

# CSAC EXECUTIVE COMMITTEE

## BRIEFING MATERIALS

Thursday, August 4, 2016

10:00 a.m. 1:30 p.m.



Meeting Location:  
Sutter Club, 1220 9th Street,  
Sacramento

California State  
Association of Counties



CALIFORNIA STATE ASSOCIATION OF COUNTIES  
EXECUTIVE COMMITTEE

Thursday, August 4, 2016

10:00am to 1:30pm

Sutter Club, 1220 9<sup>th</sup> Street, Sacramento

Conference Line – (800) 867-2581 code: 7500508#

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A G E N D A

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Times for agenda items listed herein are approximate. Matters may be considered earlier than published time.

Presiding: Richard Forster, President

**10:00am PROCEDURAL ITEMS**

1. Roll Call Page 1
2. Approval of Minutes of April 7, 2016 Page 2

**10:10am SPECIAL PRESENTATIONS**

3. CSAC Corporate Partner Page 5
  - *Joe Wilson, Pacific Gas & Electric Company*
  - *Jim Manker, CSAC staff*
4. CSAC Finance Corporation Report Page 6
  - *Supervisor Linda Seifert, CSAC Finance Corp. President*
  - *Alan Fernandes, CSAC Finance Corp. Executive Vice Pres.*

**10:30am ACTION ITEMS**

5. Consideration of November 2016 Ballot Initiatives Page 7
  - Proposition 53: Revenue Bonds, Statewide Voter Approval
  - Proposition 55: Tax Extension to Fund Education and Healthcare
  - Proposition 56: Cigarette Tax to Fund Healthcare, Tobacco Use Prevention, Research, and Law Enforcement
  - Proposition 57: Criminal Sentences. Juvenile Criminal Proceedings and Sentencing
  - Proposition 64: Marijuana Legalization
  - Proposition 65: Carry-Out Bags. Charges
  - Proposition 67: Referendum to Overturn Ban on Single-Use Plastic Bags
6. Homelessness Issues Page 140
  - CSAC/League of Cities Joint Task Force
  - Los Angeles County's Proposal for Emergency Declaration
    - *Kiana Valentine, Darby Kernan & Farrah Ting, CSAC staff*
7. CSAC Legislative Report Page 146
  - *DeAnn Baker & CSAC Advocacy staff*

**12:00pm LUNCH**

**12:30pm ACTION ITEMS (cont.)**

8. CSAC Annual Meeting Site Selections for 2018 Page 156  
▪ *Graham Knaus, CSAC staff*

**1:00pm INFORMATION ITEMS**

9. CSAC Operations and Member Services Update Page 160  
▪ *Graham Knaus, CSAC staff*

10. Information items without presentation Page 164  
➤ CSAC Litigation Coordination Program Report  
➤ CSAC Institute for Excellence in County Government Class Schedule

**1:30pm ADJOURN**

Note: The next CSAC Executive Committee meeting is October 5-7, in Ventura County

CALIFORNIA STATE ASSOCIATION OF COUNTIES  
EXECUTIVE COMMITTEE  
2016

President:	Richard Forster, Amador
1 <sup>st</sup> Vice President:	Dave Roberts, San Diego
2 <sup>nd</sup> Vice President:	Leticia Perez, Kern
Immed. Past President:	Vito Chiesa, Stanislaus

Urban Section

Keith Carson, Alameda  
John Gioia, Contra Costa  
Carole Groom, San Mateo  
Don Knabe, Los Angeles  
Kathy Long, Ventura  
Ken Yeager, Santa Clara  
Greg Cox, San Diego (alternate)

Suburban Section

Bruce Gibson, San Luis Obispo  
Leonard Moty, Shasta  
Linda Seifert, Solano  
Hubert "Hub" Walsh, Merced (alternate)

Rural Section

David Finigan, Del Norte  
Ed Valenzuela, Siskiyou  
Virginia Bass, Humboldt (alternate)

Ex-Officio Member

Judy Morris, Trinity, Treasurer

Advisors

Patrick Blacklock, CAOAC Advisor, Yolo  
Charles McKee, County Counsel Advisor, Monterey

CALIFORNIA STATE ASSOCIATION OF COUNTIES  
EXECUTIVE COMMITTEE  
April 7, 2016  
Hotel Maya, Long Beach, Los Angeles County

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M I N U T E S

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1. Roll Call

Richard Forster, President	Leonard Moty, Shasta
Dave Roberts, 1 <sup>st</sup> Vice Pres.	Linda Seifert, Solano
Vito Chiesa, Immed. Past Pres. (audio)	Hub Walsh, Merced (audio)
Keith Carson, Alameda	David Finigan, Del Norte (audio)
John Gioia, Contra Costa (audio)	Ed Valenzuela, Siskiyou
Carole Groom, San Mateo	Virginia Bass, Humboldt
Don Knabe, Los Angeles	Judy Morris, Trinity, Treasurer
Greg Cox, San Diego	Pat Blacklock, Advisor (audio)
Bruce Gibson, San Luis Obispo	

2. Approval of Minutes

The minutes of January 14, 2016, were corrected to reflect that Supervisor David Rabbitt was selected as Chair of the CSAC Housing, Land Use and Transportation policy committee, not Supervisor Phil Serna, as indicated in the minutes.

3. Welcoming Remarks

Supervisor Don Knabe thanked the Executive Committee members for coming to Long Beach and encouraged them to come back in July for the National Association of Counties annual conference.

4. Approval of IRS Form 990

Staff reported that CSAC is required to file a Form 990 with the IRS annually to ensure continued status as a tax-exempt entity. Once the form is completed, it is reviewed and approved by the Executive Committee before being filed with the IRS. It was noted that the sale of the Ransohoff building in November 2014 resulted in an adjustment to the tax basis that will likely eliminate CSAC's tax liability for a number of years. In addition to the tax components of the Form 990, CSAC is required to list the number of hours the Board of Directors, Executive Committee and Officers devote to the organization. The following hours were reported for the 2015 tax year: President – 8 hours; Officers – 8 hours; Executive Committee – 1.5 hours; Board members - .5 hours.

Motion and second to approve IRS Form 990. Motion carried unanimously.

5. Proposed CSAC & Litigation Program Budget for FY 2016-17

Supervisor Judy Morris, CSAC Treasurer, outlined the draft CSAC budget for FY 2016-17, as contained in the briefing materials. She noted the following highlights: no dues increase; Finance Corporation contribution will be \$3.5 million; Corporate Associates revenue increased by 20%; and continuation of the CSAC Institute satellite programs. It was noted that CSAC has implemented an Operating Reserve Policy and a Procurement Policy to strengthen fiscal operations over the past year. In addition, CSAC will be paying off its building mortgage this year.

Motion and second to approve the CSAC and Litigation Budget as presented and recommend adoption by the Board of Directors. Motion carried unanimously.

6. Approval of Broadband Platform Language

Staff presented draft CSAC Platform language related to Broadband policy for consideration by the Executive Committee. In the fall of 2015, CSAC began developing language to guide advocacy efforts following increased state and federal legislative actions related to broadband, or high speed internet. The draft language was brought to the CSAC Government Finance and Administration policy committee for review and amendments. The policy committee recommends approval of the language, as contained in the briefing materials.

Staff was directed to continue to work with other stakeholders such as Emerging Technology Fund to advance this cause. It was noted that CSAC is currently supporting AB 1758, related to increasing broadband to underserved communities.

Motion and second to approve the draft broadband policy language to include in the CSAC Platform, Chapter Five. Motion carried unanimously.

7. Reappointment of CSAC Finance Corporation Board Members

Supervisor Seifert, CSAC Finance Corporation President, requested reappointment of the current CSAC Finance Corporation Board members whose terms expire in April 2016. They are: Supervisor Greg Cox, Steve Juarez, and Jim Erb.

Motion and second to reappoint Greg Cox, Steve Juarez and Jim Erb to the CSAC Finance Corporation Board of Directors. Motion carried unanimously.

8. CSAC Finance Corporation Report

Supervisor Seifert reported that the CSAC Finance Corporation will hold its annual meeting at the end of April. Some issues to be discussed are changes to the bylaws dealing with ex officio members, and nominees for the treasurer/tax collector Board position which is currently vacant. In addition, the Finance Corporation Board recently authorized the development of a new program in conjunction with the State Controller's Office to locate and apply for the collection of unclaimed property on behalf of property owners, including county and city government. In order for a county to participate, they must first adopt a resolution and agreement. Drafts of both of these documents were contained in the briefing materials. It was announced that HB Capitol, the program managers for the US Communities program, is currently in the process of dis-incorporating. CSAC is one of the program sponsors, along with the League of California Cities, NACo and the National League of Cities. Staff indicated that NACo is working closely with HB Capitol during this process and there may be financial opportunities for the program sponsors, depending on the outcome of the legal proceedings. CSAC will provide updates to the Executive Committee when available.

9. Greg Cox for NACo 2<sup>nd</sup> Vice President Report

Supervisor Cox provided an update on his campaign for 2<sup>nd</sup> Vice President of the National Association of Counties (NACo). There are two other candidates – Liz Archuleta from Arizona and Robert Steele from Illinois. Supervisor Cox has been contacting supervisors in other states to garner support and asked that any Executive Committee members who have relationships with supervisors outside of California do the same. CSAC is working on arrangements for a campaign booth and reception at the

NACo Western Interstate Region (WIR) conference taking place at the end of May. The election will take place in July at the NACo annual conference in Long Beach. All counties are encouraged to register for the conference in order for their vote to count.

#### 10. CSAC Legislative & Ballot Initiatives Update

Staff reported that the 4400 bills were introduced this legislative session. There were a number of bills dealing with transportation funding. The Governor is supportive of increased transportation funding, but the Legislature has not been. Staff was directed to send a sample resolution regarding support for transportation funding to Executive Committee members.

The Governor recently signed SB 3, which incrementally increases the statewide minimum wage to \$15 per hour by 2022 and provides IHSS workers with three days of paid sick leave per year. While the increase will have an impact on collective bargaining negotiations with county employees, the minimum wage provisions in SB 3 do not apply to counties because of the home rule provisions for compensation for all counties.

Staff reported that eight initiatives have qualified for the November ballot, but only one is of interest to counties. The CSAC officers referred to the Government Finance & Administration committee for consideration. Any initiatives that qualify and the officers deem are of concern to counties will go before the Executive Committee in August.

Last year, CSAC, the League of California Cities, and the Association of California Water Agencies (ACWA) filed a proposed Constitutional amendment with the Attorney General (AG) titled "The California Water Conservation, Flood Control and Stormwater Management Act of 2016." The measure would have amended Article X of the California Constitution to create a new, optional funding method that local agencies could use to fund local stormwater services and flood control projects, and establish conservation-based water rates or lifeline rates to assist low-income customers. The Title and Summary issued by the AG was deemed detrimental due to the first sentence which describes the alternative procedure as one that allows local governments to impose fees "without voter approval." Follow-up polling was conducted and the results showed that the Title and Summary failed to get majority support. Given the polling consultants conclusion that passing the current measure would be exceedingly difficult, the coalition will not be moving forward with this proposal in 2016.

#### 11. CSAC Operations and Member Services Update

Staff provided an update on CSAC operations and member services. April is National County Government month and CSAC is using this opportunity to spotlight county best practices with a series of 12 videos and accompanying blogs featuring the 2015 Challenge Award winning programs. The Call for Entries for the 2016 Challenge Awards is opening in April. The 2016 Corporate Partner Guide has been sent to all counties and was distributed to Executive Committee members. CSAC is considering moving the location of the 2017 annual conference from Sacramento to Napa County. The Executive Committee was supportive of this idea.

Meeting adjourned.

## **Pacific Gas & Electric Company**

Pacific Gas and Electric Company, incorporated in California in 1905, is one of the largest combination natural gas and electric utilities in the United States. Based in San Francisco, the company is a subsidiary of PG&E Corporation. There are approximately 20,000 employees who carry out Pacific Gas and Electric Company's primary business—the transmission and delivery of energy.

