using a new per student formula to be created by the Legislature. The formula likely would provide higher per student funding rates for higher-cost students. (Specifically, the formula is to account for cost differences resulting from students' disabilities, English language skills, or socioeconomic status.) Facility grants would be allocated to school districts and public charter schools using a flat funding rate (capped at \$500) for each student enrolled in certain schools performing above average. For the data system, the measure does not specify how or to

whom funding would be allocated. (Future legislation likely would be needed clarifying such issues.) School districts receiving any Proposition 88 funds would be required to conduct an annual independent audit showing how they spent these monies and post the audit reports online.

K-12 CSR. Currently, the state provides \$1.8 billion for the CSR program for Kindergarten through grade 3 (K-3). This program funds school districts for reducing the size of their K-3 classrooms to no more than 20 students. The additional \$175 million provided by this measure could be used to further reduce class size in grades K-3 or for any other CSR initiative. For example, the funds would be sufficient to reduce the average class size of fourth grade by about four students (reducing it from a statewide average of about 29 students to 25 students).

Instructional Materials. Currently, the state provides over \$400 million annually for instructional material purchases. This equates to about \$66 per K-12 student. This is sufficient to purchase one new core textbook for most students in most grades each school year. The additional \$100 million provided by this measure could be used for purchasing any textbooks or other instructional materials that were approved by the State Board of Education. Funds likely would be sufficient to provide about 25 percent of K-12 students with one additional core textbook each year.

School Safety. Currently, the state provides \$548 million (or about \$90 per student) for after school programs, \$97 million (or about \$40 per grade 8-12 student) for general school safety programs, and \$17 million (or about \$3 per student) for competitive school safety grants. The additional \$100 million (or about \$16 per student) provided by this measure could be used for school community policing and violence prevention, gang-risk intervention, and afterschool and intersession programs.

Facility-Related Grants. Currently, the state provides funds for school facilities primarily using general obligation bonds. In addition, it has provided \$9 million annually for the last several years to help public charter schools in low-income areas cover some of their facility lease costs. The \$85 million provided by this measure would be for school districts and charter schools that have not yet received any state general obligation bond monies for school facilities. In addition, charter schools are only eligible if they are governed by or operated by a nonprofit public benefit corporation. If those conditions are met, then school districts and charter schools would receive funding for each student enrolled in a school ranking in the top 50 percent based on the state's standardized test scores. They could use the grants for any general purpose. Districts and schools receiving such grants would be prohibited from receiving future state general obligation bond monies unless the bond expressly allowed them to receive such funding. We estimate that about 40 noncharter schools (serving less than 1 percent of all noncharter enrollment) would be eligible for grants. For charter schools, we estimate about 100 schools (serving about 25 percent of all charter enrollment) would be eligible for grants.

Data System. Currently, the state provides virtually no state funding expressly for the ongoing collection and maintenance of student-level and teacher-level data. The additional \$10 million provided by this measure would be for an integrated longitudinal data system. Such a system would allow the state to measure student and teacher performance over time. The measure requires school districts to collect and report the data needed to create and maintain the system.

Fiscal Effects

We estimate the statewide parcel tax would result in roughly \$450 million in new tax revenue each year. Given that the dollar amount of the tax would not increase, total parcel tax revenues would grow slowly over time as new parcels of land were created (such as by new subdivisions of property). Roughly \$30 million of the parcel tax revenue would be transferred annually to the state General Fund to offset a projected decline in state income tax revenues (due to increased property-related tax deductions). In addition, the measure sets aside no more than 0.2 percent (or approximately \$1 million annually) for county administration of the parcel tax. The remainder of new tax revenue would be allocated to schools for the specified education programs. These revenues likely would be somewhat less than that needed to meet the measure's designated funding levels. If so, the program allocations would be adjusted downward proportionally.

Proposition 90
Government Acquisition, Regulation of Private Property.
Initiative Constitutional Amendment.

SUMMARY

This measure amends the California Constitution to:

- Require government to pay property owners for substantial economic losses resulting from some new laws and rules.
- Limit government authority to take ownership of private property.

This measure applies to all types of private property, including homes, buildings, land, cars, and "intangible" property (such as ownership of a business or patent). The measure's requirements apply to all state and local governmental agencies.

PAYING PROPERTY OWNERS FOR ECONOMIC LOSSES

State and local governments pass laws and other rules to benefit the overall public health, safety, or welfare of the community, including its long-term economy. (In this analysis, we use the term "laws and rules" to cover a variety of government requirements, including statutes, ordinances, and regulations.)

In some cases, government requirements can reduce the value of private property. This can be the case, for example, with laws and rules that (1) limit development on a homeowner's property, (2) require industries to change their operations to reduce pollution, or (3) restrict apartment rents.