### Contact:

Joe Wilson, Local Government Relations

(530) 896-4289

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[www.pge.com](http://www.pge.com)





CALIFORNIA STATE ASSOCIATION OF COUNTIES  
**FINANCE CORPORATION**

August 4, 2016

**To:** CSAC Executive Committee

**From:** Linda Seifert, Board President  
Alan Fernandes, Executive Vice President

**RE: CSAC Finance Corporation Update**

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At our April meeting, the CSAC Finance Corporation Board of Directors approved up to an additional \$300,000 contribution to CSAC for Fiscal Year 15-16 pending availability of excess revenue at year-end. CSAC Finance Corporation revenues were healthy for FY 15-16 and we were pleased to be able to provide the full **\$300,000 extra contribution to CSAC.**

A large part of the increase in net revenue for FY 15-16 was attributable to the success of the California Statewide Communities Development Authority (CSCDA). It was an incredibly successful year on a number of fronts and we're pleased to share the below summary of CSCDA's public benefit activities for the year ending June 30, 2016:

- Total Bonds Issued – **\$2,813,040,251 (Up 21%)**
- Nonprofit Healthcare Bonds Issued – **\$1,573,175,000 (Up 23%)**
- Affordable Housing Bonds Issued – **\$676,698,947 (Up 92%)**
- New Affordable Housing Bonds Originated and Induced – **\$1,465,500,000 (Up 256%)**
  - 49 projects induced creating or preserving more than 7,200 new affordable units
- Infrastructure Bonds Issued – **\$86,130,000 (Up 70%)**
- Property Assessed Clean Energy (PACE) Bonds Issued – **\$147,750,192 (Up 540%)**

Summaries of various closed transactions can be found at <http://cscda.org/Resources/News/>



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August 4, 2016

**To:** Members, CSAC Executive Committee

**From:** DeAnn Baker, Deputy Executive Director of Legislative Affairs  
Dorothy Holzem, Legislative Representative  
Betsy Hammer, Legislative Analyst

**Re:** **2016 Ballot Measure: Proposition 53. Revenue Bonds. Statewide Voter Approval – ACTION ITEM**

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**Recommendation:** The Government Finance and Administration Committee recommends the Executive Committee take an “oppose” position on Proposition 53 and forward that recommendation to the Board of Directors.

**Background:** In sum, Proposition 53 requires statewide voter approval for the state to issue revenue bonds exceeding \$2 billion dollars for any single project. The proponent’s intent is to bring greater accountability and transparency to state financed infrastructure projects through mandatory voter-approved action.

Unlike general obligation bonds, revenue bonds are not currently subject to voter approval requirements. They can be passed by a majority of the Legislature with an identified and designated revenue source that will be used to repay investors. The voter approved distinction is based on the fact that revenue bonds do not put the state General Fund at risk, unlike general obligation bonds. Recently, revenue bonds have been used to finance capital improvement projects for the University of California, California Department of Corrections and Rehabilitation, and the State Water Project. The California Earthquake Authority issues revenue bonds backed by insurance premiums to pay claims.

The \$2 billion dollar threshold would be adjusted annually to reflect inflation, as determined by the Consumer Price Index. Voter approval must be achieved at a “statewide election” which could be interpreted to mean the vote could be held during a primary, general or even special election.

**Attorney General’s Summary:** Requires statewide voter approval before any revenue bonds can be issued or sold by the state for projects that are financed, owned, operated, or managed by the state or any joint agency created by or including the state, if the bond amount exceeds \$2 billion. Prohibits dividing projects into multiple separate projects to avoid statewide voter approval requirement.

**Fiscal Impact:** The Legislative Analyst’s Office offers that the fiscal effect on state and local governments is unknown and would vary by project. It would depend on (1) the outcome of projects brought before voters, (2) the extent to which the state relied on alternative approaches to the projects or alternative financing methods for affected projects, and (3) whether those methods have higher or lower costs than revenue bonds. The State Treasurer’s Office concurs that fiscal impacts are hard to determine due to

undefined terms in the proposition's language and unknown outcomes from voter approved or rejected bond proposals.

**Staff Comments:**

*Impact on Projects Statewide, State and Local:* Proposition 53's definition of impacted projects is limited to the state only, or when the state is a party to the project. It defines the state as expressly not including counties, amongst other local government entities. However, there are two likely scenarios where this proposition could impact counties. First, if counties enter into a JPA with the state, or are part of a state-created JPA, then those projects would be subject to the revenue bond voter approval requirements. The Bay Area Toll Authority and the Orange County Transportation Corridor Agencies are two current JPA's with a state and local partnership. JPAs formed by legislative special acts would also be subject to Proposition 53 requirements and restrictions.

*Local Control Threat.* The second possible impact to counties is less explicit but speaks directly to the issue of local control. Revenue bonds are repaid by "users" of a project who benefit. For example toll roads, toll bridges, parking fees are paid by users and not taxpayers statewide. Requiring statewide voter approval on local or regional projects ultimately paid for by users within a local region is not consistent with local control policies.

*Definitions Unclear.* Other concerns that may or may not impact counties include the lack of definition for terms including "revenue bond" and "project". The proposition also offers that multiple projects are considered to be the same single project if they: 1) are physically or geographically proximate to each other or 2) cannot complete its purpose or function without the completion of another allegedly separate project. This could expand the number of projects potentially subject to the voter-approval requirements and make the \$2 billion dollar trigger threshold much easier to meet or exceed.

**Staff Contacts:**

Dorothy Holzem can be reached at (916) 327-7500 Ext. 515 or [dholzem@counties.org](mailto:dholzem@counties.org). Betsy Hamer can be reached at (916) 327-7500 Ext. 531 or [bhammer@counties.org](mailto:bhammer@counties.org).

**Attachments:**

- 1) Full text of Proposition 53
- 2) Fiscal Analysis by Legislative Analyst Office and California Department of Finance
- 3) Background Paper: Joint Legislative Hearing of the Senate Committee on Governance & Finance and Assembly Committee on Appropriations

January 7, 2015

**RECEIVED**  
JAN 07 2015

INITIATIVE COORDINATOR  
ATTORNEY GENERAL'S OFFICE

VIA PERSONAL DELIVERY

The Honorable Kamala D. Harris  
Attorney General  
1300 I Street, 17th Floor, P.O. Box 944255  
Sacramento, CA 95814

Attention: Ashley Johansson, Initiative Coordinator

Re: Request for Title and Summary for Proposed Initiative Constitutional  
Amendment

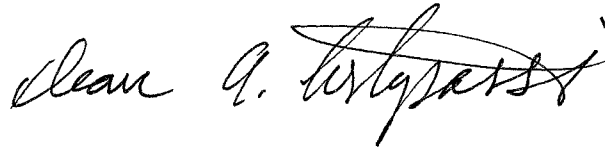
Dear Ms. Harris:

Pursuant to Article II, Section 10(d) of the California Constitution, I hereby submit the attached proposed Initiative Constitutional Amendment, entitled the "No Blank Checks Initiative," to your office and request that you prepare a title and summary of the measure as provided by law. Included with this submission is the required proponent affidavit signed by the proponent of this measure pursuant to Section 9608 of the California Elections Code. My address as a registered voter is attached to this letter, along with a check for \$200.00.

All inquires or correspondence relative to this initiative should be directed to Nielsen, Merksamer, Parrinello, Gross & Leoni, LLP, 1415 L Street, Suite 1200, Sacramento, CA 95814, (916) 446-6752, Attention: Kurt Oneto (telephone: 916/446-6752).

Thank you for your assistance.

Sincerely,

A handwritten signature in black ink, reading "Dean A. Cortopassi". The signature is written in a cursive style with a large, sweeping flourish over the last name.

Dean Cortopassi, Proponent

Enclosure: Proposed Initiative Constitutional Amendment

***Section 1. Title.***

This Act shall be known and may be cited as the No Blank Checks Initiative.

***Section 2. Findings and Declarations.***

The People of the State of California find and declare as follows:

(a) The politicians in Sacramento have mortgaged our future with long-term bond debt obligations that will take taxpayers, our children, and future generations decades to pay off.

(b) Under current rules, the sale of state bonds only needs to be approved by voters if they will be repaid out of the state's general revenues. But state politicians can sell billions of dollars of additional bond debt without ever getting the voters' approval if the bonds will be repaid with specific revenue streams or charges imposed directly on Californians like taxes, fees, rates, tolls, or rents. The politicians should not be allowed to issue blank checks Californians have to pay for. Voters must provide prior approval for all major state bond sale decisions, because voters are the ones who ultimately pay the bill.

(c) According to a 2014 report from California's independent, nonpartisan Legislative Analyst's Office, the State of California is carrying \$340 billion in public debt. (*Legislative Analyst's Office*, "Addressing California's Key Liabilities," Mar. 7, 2014.) Interest and principal payments on our long-term debt obligations will cripple the state if we keep spending the way we do now—reducing cash available for public safety, schools, and other vital state programs.

(d) Moreover, voters are rarely told the true costs of bond-funded projects. We were originally told that the bullet train would cost \$9 billion. But now the estimated cost has ballooned to nearly \$70 billion. (*Los Angeles Times*, "The Hazy Future of California's Bullet Train," Jan. 14, 2014.)

(e) This measure puts the brakes on our state's public debt crisis by giving the voters a say in all major state bond debt proposals that must be repaid through specific revenue streams or charges imposed directly on Californians like taxes, fees, rates, tolls, or rents.

***Section 3. Statement of Purpose.***

The purpose of this measure is to bring the state's public debt crisis under control by giving the voters a say in all major state bond-funded projects that will be paid off through specific revenues streams or higher taxes, fees, rates, tolls, or rents collected from Californians, their children, and future generations.

***Section 4. Section 1.6 is added to Article XVI of the California Constitution, to read:***

Section 1.6. (a) Notwithstanding any other provision of law, all revenue bonds issued or sold by the State in an amount either singly or in the aggregate over two billion dollars (\$2,000,000,000) for any single project financed, owned, operated, or managed by the State must first be approved by the voters at a statewide election. "State" means the State of California, any agency or department thereof, and any joint powers agency or similar body created by the State or in which the State is a member. "State" as used herein does not include a city, county, city and county, school district, community college district, or special district. For purposes of this section, "special district" refers only to public entities formed for the performance of local governmental functions within limited boundaries.

(b) A single project for which state revenue bonds are issued or sold in an amount over two billion dollars (\$2,000,000,000) may not be divided into, or deemed to be, multiple separate projects in order to avoid the voter approval requirements contained in this section. For purposes of this section, multiple allegedly separate projects shall be deemed to constitute a single project including, but not limited to, in the following circumstances: (1) where the allegedly separate projects will be physically or geographically proximate to each other; or (2) where the allegedly separate projects will be physically joined or connected to each other; or (3) where one allegedly separate project cannot accomplish its stated purpose without the completion of another allegedly separate project.

(c) The two billion dollar (\$2,000,000,000) threshold contained in this section shall be adjusted annually to reflect any increase or decrease in inflation as measured by the Consumer Price Index for All Urban Consumers (CPI-U) published by the United States Bureau of Labor Statistics. The Treasurer's Office shall calculate and publish the adjustments required by this subdivision.

***Section 5. Liberal Construction.***

This act shall be liberally construed in order to effectuate its purposes.

***Section 6. Conflicting Measures.***

(a) In the event that this measure and another measure or measures relating to voter approval requirements for state bonds shall appear on the same statewide election ballot, the other measure or measures shall be deemed to be in conflict with this measure. In the event that this measure receives a greater number of affirmative votes, the provisions of this measure shall prevail in their entirety, and the provisions of the other measure or measures shall be null and void.

(b) If this measure is approved by the voters but superseded in whole or in part by any other conflicting initiative approved by the voters at the same election, and such conflicting initiative is later held invalid, this measure shall be self-executing and given full force and effect.

***Section 7. Severability.***

The provisions of this Act are severable. If any portion, section, subdivision, paragraph, clause, sentence, phrase, word, or application of this Act is for any reason held to be invalid by a decision of any court of competent jurisdiction, that decision shall not affect the validity of the remaining portions of this Act. The People of the State of California hereby declare that they would have adopted this Act and each and every portion, section, subdivision, paragraph, clause, sentence, phrase, word, and application not declared invalid or unconstitutional without regard to whether any portion of this Act or application thereof would be subsequently declared invalid.