Proposal

This measure requires government to pay property owners if it passes certain new laws or rules that result in substantial economic losses to their property. Below, we discuss the types of laws and rules that would be exempt from the measure's requirements and those that might require government compensation.

What Laws and Rules *Would Not* Require Compensation?

All *existing* laws and rules would be exempt from the measure's compensation requirement. New laws and rules also would be exempt from this requirement if government enacted them: (1) to protect public health and safety, (2) under a declared state of emergency, or (3) as part of rate regulation by the California Public Utilities Commission.

What Laws and Rules *Could* Require Compensation?

While the terms of the measure are not clear, the measure provides three examples of the types of new laws and rules that could require compensation. These examples relate to land use and development and are summarized below.

- ***Downzoning Property.*** This term refers to decisions by government to reduce the amount of development permitted on a parcel. For example, a government action to allow construction of three homes on an acre where five homes previously had been permitted commonly is called "downzoning."
- ***Limitations on the Use of Private Air Space.*** This term generally refers to actions by government that limit the height of a building. For example, a government rule limiting how tall a building may be to preserve views or maintain historical character often is called a limitation of "air space."
- ***Eliminating Any Access to Private Property.*** This term could include actions such as closing the only public road leading to a parcel.

In addition to the examples cited above, the broad language of the measure suggests that its provisions could apply to a variety of future governmental requirements that impose economic losses on property owners. These laws and rules could include requirements relating, for example, to employment conditions, apartment prices, endangered species, historical preservation, and consumer financial protection.

Would Government Pay Property Owners for All Losses?

Under current law and court rulings, government usually is required to compensate property owners for losses resulting from laws or rules if government's action deprives the owners of virtually all beneficial use of the property.

This measure specifies that government must pay property owners if a new law or rule imposes "substantial economic losses" on the owners. While the measure does not define this term, dictionaries define "substantial" to be a level that is fairly large or considerable. Thus, the measure appears to require government to pay property owners for the costs of many more laws and rules than it does today, but would not require government to pay for smaller (or less than substantial) losses.

Effects on State and Local Governments

The measure's provisions regarding economic losses could have a major effect on future state and local government policymaking and costs. The amount and nature of these effects, however, is difficult to determine as it would depend on how the courts interpreted the measure's provisions and how the Legislature implemented it. Most notably:

- ***How Many Laws and Rules Would Be Exempt From the Requirement That Government Pay Property Owners for Losses?*** The measure does not require government to compensate property owners under certain circumstances

(such as actions to protect public health and safety). If these exemptions were interpreted broadly (rather than narrowly), fewer new laws and rules could require compensation.

- *How Big Is a Substantial Economic Loss?* If relatively small losses (say, less than a 10 percent reduction in fair market value) to a property owner required compensation, government could be required to pay many property owners for costs resulting from new laws and rules. On the other hand, if courts ruled that a loss must exceed 50 percent of fair market value to be a substantial economic loss, government would be required to pay fewer property owners.

Under the measure, state and local governments probably would modify their policymaking practices to try to avoid the costs of compensating property owners for losses. In some cases, government might decide not to create laws and rules because of these costs. In other cases, government might take alternative approaches to achieving its goals. For example, government could:

- Give property owners incentives to voluntarily carry out public objectives.
- Reduce the scope of government requirements so that any property owners' losses were not substantial.
- Link the new law or rule directly to a public health and safety (or other exempt) purpose.

There probably would be many cases, however, where government would incur additional costs as a result of the measure. These would include situations where government anticipated costs to compensate property owners at the time it passed a law—as well as cases when government did not expect to incur these costs. The total amount of these payments by government to property owners cannot be determined, but could be significant on a statewide basis.

LIMITING GOVERNMENT AUTHORITY TO TAKE PROPERTY

Eminent domain (also called "condemnation") is the power of local, state, and federal governments to take private property for a public use so long as government compensates the property owner. (In some cases, government has given the power of eminent domain to private entities, including telephone and energy companies and nonprofit hospitals. In this analysis, these private entities are included within the meaning of "government.")

Over the years, government has taken private property to build roads, schools, parks, and other public facilities. In addition to these uses of eminent domain, government also has taken property for public purposes that do not include construction of public facilities. For example, government has taken property to: help develop higher value businesses in an area, correct environmental problems, enhance

tax revenues, and address "public nuisances" (such as hazardous buildings, blight, and criminal activity).

Proposal

This measure makes significant changes to government authority to take property, including:

- Restricting the purposes for which government may take property.
- Increasing the amount that government must pay property owners.
- Requiring government to sell property back to its original owners under certain circumstances.