***Section 8. Legal Defense.***

If this Act is approved by the voters of the State of California and thereafter subjected to a legal challenge alleging a violation of federal law, and both the Governor and Attorney General refuse to defend this Act, then the following actions shall be taken:

(a) Notwithstanding anything to the contrary contained in Chapter 6 of Part 2 of Division 3 of Title 2 of the Government Code or any other law, the Attorney General shall appoint



independent counsel to faithfully and vigorously defend this Act on behalf of the State of California.

(b) Before appointing or thereafter substituting independent counsel, the Attorney General shall exercise due diligence in determining the qualifications of independent counsel and shall obtain written affirmation from independent counsel that independent counsel will faithfully and vigorously defend this Act. The written affirmation shall be made publicly available upon request.

(c) A continuous appropriation is hereby made from the General Fund to the Controller, without regard to fiscal years, in an amount necessary to cover the costs of retaining independent counsel to faithfully and vigorously defend this Act on behalf of the State of California.

# LAO

February 26, 2015

Hon. Kamala D. Harris  
Attorney General  
1300 I Street, 17<sup>th</sup> Floor  
Sacramento, California 95814

RECEIVED

FEB 26 2015

INITIATIVE COORDINATOR  
ATTORNEY GENERAL'S OFFICE

Attention: Ms. Ashley Johansson  
Initiative Coordinator

Dear Attorney General Harris:

Pursuant to Elections Code Section 9005, we have reviewed the proposed constitutional initiative regarding voter approval of certain revenue bonds (A.G. File No. 15-0003).

## Background

***Bonds Are One Source of Funding for Government Projects.*** Bonds are a way the state and local governments borrow money. Governments sell bonds to investors to provide “up-front” funding for projects (such as infrastructure projects) and then commit to repay the investors, with interest, over a period of time. Governments use bonds to fund projects for a variety of reasons. For instance, bonds are sometimes used to help pay for costly projects that may be difficult to pay for all at once. Bonds spread the costs of projects over time, which may make sense when projects provide services over many years. In addition to bonds, governments in California often use a variety of other funding sources (such as grants, taxes, and fees) to help pay for projects.

***Voters Must Approve Some Types of Bonds.*** General obligation bonds and revenue bonds are two types of bonds issued by state and local governments in California. State general obligation bonds are guaranteed by the state government’s full faith and credit and are generally repaid using the state’s general tax revenues. Local general obligation bonds are typically funded by increased property taxes. The California Constitution requires voter approval of state and local general obligation bonds.

Unlike general obligation bonds, revenue bonds are not guaranteed directly by state or local government taxing powers. Instead, revenue bonds are repaid using designated funding streams generally associated with the projects they finance. For example, funding generated by fees or other charges paid by users of a project (such as bridge tolls) are used to repay the project’s revenue bonds. In addition, in some cases, governments pay for a type of revenue bond called a “lease revenue bond,” often through a lease or rent paid from a government’s general tax or special fund revenues. Unlike general obligation bonds, revenue bonds do not require voter approval under existing state law. Some examples of projects that are often funded by revenue bonds include public office buildings, bridges, and water treatment facilities.

Legislative Analyst’s Office  
California Legislature  
Mac Taylor • Legislative Analyst  
925 L Street, Suite 1000 • Sacramento CA 95814  
(916) 445-4656 • FAX 324-4281

## Proposal

***Requires Voter Approval for Certain Revenue Bonds.*** The measure requires statewide voter approval for revenue bonds for projects that meet all of the following conditions:

- The total amount of revenue bonds sold for the project exceeds \$2 billion. The measure specifies that the \$2 billion threshold be adjusted annually based on the Consumer Price Index.
- The project funded by the revenue bonds would be funded, owned, operated, or managed by the state, including any joint powers agency or similar body created by the state or in which the state is a member.

## Fiscal Effects

The fiscal effects of this measure on state and local governments are subject to substantial uncertainty. In particular, it is unclear (1) how certain provisions of the measure would be interpreted by government agencies and the courts, which could affect the number of projects subject to the measure's voter requirements; and (2) how affected governments would respond to the measure and election outcomes. As a result, there is substantial uncertainty regarding the fiscal impacts of the measure on state and local governments. Specifically, it is:

- ***Uncertain Which Projects Would Be Affected by Measure.*** The measure does not provide a definition for a project. For example, a project could be limited to what is built on a given site at a specific time (such as an individual medical building) or could include larger systems of improvements constructed over time (such as a medical center with multiple buildings). A broader definition of a project would result in more instances in which the \$2 billion threshold is reached, thus triggering the measure's voting requirements. Accordingly, there is uncertainty regarding which projects government agencies and the courts would determine are subject to the requirements of this measure.
- ***Uncertain How Affected Entities Would Respond to Measure.*** Governments could vary in how they respond to the requirements of the measure, as well as the results of future elections. For example, the voter requirement might discourage certain project proponents from pursuing projects due to the additional costs and uncertainty associated with the voter approval process. The measure could also result in some projects being funded through other financing methods rather than revenue bonds. For example, the state might rely more heavily on up-front spending or might turn to partnerships with the private sector to provide financing (often referred to as "public-private partnerships").

***Impact on Projects.*** The fiscal impacts to state and local governments associated with the measure are unknown and would vary by project. In any case, there would likely be relatively few projects large enough to come under the measure's requirement of voter approval. To the extent that voters did not approve these projects, there would be a reduction in the issuance of revenue bonds for large infrastructure projects, which would reduce costs to those individuals whose fees or other charges are dedicated to paying off the bond. However, if these projects

could no longer be completed, the state would likely have to take other actions to meet the concerns the projects were intended to address:

- To the extent the state used non-infrastructure approaches (such as demand management or incentive payments), the impact on fees and charges paid by individuals for their services could be less than or greater than under a revenue-bond financed project.
- To the extent that the measure results in some projects being funded through other financing methods rather than revenue bonds, there could be various fiscal effects. For example, some projects might rely more heavily on general obligation bonds or up-front spending, which could result in some project savings over the course of the repayment period (due to lower interest costs). However, up-front spending—in the shorter term—could result in reduced spending in other areas of the budget or pressure for increased revenues (such as taxes or user fees). Alternatively, the use of public-private partnerships could be more expensive for the state than traditional revenue bonds, in part because bonds issued by private entities usually do not qualify for the same tax preferences as state revenue bonds.


**Administrative Costs.** State and local governments would also incur some administrative costs related to placing certain revenue bonds on the ballot. These costs would be relatively minor.

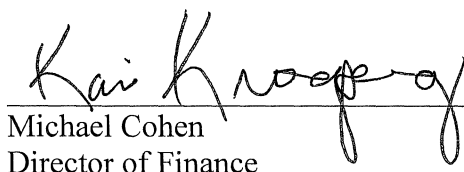
**Summary of Fiscal Effects.** This measure would have the following major fiscal effect:

- The fiscal effect on state and local governments is unknown and would vary by project. It would depend on (1) the outcome of projects brought before voters, (2) the extent to which the state relied on alternative approaches to the projects or alternative financing methods for affected projects, and (3) whether those methods have higher or lower costs than revenue bonds.

Sincerely,



  
Mac Taylor  
Legislative Analyst

  
Michael Cohen  
Director of Finance

**JOINT LEGISLATIVE HEARING**  
**SENATE COMMITTEE ON GOVERNANCE & FINANCE**  
**ASSEMBLY COMMITTEE ON APPROPRIATIONS**

**March 2, 2016**

*Committee Background*

This background paper prepares the members of the Assembly Appropriations Committee and the Senate Governance and Finance Committee for the March 2, 2016, hearing on Initiative No. 15-0003, titled by its proponents as “The No Blank Checks Initiative.” The measure proposes to amend the California Constitution to require voter approval for the state to issue revenue bonds to finance certain projects. This paper:

- Provides background regarding the state’s issuance of bonds, specifically revenue bonds.
- Summarizes the pending initiative.
- Includes arguments from the initiative proponent and opponents.

*New Initiative Review Process*

The committees are hearing the initiative to satisfy the new requirements of Elections Code 9034, as amended by SB 1253 (Steinberg, 2014):

- Proponents of a proposed initiative who have gathered 25% of required signatures must certify under penalty of perjury to the Secretary of State they have done so.
- The Secretary of State then transmits the certification, along with the Attorney General’s title and summary, to the Senate and the Assembly.
- The two houses then refer the measure to appropriate policy committees for joint hearings, to be held not later than 131 days before the election at which voters will consider the measure -- June 30<sup>th</sup> this year.
- The Legislature can neither amend the initiative, nor prevent it from appearing on the ballot.
- Secretary of State Alex Padilla determined on November 2, 2015 that Initiative No. 15-0003 has received sufficient signatures to be eligible for the November 2016 ballot.

- Should proponents not withdraw the measure before June 30<sup>th</sup>, the measure officially qualifies for the November ballot on July 1<sup>st</sup>.

### *Types of California Bonds*

**Bonds Generally.** When public agencies issue bonds, they essentially borrow money from investors. Investors provide cash in exchange for an agency's commitment to repay the bond, plus interest. Bonds are usually either revenue bonds or general obligation bonds.

- Revenue bonds repay investors out of revenue generated from the project the agency builds with bond proceeds, such as fees and charges for a utility service (water, sewer, or electricity), parking garage revenues or bridge tolls.
- General obligation bonds, usually designated as supported by the issuing agency's full faith and credit, are repaid with the state's general revenues, or in the case of local agencies, from a dedicated tax above the Proposition 13 limit.
- Revenue bonds are explicitly **not** guaranteed by the issuing agency's full faith and credit; bondholders can only be repaid out of revenues pledged for the purpose.

**Approval Process for Bonds.** Because revenue bonds and general obligation bonds are distinct, the process for authorizing and approving each is different.

- Section One of Article XVI of the California Constitution requires a two-thirds vote of the Assembly and Senate and majority voter approval to issue state **general obligation bonds**, as was recently done with the Water Quality, Supply, and Infrastructure Improvement Act of 2014 (AB 1471, Rendon).
  - Voters can also place general obligation bonds on the ballot by initiative, as they have in recent years for children's hospitals, water projects, and stem cell research, among others.
  - Either way, general obligation bonds issued by the state must be ratified by majority vote of the state's electorate, which differs from local general obligation bonds. (Local general obligation bonds require approval of two-thirds of voters residing within the local agency's boundaries, except for school districts, which require only 55% voter approval.)
- Alternatively, to issue state **revenue bonds**, the Legislature enacts a bill authorizing the issuance of the bonds, and pledges the specific revenues necessary to repay investors. Revenue bonds issued by the state are **not** subject to the Constitution's voter approval requirements that apply to general obligation bonds.

**Revenue Bonds.** In recent years, revenue bonds have been a valuable tool for the state to finance capital improvements, such as the State Water Project, improvements at the University of California and California State University, California Department of Corrections and Rehabilitation facilities, and state office buildings, among others. Additionally:

- California issued Power Supply Revenue Bonds to finance the Department of Water Resources' purchase of electricity on behalf of utility customers as a result of the energy crisis.
- The California Infrastructure and Economic Development Bank, housed in the Governor's Office of Business and Economic Development, can issue conduit bonds on behalf of non-profit organizations and certain types of private companies. Financing authorities in the Treasurer's Office, including the California Pollution Control Financing Authority, California Educational Facilities Authority, California School Finance Authority, and the California Health Facilities Financing Authority, issue similar bonds.
- The California Earthquake Authority issues revenue bonds backed by insurance premiums to pay claims.

Currently, the Constitution does not require voter approval to issue revenue bonds, or refund or refinance existing ones.

The state repays each revenue bond from the distinct source of funds authorized by the Legislature, which vary according to the purpose of that bond issue.

- For State Public Works Board lease revenue bonds, state agencies lease facilities from the Board, and the Legislature appropriates funds to state agencies to pay the leases. These bonds are not general obligations because the Legislature is not obligated to pay the lease rentals if the building is not available for use and occupancy.
- State Water Project bonds are repaid out of water delivery charges to 29 contractors.
- Ratepayers within the service territories of the state's three investor-owned utilities and other electricity users pay a charge on their electricity bills imposed by the California Public Utilities Commission to repay the Power Supply Revenue Bonds.

Under no circumstance is the State's General Fund at risk for repaying these bonds if the pledged revenue source turns out to be insufficient.

### ***Proposed Initiative***

On March 13, 2015, Attorney General Kamala Harris prepared the title and summary for Initiative No. 15-0003, as follows:

REVENUE BONDS. STATEWIDE VOTER APPROVAL. INITIATIVE  
CONSTITUTIONAL AMENDMENT.

Requires statewide voter approval before any revenue bonds can be issued or sold by the state for projects that are financed, owned, operated, or managed by the state or any joint agency created by or including the state, if the bond amount exceeds \$2 billion. Prohibits dividing projects into multiple separate projects to avoid statewide voter approval requirement.

Included with the title and summary is an estimate of the fiscal impact on state and local government prepared by the Legislative Analyst's Office (LAO) and the Director of Finance (DOF):

The fiscal effect on state and local governments is unknown and would vary by project. It would depend on (1) the outcome of projects brought before voters, (2) the extent to which the state relied on alternative approaches to the projects or alternative financing methods for affected projects, and (3) whether those methods have higher or lower costs than revenue bonds.

**Voter approval requirements.** Specifically, the initiative, titled by the proponents as the “No Blank Checks Initiative,” adds Section 1.6 to Article XVI of the California Constitution. It would require majority voter approval before issuing or selling any state revenue bonds in an amount over two billion dollars for any single project financed, owned, operated, or managed by the state. The measure applies the two billion dollar threshold to bonds issued either singly or in aggregate, and applies notwithstanding any other law. The initiative also directs the Treasurer's Office to adjust the two billion dollar threshold annually for inflation.

While the measure does not define either “revenue bonds” or “single project,” the initiative precludes the state from avoiding its voter approval requirements by dividing or deeming a single project as multiple separate projects. The initiative states that “multiple allegedly separate projects shall be deemed to constitute a single project” under certain circumstances. The measure sets forth three examples of such projects which must be considered a single project for its purposes, *including, but not limited to*:

- Where the allegedly separate projects will be physically or geographically proximate to each other,
- Where the allegedly separate projects will be physically joined or connected with each other, or
- Where one allegedly separate project cannot accomplish its stated purpose without the completion of another allegedly separate project.



The measure also defines the term “state” to mean the State of California, any agency or department thereof, and any joint powers agency or similar body created by the State, or in which the state is a member. The measure excludes from the definition of “state” any city, county, city and county, school district, community college district, or “special district,” a term the initiative states refers only to public entities formed for the performance of local government functions within limited boundaries.

### **Other Provisions.**

- The initiative states that it should be liberally construed to effectuate its purposes.
- In the event that this initiative and any other measure or measures relating to voter approval requirements for state bonds appear on the same statewide election ballot, the measure deems the other measure or measures to be in conflict with this one. In such a case, if voters approve all the measures, this one becomes effective in its entirety if it receives more votes than the others, but if the others do, this one is nullified.
- Additionally, the initiative provides that in the event its provisions are superseded by another conflicting initiative, but the other initiative is subsequently held invalid, then this initiative is self-executing and given full force and effect.
- The measure also contains a severability clause, which in the event some part of it is held invalid for any reason, provides that the invalidity of one part does not affect any of its remaining provisions.
- In the event the voters approve the measure, but it is then subjected to a legal challenge in which the Governor and Attorney General refuse to provide a defense, then the Attorney General must:
  - Appoint independent counsel to faithfully and vigorously defend the initiative, and
  - Prior to appointing or substituting independent counsel, exercise due diligence in determining the qualification of independent counsel, including written affirmation from the independent counsel that he or she will faithfully and vigorously defend the act. This affirmation must be made available to the public upon request.
  - The initiative provides a continuous appropriation from the General Fund without regard to fiscal year in an amount necessary to cover the cost of independent counsel.
- The measure states that its purpose is to bring the state’s public debt crisis under control and contains various additional findings and declarations.

**Arguments from the Proponent.** According to the proponent, the initiative would require statewide voter approval for state revenue bond projects costing more than \$2 billion, but exempts cities, counties, special districts, school districts and community college districts. The proponent also asserts that the University of California is exempted under Article IX, § 9 of the California Constitution although this is not specified in the initiative.

The proponent believes that voters should have a say in the state's largest, most consequential revenue bond projects, asserting that they, and future generations, will be expected to pay for the bonds over many years to come. He asserts that the measure does not veto or stop any revenue bond project, but rather simply puts the bonds up for a vote of the people, just as general obligation bonds are already required to do. The proponent also argues that the initiative closes a loophole that allows state agencies to issue massive new debt for multi-billion dollar projects, without giving Californians the right to vote.

In summary, the proponent asserts that his measure will protect the right to vote on major bond debt, close a loophole that allows massive new debt to be issued without a vote, hold politicians accountable, give voters a say in new state debt, and ensure that voters understand the full cost of future projects.

The proponent argues that California is saddled with historic levels of debt that puts the state's long-term fiscal health in danger. Citing LAO, the proponent believes that California's outstanding liabilities, totaling over \$330 billion<sup>1</sup>, are unsustainable. Further he states that California has the third worst credit rating of any state in the nation and that, as a share of personal income, population, and gross domestic product, California's debt load is the third worst among the ten largest states<sup>2</sup>. He believes that new major bond debt affects all Californians and they deserve the right to vote on these bonds.

The proponent cites projects under discussion in Sacramento, indicating costs estimated at nearly \$100 billion, and believes that voters should have an opportunity to stop such spending. He believes that the pending projects have been structured to avoid "the public review and accountability that comes with getting voter approval," and characterizes this as "a loophole that will allow them to borrow billions in new revenue bond debt without giving voters a voice."

**Arguments from Opponents.** According to opponents, the measure would delay or stop much needed repairs to roads, bridges, water supply and delivery systems, hospitals and universities all over the state, at a time when there is a significant infrastructure backlog. Opponents also believe that the measure is deceptive and assert that the proponent's real goal is to try to disrupt one specific project – the California Water Fix, but will have far more sweeping consequences.

---

<sup>1</sup> Legislative Analyst's Office, "Addressing California's Key Liabilities," Mar. 7, 2014.

<sup>2</sup> John Chiang, California State Treasurer, "California Debt Affordability Report," Oct. 2015.

Opponents argue that the initiative is misleading in that private investors bear the financial risk for revenue bonds, not the state or its general fund, with revenue bonds repaid by users of a project who directly benefit, not taxpayers. For instance, repairs to a bridge would be paid by tolls on the bridge, not taxpayers. Opponents believe that it does not make sense to have a statewide election on projects not financed by taxpayers for which the state and local governments bear none of the financial risk.

Additionally, opponents assert that the measure erodes local control. Under this measure, cities and towns that want to come together with the state and form a JPA to issue revenue bonds to upgrade local water systems, roads, bridges, ports and energy systems would have to put their project on a statewide ballot, which to opponents means that voters in faraway regions would be empowered to deny funding for local projects outside of their community. Opponents cite as two examples the Bay Area Toll Authority and the Orange County Transportation Corridor Agencies, two local JPAs formed in partnership with the state to finance local infrastructure. They also believe that numerous other JPAs have been created by special statewide legislation and would be covered by the initiative.

Finally, opponents express concern that the measure would create “vast uncertainty, lawsuits and red tape” that could delay or stop a large number of infrastructure projects because the initiative fails to define the key term “project.” The opponents cite a part of the LAO/DOF fiscal analysis:

*“The measure does not provide a definition for a project. For example, a project could be limited to what is built on a given site at a specific time (such as an individual medical building) or could include larger systems of improvements constructed over time (such as a medical center with multiple buildings). A broader definition of a project would result in more instances in which the \$2 billion threshold is reached, thus triggering the measure’s voting requirements. Accordingly, there is uncertainty regarding which projects government agencies and the courts would determine are subject to the requirements of this measure.”*

Opponents believe that the uncertainty of this provision makes it ripe for abuse and will be used by project opponents to call for statewide votes or to engage in litigation that could tie up projects or make projects far more expensive to finance.



August 4, 2016

1100 K Street  
Suite 101  
Sacramento  
California  
95814

Telephone  
916.327.7500

Facsimile  
916.441.5507

To: Members, CSAC Executive Committee

From: DeAnn Baker, Deputy Executive Director of Legislative Affairs  
Farrah McDaid Ting, CSAC Legislative Representative  
Elizabeth Marsolais, CSAC Legislative Analyst

RE: **Proposition 55. Tax Extension to Fund Education and Healthcare.  
Initiative Constitutional Amendment – ACTION ITEM**

---

**Recommendation.** The Health and Human Services Policy Committee recommends a SUPPORT position on Proposition 55 to the CSAC Executive Committee.

**Background.** The Tax Extension to Fund Education and Healthcare (Proposition 55) is commonly referred to as the “Proposition 30 tax extension.”

Proposition 55 extends the personal income tax on high-income earners from 2018 to 2030. Proposition 55 would affect roughly the 1.5% of taxpayers with the highest incomes. Please note that Proposition 55 would not extend the one-quarter cent temporary sales tax in Proposition 30, which helps fund 2011 realignment and expires at the end of 2016. However, the funding for 2011 Realignment is constitutionally guaranteed under Proposition 30, regardless of whether the ¼-cent sales tax expires or not.

Proposition 55 would provide ongoing revenue for K-12 schools and community colleges. Further, it creates a new state budget formula for supplemental Medi-Cal spending, some of which could be allocated to county public hospitals. Under Proposition 55, the Director of Finance would be required to determine whether General Fund revenues exceed constitutionally required spending on education and costs of government services that were in place as of January 1, 2016. The lesser of 50% of the resultant amount or \$2 billion would be allocated for state Medi-Cal services. Any remaining funds would be placed in the state’s General Fund.

**Attorney General’s Summary.** Extends by twelve years the temporary personal income tax increases enacted in 2012 on earnings over \$250,000 (for single filers; over \$500,000 for joint filers; over \$340,000 for heads of household). Allocates these tax revenues 89% to K-12 schools and 11% to California Community Colleges. Allocates up to \$2 billion per year in certain years for healthcare programs. Bars use of education revenues for administrative costs, but provides local school governing boards discretion to decide, in open meetings and subject to annual audit, how revenues are to be spent.

**Fiscal Impact.** The Legislative Analyst’s Office suggests that Proposition 55 will result in increased income tax revenues between \$4 billion and \$9 billion each year, depending on the state of the economy and stock market. Roughly half of the revenue raised by Proposition 55 will go towards increased funding for schools and community colleges. Proposition 55 will result in between \$0 and \$2 billion each year in increased

Medi-Cal funding, depending upon decisions and estimates from the Director of Finance.

**Staff Comments.** Proposition 55 does not affect 2011 Realignment revenues, and counties are supportive of additional funding for Medi-Cal and health care costs.

**Ballot Measure Review Process.** The CSAC Health and Human Services Policy Committee considered Proposition 55 at their July 18 meeting. Only a “Yes on 55” speaker was available at the time, as the opposition was still in the organizing stages.

The Committee unanimously voted to recommend a SUPPORT position to the Executive Committee.

Should the Executive Committee adopt a position, it will then be forwarded to the CSAC Board of Directors for action before the November 2016 statewide election. The California statewide General Election will be held on Tuesday, November 8, 2016.

If “No Position” is recommended by the Executive Committee, it will be forwarded to the Board of Directors as an informational item only.