Below, we discuss the major changes proposed by the measure, beginning with the situations under which government could—and could not—take property.

Under What Circumstance Could Government Take Property?

Under the measure, government could take private property to build public roads, schools, parks, and other government-owned public facilities. Government also could take property and lease it to a private entity to provide a public service (such as the construction and operation of a toll road). If a public nuisance existed on a specific parcel of land, government could take that parcel to correct the public nuisance. Finally, government could take property as needed to respond to a declared state of emergency.

What Property Takings Would Be Prohibited?

Before taking property, the measure requires government to state a "public use" for the property. The measure narrows the definition of public use in a way that generally would prevent government from taking a property:

- *To Transfer it to Private Use.* The measure specifies that government must maintain ownership of the property and use it only for the public use it specified when it took the property.
- *To Address a Public Nuisance, Unless the Public Nuisance Existed on That Particular Property.* For example, government could not take *all* the parcels in a run-down area unless it showed that each and every parcel was blighted.
- *As Part of a Plan to Change the Type of Businesses in an Area or Increase Tax Revenues.* For example, government could not take property to promote development of a new retail or tourist destination area.

In any legal challenge regarding a property taking, government would be required to prove to a jury that the taking is for a public use as defined by this measure. In addition, courts could not hold property owners liable to pay government's attorney fees or other legal costs if the property owner loses a legal challenge.

How Much Would Government Have to Pay Property Owners?

Current law requires government to pay "just compensation" to the owner before taking property. Just compensation includes money to reimburse the owner for the property's "fair market value" (what the property and its improvements would sell for on an open market), plus any reduction in the value of remaining portions of the parcel that government did not take. State law also requires government to compensate property owners and renters for moving costs and some business costs and losses.

The measure appears to increase the amount of money government must pay when it takes property. Under the measure, for example, government would be required to pay more than a property's fair market value if a greater sum were necessary to place the property owner "in the same position monetarily" as if the property had never been taken. The measure also appears to make property owners eligible for reimbursement for a wider range of costs and expenses associated with the property taking than is currently the case.

When Would Government Sell Properties to Former Owners?

If government stopped using property for the purpose it stated at the time it took the property, the former owner of the property (or an heir) would have the right to buy back the property. The property would be assessed for property tax purposes as if the former owner had owned the property continuously.

Effects on State and Local Governments

Government buys many hundreds of millions of dollars of property from private owners annually. Relatively few properties are acquired using government's eminent domain power. Instead, government buys most of this property from *willing* sellers. (Property owners often are aware, however, that government could take the property by eminent domain if they did not negotiate a mutually agreeable sale.)

A substantial amount of the property that government acquires is used for roads, schools, or other purposes that meet the public use requirements of this measure—or is acquired to address specific public nuisances. In these cases, the measure would not reduce government's authority to take property. The measure, however, likely would increase somewhat the amount that government must pay property owners to take their property. In addition, the measure could result in willing sellers increasing their asking prices. (This is because sellers could demand the amount that they would have received if the property were taken by eminent domain.) The resulting increase in government's costs to acquire property cannot be determined, but could be significant.

The rest of the property government acquires is used for purposes that do not meet the requirements of this measure. In these cases, government could not use eminent domain and could acquire property only by negotiating with property owners on a voluntary basis. If property owners demanded selling prices that were more than the amount government previously would have paid, government's spending to acquire

property would increase. Alternatively, if property owners did not wish to sell their property and no other suitable property was available for government to purchase, government's spending to acquire property would decrease.

Overall, the net impact of the limits on government's authority to take property is unknown. We estimate, however, that it is likely to result in significant net costs on a statewide basis.

What Proposition 90 Would Mean for California's Counties

The "Protect Our Homes Act" is a citizen's initiative that was submitted by Anita S. Anderson; the act is sometimes referred to as the "Anderson" initiative. The campaign for the measure has collected and submitted about a million signatures and it will presumably qualify for the November 2006 ballot.

The effects of this measure on counties would be immediate, dramatic and far-reaching. While the initiative is a response to the U.S. Supreme Court's *Kelo* decision, it deals with issues far broader than eminent domain. As the California Attorney General notes in his official summary, the measure "limits government's authority to adopt certain land use, housing, consumer, environmental and workplace laws and regulations." Primarily, it would require compensation at a property's highest use for any government regulation that damages economic expectations. The measure would:

- Prohibit the use of eminent domain for private use, including redevelopment, though some legal opinions on the measure question if the language would actually achieve this purpose. [§19(a)(1)]
- Allow the condemning agency to transfer the property to a private party pursuant to an assignment, contract or other arrangement for the performance of a public use project. [§19(a)(2) and §19(b)(2)]
- Give the original property owners - or their designated heirs or beneficiaries - the right to reacquire the property at fair market value if it ever ceases to be used for the originally stated public use. These provisions apply only to property taken after the measure takes effect. The reacquired property would be taxed based on its appraisal at the time it was acquired by the condemning agency. [§19(a)(3)]
- Place the burden of proving public use on the government in all eminent domain actions. [§19(b)(2)]
- Make null and void unpublished judicial opinions and orders relating to eminent domain. Only appellate court decisions are published - and then only sometimes - and California eminent domain cases are heard in Superior Court, not appellate court. There has been much speculation about the effects of this provision, which might mean that a public agency would not be able to take possession unless the case is decided on appeal in a published opinion. [§19(b)(3)]
- Give the property owner the right to a determination by a superior court jury as to whether the taking is for a public use. [§19(b)(4)]
- Change property valuation so that future dedication requirements are not considered. More significantly, the measure provides that property be valued at the use to which the government intends to put it, as opposed the current value of the property, but only if it results in a higher value. [§19(b)(5)]
- Define "just compensation" as "that sum of money necessary to place the property owner in the same position monetarily...as if the property had never been taken." This would likely include lost income, business goodwill, legal fees and relocation costs, for example. [§19(b)(6)] "Fair market value" is defined as "the highest price the property would bring on the open market." [§19(b)(7)]
- Define "damage" to property as including any government action that results in "substantial economic loss to private property," except when taken to protect public health and safety. Down zoning, elimination of access, and limitations on the use of air space are listed as examples of damage. This would likely affect nearly all land use decisions as well as local or state measures relating to height restrictions, mobile home rent control, affordable housing covenants, minimum wage, consumer protection and environmental protection, to take just a few examples. As one Supreme Court opinion states, "government regulation - by definition - involves the adjustment of rights for the public good." [§19(b)(8)]
- Excuse property owners from any liability for the government's attorney fees or costs, regardless of the reasonableness of the owner's legal case. [§19(b)(9)]
- Not prohibit the use of eminent domain on specific parcels to abate specific conditions of "nuisances such as blight, obscenity, pornography, hazardous substances or environmental conditions." [§19(e)] The measure would also not restrict administrative powers under a declared state of emergency. [§19(d)]

Proposition 90 – Specific County Impacts

CSAC partnered with CCPDA and CEAC to ask county planners and public works directors what recent and upcoming projects would be significantly affected by the passage of Prop. 90. The examples below are distilled from the responses to that survey.

These are only some examples, as one respondent noted, "I'm certain there are plenty of other examples in our zoning ordinance that would be subject to the same sort of analysis. As far back as the seminal US Supreme Court decision in *Euclid v. Ambler* (272 US 365 (1926)) it has been recognized that zoning regulations which restrict the use of private property in the interest of maintaining or improving the common property, economic and social value of the general public is a valid exercise of the police power. Thus, just about any new zoning regulation a local jurisdiction adopted after Prop. 90 passed would be subject to a takings claim, and would have to either be rescinded or compensated."

Alpine County

Sign Regulations - Adopted in 2002, regulates outdoor advertising.

We are in the "path" of development pressure spilling over from the Tahoe region and booming Carson Valley area of Nevada. Many of our basic land use regulations are outdated and not up to the task of addressing significant development pressures. Prop 90 would be a disaster for a small county like Alpine with very limited financial resources.

Colusa County

The proposed Prop. 90, if passed, may have severe impacts, constraints, effects on the nearly 30 counties currently attempting to update their General Plans. How do the Counties, their citizen advisory groups, staff, consultants put together comprehensive goals, policies, and implementation programs within Elements that state law require be consistent internally and with one another??

Contra Costa County

Small Lot Occupancy (Design Review) - Requires discretionary design review of residential building permits on lots not meeting required area or average width standards in districts allowing residential dwellings by right, if requested within 10 days of a notice sent to properties within 300 feet of the site. The hearing body must find that the proposed construction is compatible with the neighborhood with respect to the building location, size, height and design. It could be argued that the cost of compliance, and the eventuality that designs may be denied, could negatively affect the subject lot's property value, while preserving the value of surrounding properties.

Sale of Firearms - Prohibits sales of firearms in residential zoning districts and requires dealers in districts where firearms sales are allowed to annually renew a dealer's permit. It could be argued that such regulation reduces the value of commercial property by restricting the nature of commercial activities allowed.