**CSAC Staff Contacts:**

Farrah McDaid Ting, CSAC Legislative Representative: [fmcdaid@counties.org](mailto:fmcdaid@counties.org), (916) 650-8110

Elizabeth Marsolais, CSAC Legislative Analyst: [emarsolais@counties.org](mailto:emarsolais@counties.org), (916) 327-7500 Ext. 524

**Attachments:**

- 1) Full Text of Proposition 55.
- 2) Fiscal Analysis by Legislative Analyst’s Office and California Department of Finance. January 22, 2016.
- 3) LAO Handout on the Tax Extension to Fund Education and Healthcare. June 29, 2016.

**REMCHO, JOHANSEN & PURCELL, LLP**  
ATTORNEYS AT LAW

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Robin B. Johansen  
James C. Harrison  
Thomas A. Willis  
Karen Getman  
Margaret R. Prinzing  
Andrew Harris Werbrock  
Harry A. Berezin  
Juan Carlos Ibarra  
  
Joseph Remcho (1944-2003)  
Kathleen J. Purcell (Ret.)

January 11, 2016

**VIA MESSENGER**

Office of the Attorney General  
1300 "I" Street, 17th Floor  
Sacramento, CA 95814

Attention: Ashley Johansson, Initiative Coordinator

Re: *Submission of Amendment to Statewide Initiative Measure –  
The California Children's Education and Health Care Protection  
Act of 2016, No. 15-0115*

Dear Ms. Johansson:

As you know, I serve as counsel for the proponents of the proposed statewide initiative, "The California Children's Education and Health Care Protection Act of 2016." The proponents of the proposed initiative are Lance H. Olson, Thomas A. Willis, and Dario J. Frommer. On their behalf, I am enclosing the following documents:

- The amended text of "The California Children's Education and Health Care Protection Act of 2016";
- A red-line version showing the changes made in the amended text; and
- Signed authorizations from each of the proponents for the submission of the amended text together with their requests that the Attorney General's Office prepare a circulating title and summary using the amended text.

Please continue to direct all inquiries or correspondence relative to this proposed initiative to me at the address listed below:

**RECEIVED**

**JAN 11 2016**

INITIATIVE COORDINATOR  
ATTORNEY GENERAL'S OFFICE

Ashley Johansson  
Initiative Coordinator  
Office of the Attorney General  
January 11, 2016  
Page 2

Karen Getman  
Remcho, Johansen & Purcell, LLP  
201 Dolores Avenue  
San Leandro, CA 94577  
Phone: (510) 346-6200  
Fax: (510) 346-6201  
E-mail: kgetman@rjp.com

Sincerely,

A handwritten signature in black ink, appearing to read "Karen Getman". The signature is fluid and cursive, with the first name "Karen" written in a larger, more prominent script than the last name "Getman".

Karen Getman

KG:NL  
Enclosures  
(00264962)

January 11, 2016

**VIA MESSENGER**

Office of the Attorney General  
1300 "I" Street, 17th Floor  
Sacramento, CA 95814

Attention: Ashley Johansson, Initiative Coordinator

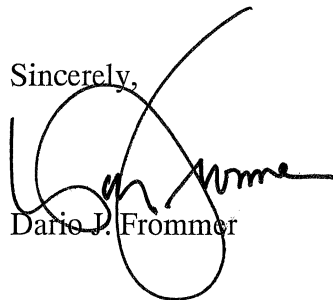
Re: *Submission of Amendment to The California Children's Education and Health Care Protection Act of 2016, No. 15-0115, and Request to Prepare Circulating Title and Summary*

Dear Ms. Johansson:

On December 3, 2015, I submitted a proposed statewide initiative titled "The California Children's Education and Health Care Protection Act of 2016" ("Initiative") and submitted a request that the Attorney General prepare a circulating title and summary pursuant to section 10(d) of Article II of the California Constitution.

Pursuant to Elections Code section 9002(b), I hereby submit timely amendments to the text of the Initiative. As one of the proponents of the Initiative, I approve the submission of the amended text to the Initiative and I declare that the amendment is reasonably germane to the theme, purpose, and subject of the Initiative. I request that the Attorney General prepare a circulating title and summary using the amended Initiative.

Sincerely,



Darío J. Frommer

Enclosures  
(00264957)



January 11, 2016

**VIA MESSENGER**

Office of the Attorney General  
1300 "I" Street, 17th Floor  
Sacramento, CA 95814

Attention: Ashley Johansson, Initiative Coordinator

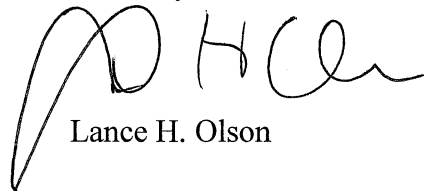
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Sincerely,

A handwritten signature in black ink, appearing to read "LH Olson", written over the typed name.

Lance H. Olson

Enclosures  
(00264956)

January 11, 2016

**VIA MESSENGER**

Office of the Attorney General  
1300 "I" Street, 17th Floor  
Sacramento, CA 95814

Attention: Ashley Johansson, Initiative Coordinator

Re: *Submission of Amendment to The California Children's Education and Health Care Protection Act of 2016, No. 15-0115, and Request to Prepare Circulating Title and Summary*

Dear Ms. Johansson:

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Pursuant to Elections Code section 9002(b), I hereby submit timely amendments to the text of the Initiative. As one of the proponents of the Initiative, I approve the submission of the amended text to the Initiative and I declare that the amendment is reasonably germane to the theme, purpose, and subject of the Initiative. I request that the Attorney General prepare a circulating title and summary using the amended Initiative.

Sincerely,



Thomas A. Willis

Enclosures  
(00264959)

**THE CALIFORNIA CHILDREN'S EDUCATION AND HEALTH CARE PROTECTION ACT OF 2016****SECTION 1. Title.**

This measure shall be known and may be cited as "The California Children's Education and Health Care Protection Act of 2016."

**SECTION 2. Findings.**

(a) During the recent recession, California cut more than \$56 billion from education, health care and other critical state and local services. These cuts resulted in thousands of teacher layoffs, increased school class sizes, higher college tuition fees, and reduced essential services. Temporary tax increases passed by California voters in 2012 helped to partially offset some of the lost funding, but those taxes will begin to expire at the end of 2016, leading to more deficits and more school cuts.

(b) Unless we act now to temporarily extend the current income tax rates on the wealthiest Californians, our public schools will soon face another devastating round of cuts due to lost revenue of billions of dollars a year. Public school funding was cut to the bone during the recession. Our schools and colleges are just starting to recover, and we should be trying to protect education funding instead of gutting it all over again. We can let the temporary sales tax increase expire to help working families, but this is not the time to be giving the wealthiest people in California a tax cut that they don't need and that our schools can't afford.

(c) California's future depends on the success of its 9 million children. Every California child deserves a fair chance to become a successful adult. But for children to succeed as adults, they must have access to high quality education and health care.

(d) For children, education and health care are essential and dependent on one another. Access to a quality education is fundamental to the success of California's children. Even with adequate schools, children cannot obtain an education if illness prevents them from attending. And children growing up in communities without adequate health care are more likely to contract illnesses or have chronic medical conditions that prevent them from regularly attending school.

(e) Underfunding of health care programs also harms California financially. Every new state dollar spent on health care for children and their families is automatically matched by federal funds. This means every year California loses out on billions of dollars in federal matching money that could be used to ensure children and their families have access to healthcare.

(f) Research also shows that early access to quality education and health care improves children's chances of succeeding in school and in life. California should do more to ensure that the state's children receive the education and health care they need to thrive and achieve their highest potential.

(g) California public schools, for example, are the most crowded in the nation. Class sizes are an astonishing 80 percent larger than the national average. The number of Californians training to be future teachers has dropped by 50 percent in the last five years as class sizes have soared.

(h) As well, the budgets of California's community colleges were slashed during the Great Recession, diminishing the ability of California children - especially those from low-income families - to receive career training and an affordable and necessary college education.

(i) California chronically underfunds health care. California ranks 48<sup>th</sup> out of the 50 states in health care spending, making it difficult for children and their families, seniors and the disabled to access health care. Underfunding health care for children leads to increased rates of serious illness, and higher long-term medical expenses. Improved reimbursement for health services helps ensure that children have access to doctors and hospitals. And once a hospital or doctor's office closes due to chronic underfunding, it closes for everyone in that community.

(j) The California Children's Education and Health Care Protection Act of 2016 temporarily extends the higher income tax rates on couples earning more than half a million dollars a year – those who can most afford it – to help all California children stay healthy, stay in good public schools, and have the opportunity for higher education.

(k) This measure does not increase taxes on anyone earning under \$250,000. It does not extend the temporary sales tax increases that voters previously approved in 2012.

(l) The income tax revenue is guaranteed in the California Constitution to go directly to local school districts and community colleges, and to help the State pay for healthcare expenses for low income children and their families. State funding is freed up to help balance the budget and prevent even more devastating cuts to services for seniors, low-income children, working families and small business owners. Everyone benefits.

(m) To ensure all these funds go only where the voters intend, they are put in a special fund that the Legislature cannot divert to other purposes. None of these revenues can be spent on state bureaucracy or administrative costs.

(n) These funds will be subject to an independent audit every year to ensure they are spent only for the purposes set forth in this measure. Elected officials will be subject to prosecution and criminal penalties if they misuse the funds.

(o) California has seen massive budget swings over the past 15 years, with deep deficits and devastating cuts after the Dot-Com bust and the Great Recession. Maintaining the state's rainy day fund will stabilize the budget, avoid the boom and bust cycles of the past, and protect our children, seniors, and disabled Californians from cuts in school and healthcare funding during future economic downturns.

**SECTION 3. Purpose and Intent.**

(a) The chief purpose and intent of the voters in enacting this measure is to avoid harmful cuts that would reduce the quality of education and instruction in California's local public schools, and to provide adequate funding for essential health care services for children and family members who are legal residents of California.

(b) This measure is intended to protect our children by temporarily extending current income tax rates on wealthy Californians, instead of awarding a huge tax break to couples earning more than half a million dollars a year, or individuals earning more than a quarter million. Instead of sending money back into the pockets of the wealthy, this measure sends the money to a special account that must be spent exclusively to ensure that every California child has access to a quality public education, and the quality health care necessary for them to stay in school and learn.

(c) This measure is intended to keep California on its current track of balanced budgets and reliable funding for schools, community colleges and health care, preventing a return to the days of chronic budget deficits and funding cuts.

(d) This measure guarantees in the Constitution that the revenues it raises for schools will be sent directly to school districts and community colleges for classroom expenses, not administrative costs. This school funding cannot be suspended or withheld no matter what happens with the state budget.

(e) This measure guarantees in the Constitution that the revenues it raises for health care will be spent to supplement existing state funding for healthcare services that qualify for matching federal funds.

(f) All revenues from this measure are subject to local audit every year, and audit by the independent Controller to ensure that they will be used only for the purposes set forth in this measure.

**SECTION 4. Section 36 of Article XIII of the California Constitution is amended, to read:**

Sec. 36.

(a) For purposes of this section:

(1) "Public Safety Services" includes the following:

(A) Employing and training public safety officials, including law enforcement personnel, attorneys assigned to criminal proceedings, and court security staff.

(B) Managing local jails and providing housing, treatment, and services for, and supervision of, juvenile and adult offenders.

(C) Preventing child abuse, neglect, or exploitation; providing services to children and youth who are abused, neglected, or exploited, or who are at risk of abuse, neglect, or exploitation, and the families of those children; providing adoption services; and providing adult protective services.

(D) Providing mental health services to children and adults to reduce failure in school, harm to self or others, homelessness, and preventable incarceration or institutionalization.

(E) Preventing, treating, and providing recovery services for substance abuse.

(2) "2011 Realignment Legislation" means legislation enacted on or before September 30, 2012, to implement the state budget plan, that is entitled 2011 Realignment and provides for the assignment of Public Safety Services responsibilities to local agencies, including related reporting responsibilities. The legislation shall provide local agencies with maximum flexibility and control over the design, administration, and delivery of Public Safety Services consistent with federal law and funding requirements, as determined by the Legislature. However, 2011 Realignment Legislation shall include no new programs assigned to local agencies after January 1, 2012, except for the early periodic screening, diagnosis, and treatment (EPSDT) program and mental health managed care.