Kensington (Design Review) Combining District - A design review combining district, or

"overlay" requirement that applies in the community of Kensington, replacing and superseding the aforementioned "Small Lot Review" ordinance. Requires discretionary design review of residential single family building permits to ensure compatibility with the neighborhood by expanding the findings required to include impacts on views and solar access. Kensington is a unique community topographically and geographically, with commanding views of San Francisco Bay and the Marin headlands, including the Golden Gate and Bay Bridges. It could be argued that the costs of design review and the possibility of denial reduces property values for the subject property while ensuring them for others.

Right-to-Farm - Requires deed disclosure to buyers of properties proximate to agricultural operations of the right of the operation to continue to exist in operation without being declared a nuisance due to growth of residential or other urban uses in the vicinity, under specified circumstances. It could be argued that this requirement reduces the sales price obtainable in the marketplace due to highlighting the nearby agricultural operation and attendant potential for spraying of herbicides, pesticides, and other farm related practices including dust generation due to discing, etc.

Park Dedications - Local Ordinance adopted pursuant to the Quimby Act which requires dedication of land for park purposes for certain subdivisions, or payment of a fee in lieu of dedication of land. An argument could be made that these types of exactions not only devalue the remaining property due to severance, but amount to a taking of private property for a public purpose requiring just compensation under Prop 90.

Administrative Penalty System (for Violations of Ordinance Code) - Allows for the hearing officer to assess fines for violations of code provisions. These could be argued to be collateral damages in a Prop 90 challenge.

Inclusionary Housing Ordinance (not yet adopted, but pending) - Requires a percentage of residential units in development projects of a certain size to be affordable to low and moderate income households. Includes recapture provisions which keep the owner from enjoying all of the market rise in the value of the property for a set period of time, so that the affordability of the unit is maintained and a windfall is not created for the initial buyer, in "for sale" housing units. It could be argued that Inclusionary ordinances generally constitute a taking of private property for a public purpose requiring compensation under Prop 90.

Mobile Home Rent Control Ordinance - Regulates the increases in rental prices of spaces in mobile Home Parks. It could be argued that any rent control ordinance diminishes the value of the property by artificially lowering the rental stream upon which the basis for assessment of the value is established, requiring compensation under Prop 90.

Riverside County

The County of Riverside currently has eminent domain cases that have been filed in Superior Court with others pending. These properties are necessary for flood control facilities, road improvements, re-development, off-site improvements for developments, parks, Sheriff's facilities, and habitat property. If these cases do not have a final judgment through the Court by the time this Initiative passes, then all would have to be reappraised and most, if not all, would result in a higher acquisition costs. At a minimum, \$200,000 would have to be spent for updated appraisals, but the cost could be millions for the actual property depending on what

the new appraisal revealed.

San Benito County

The Growth Management Ordinance, which limits the number of new lots created in the County in order to maintain responsible & orderly growth.

Cultural Resource protection measures, including County Ordinance 610, which require investigations when projects are located within archaeologically sensitive areas, as well as the provisions in place when remains or other sensitive material is found.

Minimum parking requirements for all projects, ensuring traffic safety and adequate parking availability for County Residents.

Bridge replacement projects and other road improvements to increase traffic safety.

San Diego

Sometimes the County will condemn a public road in connection with a private developer's inability to acquire the public road easement from another property owner. That condition arises out of the conditions placed on a developer by the county's entitlement process.

The requirement that the property acquired can only be used for public use which is very strictly defined. That limits the ability of the county to sell or trade remainders of property from acquisitions. So in cases where a total property is acquired for a road project, for example, and say that only 70 per cent of it is actually needed for the road, then this initiative would not allow the county to trade or sell the remainder of this property to an adjoining owner unless the new owner uses the property for a public use. These remainders, then, could end up being perpetually owned and managed by the county.

Sonoma County

Flooding: An ordinance is being proposed as part of the General Plan Update that would impose a "no net fill" requirement within FEMA designated floodplains. This regulation would help avoid increased flooding and reduce costs of restoration after floods...but it also increases the cost of construction new structures to comply with the requirements.

Ag Preserve Regulations. The Department of Conservation has completed an audit of the County's Williamson Act program and is requesting that the County amend its regulations for allowed uses on WA contract lands. These amendments would limit or disallow some uses that are currently allowed.

The County is implementing new regulations mandated by SB 18, the recent state legislation that requires local jurisdictions to notify applicable tribes whenever a project involves a General Plan amendment. This legislation is likely to result in property owners being required to address tribal resource issues when a project affects sacred sites, potentially limiting or raising the cost of the project

Second Unit Exclusion: The County uses a "Second Unit Exclusion" overlay zone to reduce

growth inducing impacts in areas where Public services are extended to rural areas in order to cure long standing water quality problems. An example is the extension of sewer service to Canon Manor, a 50's era subdivision with failing septic systems. Second Units were restricted to make sure that the potential impacts on groundwater were minimized.

Agricultural Processing: The growing Sonoma County wine industry is also experiencing a growth in the number and size of wineries. While this growth is generally viewed as positive for protecting the County's agricultural base, the impacts of larger and more prolific processing facilities in rural areas are increasing as well, leading the County to consider various ways that the processing can be encouraged while the impacts are minimized.

Tulare County

RMA Engineering: Over the course of the next ten (10) years the County will be acquiring right of way for four (4) major State Transportation Improvement Program (STIP) projects. The right of way will be acquired and owned in perpetuity by County so there should not be a public-private conflict. However, the method by which you calculate fair market value might raise the cost for right of way significantly.

Ventura County

In Ventura County and its cities we have over the past decade passed a number of voter initiatives known as SOAR initiatives. "SOAR" is an acronym for "Save our Open Space and Agricultural Resources." In the County unincorporated area, the measure essentially locks in the general plan land use designations. In our cities, the measures essentially establish urban limit lines. These are extremely popular and have become the framework for most land use decisions in the county. I believe Prop 90 would be used to challenge these measures.

Proposition 90

Official ballot title: *Government Acquisition, Regulation of Private Property.
Initiative Constitutional Amendment.*

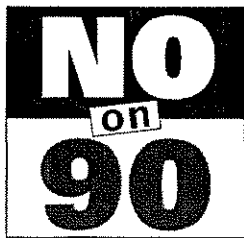
Prop. 90 Facts at a Glance

- **Scope:** Applies to all public agencies and private entities such as utilities, all state and local government property acquisitions, and any state or local agency law, regulation, resolution or other action. Includes new federal laws that must be implemented at the state or local level. Even statutory initiatives passed by voters subject to measure's provisions.
- **Compensation by Taxpayers for New Regulations:** Requires taxpayers to compensate property owners for substantial impacts of traditional state and local government regulations on use of private property. Attorney General says, as a result, measure will "limit certain land use, housing, consumer, environmental and workplace laws and regulations."
- **Higher Costs for Public Works Projects:** Measure redefines "just compensation" to require higher payments for property acquisitions for public works projects. Would likely impact costs for a wide variety of public projects and infrastructure projects including schools, roads and highways, dams, levees, and affordable housing.
- **Significant Fiscal Impact:** State's Legislative Analyst's assessment of Prop. 90's fiscal impacts:
 - Unknown, but potentially significant future costs for state and local governments to pay damages and/or modify regulatory or other policies to conform to the measure's provisions
 - Unknown, but potentially significant changes in governmental costs to acquire property for public purposes.
- **Can't Be Amended By Legislature:** If approved, it could only be changed by another initiative.

Prop. 90 Main Provisions

- **Redefines "damage" to require payment (at new and increased levels) for any government action or action by voters that results in "substantial economic loss" to property.** These changes to laws governing compensation for regulatory action would impact state & local governments' ability to enact and enforce a wide range of laws affecting property, including environmental, land use, consumer protection and housing laws and regulations, or require new payments to property owners for such actions. For example:
 - If voters act by initiative to limit the size of a new development to 100 houses, and the developer claims the property could hold 200 houses, this initiative could allow the developer to make a claim for a payment from the local government for the value for the 100 houses he wasn't allowed to build. Similar compensation claims could be filed with state and local governments for a wide range of government environmental, consumer protection, housing and land use regulations.
- **Redefines "just compensation."** Under the new definition, property taken for a proprietary government purpose would be valued not at the current standard of "fair market value," but at the increased value of the property as the government intends to use it.
 - For example, if a county acquires property for an airport, the owner could seek compensation for the value of the property as if an airport were on it - even if the owner was not legally allowed to construct and operate an airport under the applicable zoning.
 - **Prohibits use of eminent domain unless the property acquired is owned and occupied by a governmental agency. Prohibitions on public/private partnerships would include those with non-profit organizations, such as non-profit homebuilders.**

Paid for by No on 90, Californians Against the Taxpayer Trap, a committee of taxpayers, educators, business, environmentalists, local government and public safety, the League of California Cities (Non-Public Funds), and Californians for Neighborhood Protection, a sponsored committee of the California League of Conservation Voters



We Oppose Proposition 90 The Taxpayer Trap

(Coalition List as of 7.28.06)

It's a taxpayer TRAP

Public Safety Groups

California Police Chiefs Association
California Fire Chiefs Association

Education Groups

California School Boards Association
Coalition for Adequate School Housing
(C.A.S.H.)
Small School Districts' Association