(b)(1) Except as provided in subdivision (d), commencing in the 2011-12 fiscal year and continuing thereafter, the following amounts shall be deposited into the Local Revenue Fund 2011, as established by Section 30025 of the Government Code, as follows:

(A) All revenues, less refunds, derived from the taxes described in Sections 6051.15 and 6201.15 of the Revenue and Taxation Code, as those sections read on July 1, 2011.

(B) All revenues, less refunds, derived from the vehicle license fees described in Section 11005 of the Revenue and Taxation Code, as that section read on July 1, 2011.

(2) On and after July 1, 2011, the revenues deposited pursuant to paragraph (1) shall not be considered General Fund revenues or proceeds of taxes for purposes of Section 8 of Article XVI of the California Constitution.

(c)(1) Funds deposited in the Local Revenue Fund 2011 are continuously appropriated exclusively to fund the provision of Public Safety Services by local agencies. Pending full implementation of the 2011 Realignment Legislation, funds may also be used to reimburse the State for program costs incurred in providing Public Safety Services on behalf of local agencies. The methodology for allocating funds shall be as specified in the 2011 Realignment Legislation.

(2) The county treasurer, city and county treasurer, or other appropriate official shall create a County Local Revenue Fund 2011 within the treasury of each county or city and county. The money in each County Local Revenue Fund 2011 shall be exclusively used to fund the provision of Public Safety Services by local agencies as specified by the 2011 Realignment Legislation.

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

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

(B) Regulations, executive orders, or administrative directives, implemented after October 9, 2011, that are not necessary to implement the 2011 Realignment Legislation, and that have an overall effect of increasing the costs already borne by a local agency for programs or levels of service mandated by the 2011 Realignment Legislation, shall apply to local agencies only to the extent that the State provides annual funding for the cost increase. Local agencies shall not be obligated to provide programs or levels of service pursuant to new regulations, executive orders, or administrative directives, described in this subparagraph, above the level for which funding has been provided.

(C) Any new program or higher level of service provided by local agencies, as described in subparagraphs (A) and (B), above the level for which funding has been provided, shall not require a subvention of funds by the State nor otherwise be subject to Section 6 of Article XIII B. This paragraph shall not apply to legislation currently exempt from subvention under paragraph (2) of subdivision (a) of Section 6 of Article XIII B as that paragraph read on January 2, 2011.

(D) The State shall not submit to the federal government any plans or waivers, or amendments to those plans or waivers, that have an overall effect of increasing the cost borne by a local agency for programs or levels of service mandated by the 2011 Realignment Legislation, except to the extent that the plans, waivers, or amendments are required by federal law, or the State provides annual funding for the cost increase.

(E) The State shall not be required to provide a subvention of funds pursuant to this paragraph for a mandate that is imposed by the State at the request of a local agency or to comply with federal law. State funds required by this paragraph shall be from a source other than those described in subdivisions (b) and (d), ad valorem property taxes, or the Social Services Subaccount of the Sales Tax Account of the Local Revenue Fund.

(5)(A) For programs described in subparagraphs (C) to (E), inclusive, of paragraph (1) of subdivision (a) and included in the 2011 Realignment Legislation, if there are subsequent changes in federal statutes or regulations that alter the conditions under which federal matching funds as described in the 2011 Realignment Legislation are obtained, and have the overall effect of increasing the costs incurred by a local agency, the State shall annually provide at least 50 percent of the nonfederal share of those costs as determined by the State.

(B) When the State is a party to any complaint brought in a federal judicial or administrative proceeding that involves one or more of the programs described in subparagraphs (C) to (E), inclusive, of paragraph (1) of subdivision (a) and included in the 2011 Realignment Legislation, and there is a settlement or judicial or administrative order that imposes a cost in the form of a monetary penalty or has the overall effect of increasing the costs already borne by a local agency for programs or levels of service mandated by the 2011 Realignment Legislation, the State shall annually provide at least 50 percent of the nonfederal share of those costs as determined by the State. Payment by the State is not required if the State determines that the settlement or order relates to one or more local agencies failing to perform a ministerial duty, failing to perform a legal obligation in good faith, or acting in a negligent or reckless manner.

(C) The state funds provided in this paragraph shall be from funding sources other than those described in subdivisions (b) and (d), ad valorem property taxes, or the Social Services Subaccount of the Sales Tax Account of the Local Revenue Fund.

(6) If the State or a local agency fails to perform a duty or obligation under this section or under the 2011 Realignment Legislation, an appropriate party may seek judicial relief. These proceedings shall have priority over all other civil matters.

(7) The funds deposited into a County Local Revenue Fund 2011 shall be spent in a manner designed to maintain the State's eligibility for federal matching funds, and to ensure compliance by the State with applicable federal standards governing the State's provision of Public Safety Services.

(8) The funds deposited into a County Local Revenue Fund 2011 shall not be used by local agencies to supplant other funding for Public Safety Services.

(d) If the taxes described in subdivision (b) are reduced or cease to be operative, the State shall annually provide moneys to the Local Revenue Fund 2011 in an amount equal to or greater than the aggregate amount that otherwise would have been provided by the taxes described in subdivision (b). The method for determining that amount shall be described in the 2011 Realignment Legislation, and the State shall be obligated to provide that amount for so long as the local agencies are required to perform the Public Safety Services responsibilities assigned by the 2011 Realignment Legislation. If the State fails to annually appropriate that amount, the Controller shall transfer that amount from the General Fund in pro rata monthly shares to the Local Revenue Fund 2011. Thereafter, the Controller shall disburse these amounts to local agencies in the manner directed by the 2011 Realignment Legislation. The state obligations under this subdivision shall have a lower priority claim to General Fund money than the first



priority for money to be set apart under Section 8 of Article XVI and the second priority to pay voter-approved debts and liabilities described in Section 1 of Article XVI.

(e)(1) To ensure that public education is not harmed in the process of providing critical protection to local Public Safety Services, the Education Protection Account is hereby created in the General Fund to receive and disburse the revenues derived from the incremental increases in taxes imposed by this section, as specified in subdivision (f).

(2)(A) Before June 30, 2013, and before June 30 of each year from 2014 to ~~2018~~2030, inclusive, the Director of Finance shall estimate the total amount of additional revenues, less refunds, that will be derived from the incremental increases in tax rates made in subdivision (f) that will be available for transfer into the Education Protection Account during the next fiscal year. The Director of Finance shall make the same estimate by January 10, 2013, for additional revenues, less refunds, that will be received by the end of the 2012-13 fiscal year.

(B) During the last 10 days of the quarter of each of the first three quarters of each fiscal year from 2013-14 to ~~2018-19~~2030-31, inclusive, the Controller shall transfer into the Education Protection Account one-fourth of the total amount estimated pursuant to subparagraph (A) for that fiscal year, except as this amount may be adjusted pursuant to subparagraph (D).

(C) In each of the fiscal years from 2012-13 to ~~2020-21~~2032-33, inclusive, the Director of Finance shall calculate an adjustment to the Education Protection Account, as specified by subparagraph (D), by adding together the following amounts, as applicable:

(i) In the last quarter of each fiscal year from 2012-13 to ~~2018-19~~2030-31, inclusive, the Director of Finance shall recalculate the estimate made for the fiscal year pursuant to subparagraph (A), and shall subtract from this updated estimate the amounts previously transferred to the Education Protection Account for that fiscal year.

(ii) In June 2015 and in every June from 2016 to ~~2021~~2033, inclusive, the Director of Finance shall make a final determination of the amount of additional revenues, less refunds, derived from the incremental increases in tax rates made in subdivision (f) for the fiscal year ending two years prior. The amount of the updated estimate calculated in clause (i) for the fiscal year ending two years prior shall be subtracted from the amount of this final determination.

(D) If the sum determined pursuant to subparagraph (C) is positive, the Controller shall transfer an amount equal to that sum into the Education Protection Account within 10 days preceding the end of the fiscal year. If that amount is negative, the Controller shall suspend or reduce subsequent quarterly transfers, if any, to the Education Protection Account until the total reduction equals the negative amount herein described. For purposes of any calculation made pursuant to clause (i) of subparagraph (C), the amount of a quarterly transfer shall not be modified to reflect any suspension or reduction made pursuant to this subparagraph.

(E) Before June 30, 2018, and before June 30 of each year from 2019 to 2030, inclusive, the Director of Finance shall estimate the amount of the additional revenues, less refunds, to be

derived in the following fiscal year from the incremental increases in tax rates made in subdivision (f), that, when combined with all other available General Fund revenues, will be required to meet:

(i) the minimum funding guarantee of section 8 of article XVI for that following fiscal year; and

(ii) the workload budget for that following fiscal year, excluding any program expenditures already accounted for through (i). For purposes of this section, "workload budget" has the meaning set forth in Government Code section 13308.05, as that section read and was interpreted by the Department of Finance on January 1, 2016, provided, however, that "currently authorized services" shall mean only those services that would have been considered "currently authorized services" under Government Code section 13308.05 as of January 1, 2016.

(F) In order to enhance the ability of all California school children and their families to receive regular, quality healthcare and thereby minimize school absenteeism due to health-related problems, whenever the Director of Finance estimates that the amount available for transfer into the Education Protection Account during the following fiscal year exceeds the amount of revenues required from that Account pursuant to subparagraph (E) for that following fiscal year, the Director shall identify the remaining amount. Fifty percent of that remainder, up to a maximum of two billion dollars in any single fiscal year, shall be allocated by the Controller from the Education Protection Account to the California Department of Health Care Services on a quarterly basis to increase funding for the existing healthcare programs and services described in Chapter 7 (commencing with Section 14000) to Chapter 8.9 (commencing with Section 14700), inclusive, of Part 3 of Division 9 of the Welfare and Institutions Code. The funding shall be used only for critical, emergency, acute and preventive healthcare services to children and their families, provided by health care professionals and health facilities that are licensed pursuant to Health and Safety Code Section 1250, and to health plans or others that manage the provision of healthcare for Medi-Cal beneficiaries that are contracting with the California Department of Health Care Services to provide health benefits pursuant to this section.

(G) The allocation provided for in subparagraph (F) may be suspended by statute during a fiscal year in which a budget emergency has been declared, provided, however, that the allocation shall not be reduced beyond the proportional reduction in overall General Fund expenditures for that year. For purposes of this section, "budget emergency" has the same meaning as in paragraph (2) of subdivision (b) of section 22 of article XVI.

(H) The funding provided pursuant to subparagraph (F) shall not be used to supplant existing state general funds for the nonfederal share of payments for those programs and, consistent with federal law, shall be used to obtain federal matching Medicaid funds.

(3) All moneys in the Education Protection Account are hereby continuously appropriated for the support of school districts, county offices of education, charter schools, and community college districts as set forth in this paragraph, and for healthcare as set forth in subparagraph (F) of paragraph (2).

(A) Eleven percent of the moneys appropriated for education pursuant to this paragraph shall be allocated quarterly by the Board of Governors of the California Community Colleges to community college districts to provide general purpose funding to community college districts in proportion to the amounts determined pursuant to Section 84750.5 of the Education Code, as that code section read ~~upon voter approval of this section, on November 6, 2012~~. The allocations calculated pursuant to this subparagraph shall be offset by the amounts specified in subdivisions (a), (c), and (d) of Section 84751 of the Education Code, as that section read ~~upon voter approval of this section on November 6, 2012~~, that are in excess of the amounts calculated pursuant to Section 84750.5 of the Education Code, as that section read ~~upon voter approval of this section on November 6, 2012~~, provided that no community college district shall receive less than one hundred dollars (\$100) per full time equivalent student.