Labor Groups

California Labor Federation, AFL-CIO
California State Council of Laborers

Environmental Groups

The Nature Conservancy
California League of Conservation Voters
Audubon California
Bay Area Alliance for Sustainable
Communities
National Wildlife Federation
Natural Resources Defense Council
The Ocean Conservancy
Sierra Club California
Center for Environmental Health
California State Parks Foundation
Defenders of Wildlife
Environmental Defense
California Oak Foundation
Planning and Conservation League
Greenbelt Alliance
Endangered Habitats League
California Council of Land Trusts
Sierra-Cascade Land Trust Council

Transportation Groups

Transportation and Land Use Coalition

Agriculture Groups

American Farmland Trust

Homeowner/Housing Groups

League of California Homeowners
California Housing Consortium
California Housing Partnership Corporation
Golden State Manufactured-Home Owners
League
California Coalition for Rural Housing
Orange County Community Housing
Corporation
Coalition of Mobilehome Owners – California
Resident Owned Parks, Inc.
San Francisco Tenants Union
Oakland Tenants Union
Santa Monicans for Renters' Rights

Business/Economic Interest Groups

California Association for Local Economic
Development
Hollywood Chamber of Commerce
Downtown San Diego Partnership

Consumer/Public Interest Groups

League of Women Voters of California
Consumers First
Public Advocates, Inc.
Center on Policy Initiatives

Community Groups

Coalition for Economic Survival
Santa Monica Coalition for a Livable City

Government Groups

League of California Cities
California State Association of Counties
California Redevelopment Association
California Special Districts Association
American Planning Association, California
Chapter

Paid for by No on 90, Californians Against the Taxpayer Trap, a committee of taxpayers, educators, business, environmentalists, local government and public safety, the League of California Cities (Non-Public Funds), and Californians for Neighborhood Protection, a sponsored committee of the California League of Conservation Voters

www.NoProp90.com

FEDERAL LOBBYING RFP PROCESS



July 31, 2006

1100 K Street
Suite 101
Sacramento
California
95814

Telephone
916.327.7500
Facsimile
916.441.5507

TO: CSAC Executive Committee
FROM: Karen Keene, CSAC Federal Coordinator
RE: Status of Federal Affairs Request for Proposals (RFP)

CSAC's current federal affairs contract with Waterman and Associates is scheduled to expire on December 31, 2006. Consistent with direction from the CSAC Board of Directors in 2004, CSAC has issued an RFP from experienced and qualified federal advocacy firms to provide federal affairs services. The RFP was sent to fourteen Washington, D.C. firms known to have county and/or association experience, and it was posted on the CSAC website. CSAC has been notified by six of these firms of their intent to submit a proposal. The proposals are due on Monday, August 14.

Besides including information regarding CSAC, submittal requirements, pricing, selection criteria, etc., the RFP also describes our current scope of services for federal affairs representation as a historical guideline to what services have been provided to CSAC in the past. We specifically encourage responders to utilize this description as a general guideline that is not set in stone. Additionally, the RFP provides responders with the opportunity to provide an additional and/or revised scope based on their experience.

A committee has been formed to review the proposals and participate in the interview process. The committee members include Supervisor Valerie Brown; Supervisor Greg Cox; Michael Johnson, Solano County Administrator; Jim Keene, CSAC Executive Director; Steve Keil, CSAC Legislative Director, and myself. We have scheduled interviews for Monday, September 25. The committee will forward the name of the final candidate to the CSAC Executive Committee for confirmation at your September retreat.

Please feel free to contact me if you have any questions regarding this process.

CSAC FINANCE CORPORATION REPORT



August 17, 2006

TO: CSAC Executive Committee

FROM: Greg Cox, Immediate Past President, CSAC
Norma Lammers, Executive Director, CSAC Finance Corporation

RE: CSAC Finance Corporation Update

1100 K Street
Suite 101
Sacramento
California
95814

Telephone
916.327.7500
Facsimile
916.441.5507

At the joint meeting of the CSAC Finance Corporation and CSAC Executive Committee next month, we will be providing you a review of the accomplishments, goals, and projected revenue growth for the Finance Corporation programs. Prior to that, however, we did want to let you know of a few new developments.

We previously mentioned to you that the revenues to CSAC Finance Corporation under the new marketing partnership agreement with U S Communities Purchasing Program could increase significantly if we get all 58 counties registered and purchasing in the program. We have been busy pursuing this goal and are only two counties short at the time of this report.

The newest pooled purchasing contract has been awarded to Hickman Community Services for **roofing products and services**. The discount pricing covers roofing materials, waterproofing products, inspections, retrofits and environmental products.

The **Statewide Community Infrastructure Program** (SCIP) which provides financing for developer impact fees is experiencing considerable interest and growth. Volume this year is more than double previous years,

We are getting ready to launch our first **FAST** bond issue, our newest financing program targeted at capital outlay in the \$10 – 100 million range. This tax-exempt commercial paper program provides excellent rates and is extremely “fast”, requiring only 45 days from start to closing.