(B) Eighty-nine percent of the moneys appropriated for education pursuant to this paragraph shall be allocated quarterly by the Superintendent of Public Instruction to provide general purpose funding to school districts, county offices of education, and state general-purpose funding to charter schools in proportion to the revenue limits calculated pursuant to Sections 2558 and 42238 of the Education Code and the amounts calculated pursuant to Section 47633 of the Education Code for county offices of education, school districts, and charter schools, respectively, as those sections read ~~upon voter approval of this section on November 6, 2012~~. The amounts so calculated shall be offset by the amounts specified in subdivision (c) of Section 2558 of, paragraphs (1) through (7) of subdivision (h) of Section 42238 of, and Section 47635 of, the Education Code for county offices of education, school districts, and charter schools, respectively, as those sections read ~~upon voter approval of this section on November 6, 2012~~, that are in excess of the amounts calculated pursuant to Sections 2558, 42238, and 47633 of the Education Code for county offices of education, school districts, and charter schools, respectively, as those sections read ~~upon voter approval of this section on November 6, 2012~~, provided that no school district, county office of education, or charter school shall receive less than two hundred dollars (\$200) per unit of average daily attendance.

(4) This subdivision is self-executing and requires no legislative action to take effect. Distribution of the moneys in the Education Protection Account by the Board of Governors of the California Community Colleges and Superintendent of Public Instruction shall not be delayed or otherwise affected by failure of the Legislature and Governor to enact an annual budget bill pursuant to Section 12 of Article IV, by invocation of paragraph (h) of Section 8 of Article XVI, or by any other action or failure to act by the Legislature or Governor.

(5) Notwithstanding any other provision of law, the moneys deposited in the Education Protection Account for education shall not be used to pay any costs incurred by the Legislature, the Governor, or any agency of state government.

(6) A community college district, county office of education, school district, or charter school shall have sole authority to determine how the moneys received from the Education Protection Account are spent in the school or schools within its jurisdiction, provided, however, that the appropriate governing board or body shall make these spending determinations in open session

of a public meeting of the governing board or body and shall not use any of the funds from the Education Protection Account for salaries or benefits of administrators or any other administrative costs. Each community college district, county office of education, school district, and charter school shall annually publish on its Internet Web site an accounting of how much money was received from the Education Protection Account and how that money was spent.

(7) The annual independent financial and compliance audit required of community college districts, county offices of education, school districts, and charter schools shall, in addition to all other requirements of law, ascertain and verify whether the funds provided from the Education Protection Account have been properly disbursed and expended as required by this section. Expenses incurred by those entities to comply with the additional audit requirement of this section may be paid with funding from the Education Protection Account and shall not be considered administrative costs for purposes of this section.

(8) Revenues, less refunds, derived pursuant to subdivision (f) for deposit in the Education Protection Account pursuant to this section shall be deemed "General Fund revenues," "General Fund proceeds of taxes," and "moneys to be applied by the State for the support of school districts and community college districts" for purposes of Section 8 of Article XVI.

(f)(1)(A) In addition to the taxes imposed by Part 1 (commencing with Section 6001) of Division 2 of the Revenue and Taxation Code, for the privilege of selling tangible personal property at retail, a tax is hereby imposed upon all retailers at the rate of 1/4 percent of the gross receipts of any retailer from the sale of all tangible personal property sold at retail in this State on and after January 1, 2013, and before January 1, 2017.

(B) In addition to the taxes imposed by Part 1 (commencing with Section 6001) of Division 2 of the Revenue and Taxation Code, an excise tax is hereby imposed on the storage, use, or other consumption in this State of tangible personal property purchased from any retailer on and after January 1, 2013, and before January 1, 2017, for storage, use, or other consumption in this state at the rate of 1/4 percent of the sales price of the property.

(C) The Sales and Use Tax Law, including any amendments enacted on or after the effective date of this section, shall apply to the taxes imposed pursuant to this paragraph.

(D) This paragraph shall become inoperative on January 1, 2017.

(2) For any taxable year beginning on or after January 1, 2012, and before January 1, ~~2019~~2031, with respect to the tax imposed pursuant to Section 17041 of the Revenue and Taxation Code, the income tax bracket and the rate of 9.3 percent set forth in paragraph (1) of subdivision (a) of Section 17041 of the Revenue and Taxation Code shall be modified by each of the following:

(A)(i) For that portion of taxable income that is over two hundred fifty thousand dollars (\$250,000) but not over three hundred thousand dollars (\$300,000), the tax rate is 10.3 percent of the excess over two hundred fifty thousand dollars (\$250,000).

(ii) For that portion of taxable income that is over three hundred thousand dollars (\$300,000) but not over five hundred thousand dollars (\$500,000), the tax rate is 11.3 percent of the excess over three hundred thousand dollars (\$300,000).

(iii) For that portion of taxable income that is over five hundred thousand dollars (\$500,000), the tax rate is 12.3 percent of the excess over five hundred thousand dollars (\$500,000).

(B) The income tax brackets specified in clauses (i), (ii), and (iii) of subparagraph (A) shall be recomputed, as otherwise provided in subdivision (h) of Section 17041 of the Revenue and Taxation Code, only for taxable years beginning on and after January 1, 2013.

(C)(i) For purposes of subdivision (g) of Section 19136 of the Revenue and Taxation Code, this paragraph shall be considered to be chaptered on ~~the date it becomes effective~~ November 6, 2012.

(ii) For purposes of Part 10 (commencing with Section 17001) of, and Part 10.2 (commencing with Section 18401) of, Division 2 of the Revenue and Taxation Code, the modified tax brackets and tax rates established and imposed by this paragraph shall be deemed to be established and imposed under Section 17041 of the Revenue and Taxation Code.

(D) This paragraph shall become inoperative on December 1, ~~2019~~2031.

(3) For any taxable year beginning on or after January 1, 2012, and before January 1, ~~2019~~2031, with respect to the tax imposed pursuant to Section 17041 of the Revenue and Taxation Code, the income tax bracket and the rate of 9.3 percent set forth in paragraph (1) of subdivision (c) of Section 17041 of the Revenue and Taxation Code shall be modified by each of the following:

(A)(i) For that portion of taxable income that is over three hundred forty thousand dollars (\$340,000) but not over four hundred eight thousand dollars (\$408,000), the tax rate is 10.3 percent of the excess over three hundred forty thousand dollars (\$340,000).

(ii) For that portion of taxable income that is over four hundred eight thousand dollars (\$408,000) but not over six hundred eighty thousand dollars (\$680,000), the tax rate is 11.3 percent of the excess over four hundred eight thousand dollars (\$408,000).

(iii) For that portion of taxable income that is over six hundred eighty thousand dollars (\$680,000), the tax rate is 12.3 percent of the excess over six hundred eighty thousand dollars (\$680,000).

(B) The income tax brackets specified in clauses (i), (ii), and (iii) of subparagraph (A) shall be recomputed, as otherwise provided in subdivision (h) of Section 17041 of the Revenue and Taxation Code, only for taxable years beginning on and after January 1, 2013.

(C)(i) For purposes of subdivision (g) of Section 19136 of the Revenue and Taxation Code, this paragraph shall be considered to be chaptered on ~~the date it becomes effective~~ November 6, 2012.

(ii) For purposes of Part 10 (commencing with Section 17001) of, and Part 10.2 (commencing with Section 18401) of, Division 2 of the Revenue and Taxation Code, the modified tax brackets and tax rates established and imposed by this paragraph shall be deemed to be established and imposed under Section 17041 of the Revenue and Taxation Code.

(D) This paragraph shall become inoperative on December 1, ~~2019~~2031.

(g)(1) The Controller, pursuant to his or her statutory authority, may perform audits of expenditures from the Local Revenue Fund 2011 and any County Local Revenue Fund 2011, and shall audit the Education Protection Account to ensure that those funds are used and accounted for in a manner consistent with this section.

(2) The Attorney General or local district attorney shall expeditiously investigate, and may seek civil or criminal penalties for, any misuse of moneys from the County Local Revenue Fund 2011 or the Education Protection Account.

#### **SECTION 5. Conflicting Measures.**

In the event that this measure and another measure that affects the tax rates for personal income shall appear on the same statewide ballot, the provisions of the other measure or measures shall be deemed to be in conflict with this measure. In the event that this measure receives a greater number of affirmative votes than a measure deemed to be in conflict with it, the provisions of this measure shall prevail in their entirety, and the other measure or measures shall be null and void.

#### **SECTION 6. Severability.**

If the provisions of this act, or part thereof, are for any reason held to be invalid or unconstitutional, the remaining provisions shall not be affected, but shall remain in full force and effect and to this end the provisions of this act are severable.

#### **SECTION 7. Proponent Standing.**

Notwithstanding any other provision of law, if the State, government agency, or any of its officials fail to defend the constitutionality of this act, following its approval by the voters, any other government employer, the proponent, or in his or her absence, any citizen of this State shall have the authority to intervene in any court action challenging the constitutionality of this act for the purpose of defending its constitutionality, whether such action is in trial court, on appeal, and on discretionary review by the Supreme Court of California and/or the Supreme Court of the United States. The fees and costs of defending the action shall be a charge on funds appropriated to the Attorney General, which shall be satisfied promptly.

**SECTION 8. Effective Date.**

This measure shall take effect immediately upon passage.

January 22, 2016

Hon. Kamala D. Harris  
 Attorney General  
 1300 I Street, 17<sup>th</sup> Floor  
 Sacramento, California 95814

Attention: Ms. Ashley Johansson  
 Initiative Coordinator

Dear Attorney General Harris:

Pursuant to Elections Code Section 9005, we have reviewed a proposed constitutional initiative concerning taxes (A.G. File No. 15-0115, Amendment No. 1). The proposal extends temporary personal income tax (income tax) rate increases on high-income taxpayers that were approved as part of Proposition 30 in 2012.

**Background**

*California’s State Budget.* California state taxes—primarily income taxes—are spent mainly from the state government’s General Fund, the state’s main operating account. The General Fund will spend about \$115 billion during the current 2015-16 state fiscal year. The General Fund pays for part of California’s K-12 and higher education programs, health and human services programs, state prisons, statewide retirement systems for public employees, debt service on state infrastructure bonds, and other programs.

*Proposition 30.* Proposition 30 temporarily raised state taxes.

- *Sales Taxes.* Proposition 30 increased the state sales tax rate by one-quarter cent from 2013 through 2016. In the current fiscal year, this increase is expected to raise \$1.5 billion of revenue.
- *Income Taxes.* Proposition 30 also increased marginal income tax rates paid by roughly the 1 percent of tax filers in the state with the highest incomes. Depending on their taxable income levels, these filers pay an extra 1 percent, 2 percent, or 3 percent tax on part of their incomes. These increases are in effect from 2012 through 2018. In the current fiscal year, the Proposition 30 income tax increases are expected to raise between \$6 billion and \$8 billion of revenue.

*Proposition 98.* The largest category of state General Fund spending is for school districts and community colleges. Proposition 98, approved by voters in 1988 and modified in 1990, establishes a minimum funding level for schools and community colleges. This funding level tends to grow over time based on growth in the state’s economy, state tax revenue, and student attendance, among other factors. In the current fiscal year, the state will spend around \$50 billion on Proposition 98 programs



(over 40 percent of all General Fund revenues). In addition to this state funding, schools and community colleges will receive around \$19 billion from local property taxes.

**Medi-Cal Program.** In California, the federal Medicaid program is known as Medi-Cal. The Medi-Cal program uses state and federal funds to provide health care services to most low-income persons. Medi-Cal is the largest state-administered health program in terms of spending and people served. In the current fiscal year, the state will spend around \$18 billion from the General Fund on Medi-Cal.

**Proposition 2.** In November 2014, California voters approved Proposition 2. Proposition 2 creates a new set of rules to determine the amount of money the state has to deposit to a rainy day fund (the Budget Stabilization Account), particularly when the economy and stock market are doing well. This fund is intended to reduce the need for budget cuts, tax increases, and other measures in the future when the economy or stock market weakens. Proposition 2 requires that money be deposited into the rainy day fund until the total reaches a maximum of 10 percent of General Fund tax revenues—which now equals about \$12 billion. Proposition 2 also requires the state to pay down certain state debts faster.

Proposition 2 allows the state to reduce the rainy day fund deposit only if the Governor calls a “budget emergency.” The Legislature would have to agree to reduce the deposit. The Governor could call a budget emergency only if:

- A natural disaster occurs, such as a flood or an earthquake.
- There is not enough money available to keep General Fund spending at the highest level of the past three years (adjusted for changes in the state population and the cost of living).