For more information about any of these programs, you can contact Norma Lammers (916) 327-7500 x554.

**COURT FACILITY TRANSFER
PROCESS IMPROVEMENTS**



MEMORANDUM

1100 K Street
Suite 101
Sacramento
California
95814

Telephone
916.327-7500

Facsimile
916.441.5507

DATE: July 31, 2006

TO: CSAC Executive Committee

FROM: Rubin R. Lopez and Elizabeth Howard
CSAC Administration of Justice Staff

RE: **Court Facility Transfer Process Improvements — INFORMATIONAL ITEM**

As you undoubtedly are aware, SB 1732 (Escutia), the Trial Court Facilities Act of 2002, enacted a framework for transferring court facilities from the counties to the state. To date, nine of 451 court facilities statewide have transferred. The deadline currently contained in statute for execution of all transfer agreements in June 30, 2007. Clearly, the transfer process has proven to be both challenging and complex. However, in the last 12 months, county, court, Department of Finance, and legislative representatives have been engaged in two processes that seek to overcome some of the key hurdles that have inhibited the facility transfer process. We provide a brief update below on the two processes, given that we anticipate substantial activity and potential changes in both areas in the coming weeks. A full report on where both issues stand will be provided at the Executive Committee's August 17 meeting.

I. Court-County Executive Working Group: SB 10 (Dunn), As proposed to be amended

Last Spring, Senator Joe Dunn convened an 8-member court-county negotiating team (also referred to as the "Court-County Executive Working Group") to address outstanding court-county issues, including, but not limited to court facility transfers. Around this time last year, the Executive Working Group met to discuss a potential approach to facilitating the transfer of trial court facilities with seismic safety issues that otherwise would be expressly "nontransferable" under the provisions of SB 1732. The Executive Working Group arrived at a consensus approach to provide greater flexibility in local negotiations that would allow certain buildings — those with a "level V" seismic rating, as defined in Government Code Section 70301 (l) — to transfer from a county to the state. As a result of the August 2005 negotiations, Senator Dunn proposed to amend his SB 10 during the last days of this legislative year to allow the transfer of a court facility with a seismic rating of level V, if the county agreed to accept liability for injuries and damage caused by a seismic event after the transfer and until the seismic rating of the facility was raised to a level IV or better. Although efforts to amend SB 10 to address seismic issue did not gain traction in the Legislature at the end of the 2005 session, the measure remains a vehicle for potential change in this area. Over the last several months, a subcommittee of county counsels and counsel from the Administrative Office of the Courts has been meeting to try to resolve outstanding policy issues that have been identified in the SB 10 language. At the time of this writing, the problems — particularly those identified by county counsels — have not been resolved in total.

At this time, discussions around the appropriate approach in SB 10 continue. Whether the measure may be expanded to include other process improvement concepts discussed in a separate working group effort (see below) is not yet clear. An update on the status of SB 10,

including the scope and nature of its contents, will be provided to the CSAC Executive Committee on August 17.

II. Court-County Executive Working Group: Transfer Improvement Process

On a separate track, the Court-County Executive Working Group created in Spring 2006 three court-county working groups to focus on 1. Seismic issues; 2. County Facility Payment (CFP, which is effectively the maintenance of effort that counties will pay on each building that is transferred) Issues; and 3. Operations/Process. Each group is comprised of 10 members (5 court and 5 county representatives), with Department of Finance staff participation invited and encouraged. The three working groups have been meeting extensively over the last eight weeks, and each presented a report of its progress to the Executive Working Group at a July 19 meeting. Meetings, deliberations, and innovations of the working groups continue, and we hope to have a more clear sense about specific recommendations of each body to share with the CSAC Executive Committee at its August meeting.

cc: James Keene, CSAC Executive Director

Calendar of Events

2006

August

- 4 - 8 NACo Annual Conference, Chicago, IL
- 17 CSAC Executive Committee Meeting, Sacramento
- 31 Special CSAC Board of Directors Meeting, Sacramento

September

- 13 - 15 CSAC Finance Corporation Fall Meeting, San Diego County

- 28 - 29 CSAC Executive Committee Meeting, Monterey County

October

- 18 - 20 CAOAC Annual Meeting, Santa Rosa

November

- 28 - Dec. 1 CSAC 112th Annual Meeting,
Orange County

- 30 CSAC Board of Directors Meeting,
Anaheim, Orange County

March 2007

- 28 - 29 CSAC Legislative Conference, Sacramento

November 2007

- 13 - 16 CSAC Annual Meeting, Oakland, Alameda