**State Spending Limit.** In addition to Propositions 2, 30, and 98, the State Constitution includes other rules affecting the state budget, such as the state spending limit that has been in place since passage of Proposition 4 in 1979.

**Department of Finance (DOF).** Led by the Director of Finance, DOF is the executive branch entity that supervises the state government’s financial policies.

## Proposal

**Extends Proposition 30 Income Tax Increases Through 2030.** Under this measure, the Proposition 30 income tax rate increases on high-income Californians would not expire at the end of 2018, as scheduled under current law. As summarized in Figure 1, this measure would extend those income tax rate increases through 2030. Spending from the revenues raised by this measure would be subject to the state’s spending limit. (Under this measure, Proposition 30’s sales tax rate increase would not be extended.)

**Provides Some New Monies for Medi-Cal.** For fiscal years 2018-19 through 2030-31, the measure requires DOF to determine how much revenue raised by this measure would be available for the Medi-Cal program. Specifically, DOF would (1) estimate the amount of revenues raised by this measure and (2) subtract from that estimate higher required school and community college spending and certain other government costs, such as the cost of more people being served by state government programs. The lesser of (1) 50 percent of the resulting amount or (2) \$2 billion would be allocated to the Medi-Cal program. During a Proposition 2 budget emergency, the measure allows this allocation to be reduced in proportion to the reduction in overall General Fund spending.

**Figure 1**

**Proposed Personal Income Tax Rates Under This Proposal**

Single Filer's Taxable Income <sup>a</sup>	Joint Filers' Taxable Income <sup>a</sup>	Marginal Tax Rate <sup>b</sup>		
		Through 2018	2019 and Later	2019-2030
		With Proposition 30 Still in Effect	If Proposition 30 Expires as Scheduled	If This Proposal Is Approved by Voters
\$0-\$7,850	\$0-\$15,700	1.0%	1.0%	1.0%
7,850-18,610	15,700-37,220	2.0	2.0	2.0
18,610-29,372	37,220-58,744	4.0	4.0	4.0
29,372-40,773	58,744-81,546	6.0	6.0	6.0
40,773-51,530	81,546-103,060	8.0	8.0	8.0
51,530-263,222	103,060-526,444	9.3	9.3	9.3
263,222-315,866	526,444-631,732	10.3	9.3	10.3
315,866-526,443	631,732-1,052,886	11.3	9.3	11.3
Over 526,443	Over 1,052,886	12.3	9.3	12.3

<sup>a</sup> Income brackets shown are in effect for 2015 and are adjusted for inflation in future years. Single filers include married individuals and registered domestic partners (RDPs) who file taxes separately. Joint filers include married and RDP couples who file jointly, as well as qualified widows or widowers with a dependent child. Income brackets for head-of-household filers are not listed, but those filers with taxable income of \$357,981 and greater (as of 2015) also would be subject to 10.3 percent, 11.3 percent, or 12.3 percent marginal tax rates under Proposition 30 and through 2030 if this proposal is approved by voters.

<sup>b</sup> Marginal tax rates apply to taxable income in each tax bracket listed. Tax rates listed exclude the mental health tax rate of 1 percent for taxable income in excess of \$1 million.

**Fiscal Effects**

**Increased State Tax Revenues.** Currently, the Proposition 30 income tax rate increases are scheduled to expire at the end of 2018. This measure would increase state income tax revenues by billions of dollars per year above current expectations for the years 2019 through 2030. (This would result in increased tax revenues for fiscal years 2018-19 through 2030-31.) The precise amount of this revenue in any given year would depend heavily on trends in the stock market and the economy. For example, if the stock market and economy were weak in 2019 (the first year of the proposed tax increase extension), this measure might generate around \$5 billion of increased revenue. Conversely, if the stock market and economy were strong at that time, the measure might raise around \$11 billion. Near the midpoint of this range—around \$7.5 billion—is one reasonable expectation of the additional revenue that this measure would generate in 2019. Thereafter, through 2030, that amount would rise or fall each year depending on trends in the stock market and the economy.

**Increased School and Community College Funding.** Under current law, the expiration of Proposition 30 is expected to slow the growth of state tax revenues, thereby slowing the growth of the Proposition 98 minimum funding level. Under this measure, the amount of Proposition 98 funds provided to schools and community colleges each year probably would increase by a few billion dollars, compared to what these entities would receive if all of Proposition 30's tax increases expired. The amount of increased school spending over the 2019-2030 period could vary significantly, depending on such factors as the Proposition 98 variables and the state of the economy during the period.

**Increased Budget Reserves and Debt Payments.** Under current law, the expiration of Proposition 30 will result in less revenue available for budget reserves and debt payments compared to when Proposition 30 was in effect. This measure would increase the amount of money used for

budget reserves and debt payments, particularly when the economy and stock market are doing well. Because the measure would increase the amount of money used for budget reserves, it would be more likely that the total amount of reserves would reach the 10 percent maximum established by Proposition 2. If this occurred, the measure could result in more funding being used to build and maintain infrastructure.

**Increased Medi-Cal Funding.** The amount of increased Medi-Cal spending could vary significantly each year, ranging from \$0 to \$2 billion. The measure delegates to DOF the authority to make this estimate by implementing this measure's provisions.

**Remaining Funding Generally Available for Any Purpose.** After satisfying requirements that the state tax revenues raised by this measure be allocated for (1) school and community college funding, (2) budget reserves and debt payments, and (3) the Medi-Cal program, the state could use any remaining funds for any budget purpose. The use of that funding would depend on decisions by future legislatures and governors.

**Other Fiscal Effects.** The likelihood that the state exceeds its Proposition 4 spending limit in the future is difficult to predict. If, however, this were to occur between 2019 and 2030, part of this measure's revenues would go to one-time taxpayer rebates and one-time school and community college spending instead of being available for other state purposes.

**Fiscal Summary.** This measure would have the following major fiscal effects:

- Increased state revenues annually from 2019 through 2030—likely in the \$5 billion to \$11 billion range initially—with amounts varying based on stock market and economic trends.
- Increased revenues would be allocated under constitutional formulas to schools and community colleges, budget reserves and debt payments, and health programs, with remaining funds available for these or other state purposes.

Sincerely,

---

Mac Taylor  
Legislative Analyst

---

Michael Cohen  
Director of Finance



## **Tax Extension to Fund Education and Healthcare. Initiative Constitutional Amendment.**

Presented to:  
Assembly Budget Committee  
Hon. Phil Ting, Chair

Assembly Education Committee  
Hon. Patrick O'Donnell, Chair

Senate Budget and Fiscal Review Committee  
Hon. Mark Leno, Chair





## LAO Role in Initiative Process

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### **Fiscal Analysis Prior to Signature Collection**

- State law requires our office, alongside the Department of Finance, to prepare an impartial fiscal analysis of each initiative.
- State law requires this analysis to provide an estimate of the measure's fiscal impact on state and local governments.
- A summary of the fiscal impact is included on petitions that are circulated for signatures.



### **Analysis After Measure Receives Sufficient Signatures to Qualify for the Ballot**

- State law requires our office to provide impartial analyses of all statewide ballot propositions for the statewide voter information guide.
- This analysis includes a description of the measure and its fiscal effects.
- We are currently in the process of preparing these materials.



## Background

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- **Proposition 30 (2012).** Increased income tax rates on high-income taxpayers from 2012 through 2018. In addition, Proposition 30 increased the state sales tax rate by one-quarter cent from 2013 through 2016.
- **Proposition 98 (1988).** Requires the state to spend a minimum amount on schools and community colleges. This “minimum guarantee” grows over time based on growth in state tax revenues, the economy, and student attendance.
- **Medi-Cal.** Provides health care services to low-income people. The Medi-Cal program serves over 13 million people in California—roughly one-third of the population.
- **Proposition 2 (2014).** Requires the state to save a minimum amount each year in its rainy-day fund and spend a minimum amount each year to pay down state debts faster.



## Provisions of Proposed Initiative

- Extends Income Tax Increases.** The measure would extend from 2019 through 2030 the Proposition 30 income tax increases on high-income taxpayers. The measure would affect roughly the 1.5 percent of taxpayers with the highest incomes.

Income Tax Rates Under Proposition 30 <sup>a</sup>				
Single Filer's Taxable Income <sup>b</sup>	Joint Filers' Taxable Income <sup>c</sup>	Marginal Tax Rate		
		Base Rate	Proposition 30 Increase	Total Rate
\$0 to \$8,000	\$0-\$16,000	1.0%	—	1.0%
8,000 to 19,000	16,000 to 37,000	2.0	—	2.0
19,000 to 29,000	37,000 to 59,000	4.0	—	4.0
29,000 to 41,000	59,000 to 82,000	6.0	—	6.0
41,000 to 52,000	82,000 to 103,000	8.0	—	8.0
52,000 to 263,000	103,000 to 526,000	9.3	—	9.3
263,000 to 316,000	526,000 to 632,000	9.3	1.0%	10.3
316,000 to 526,000	632,000 to 1,053,000	9.3	2.0	11.3
Over 526,000	Over 1,053,000	9.3	3.0	12.3

<sup>a</sup> Income brackets shown are rounded to the nearest thousands of dollars. Brackets are in effect for 2015 and are adjusted for inflation in future years.

<sup>b</sup> Single filers include married individuals and registered domestic partners (RDPs) who file taxes separately.

<sup>c</sup> Joint filers include married and RDP couples who file jointly, as well as qualified widows or widowers with a dependent child.

Note: Income brackets for head-of-household filers are not listed, but those filers with taxable income of \$357,981 and greater (as of 2015) also are subject to 10.3 percent, 11.3 percent, or 12.3 percent marginal tax rates under Proposition 30. Tax rates listed exclude the mental health tax rate of 1 percent for taxable income in excess of \$1 million.

- Does Not Extend Sales Tax Increase.** Whether or not voters pass this measure, Proposition 30's one-quarter cent sales tax increase will expire at the end of 2016.
- Creates New State Budget Formula for Supplemental Medi-Cal Spending.** The measure would require the Director of Finance to determine whether General Fund revenues exceed (1) constitutionally required spending on education and (2) costs of government services that were in place as of January 1, 2016. The lesser of (1) 50 percent of the resulting amount or (2) \$2 billion would be allocated to Medi-Cal.



## Fiscal Effects of Proposed Initiative

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- ***Increased Income Tax Revenues.*** Between \$4 billion and \$9 billion each year (in 2016 dollars), depending upon the economy and the stock market.
- ***Increased Funding for Schools and Community Colleges.*** Roughly half of the revenue raised by the measure.
- ***Increased Funding for Medi-Cal.*** Between \$0 and \$2 billion each year, depending upon decisions and estimates made by the Director of Finance.
- ***Increased Budget Reserves and Debt Payments.*** Between \$60 million and roughly \$1.5 billion each year (in 2016 dollars), depending upon revenues from capital gains.





August 4, 2016

1100 K Street  
Suite 101  
Sacramento  
California  
95814  
  
Telephone  
916.327.7500  
  
Facsimile  
916.441.5507

**To:** Members, CSAC Executive Committee

**From:** DeAnn Baker, Deputy Executive Director of Legislative Affairs  
Farrah McDaid Ting, CSAC Legislative Representative  
Elizabeth Marsolais, CSAC Legislative Analyst

**RE:** **Proposition 56. Cigarette Tax to Fund Healthcare, Tobacco Use Prevention, Research and Law Enforcement – ACTION ITEM**

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**Recommendation.** The Health and Human Services Policy Committee recommends a SUPPORT position on Proposition 56 to the CSAC Executive Committee.

**Background.** The Cigarette Tax to Fund Healthcare, Tobacco Use Prevention, Research and Law Enforcement (Proposition 56) would raise the state excise taxes on cigarettes by \$2, from 87 cents per pack to \$2.87 per pack. Taxes on other tobacco products, including cigars, would also increase by \$2, from \$1.37 to \$3.37. Proposition 56 would extend the state excise taxes to electronic cigarettes for the first time. The revenues raised from these increased taxes would be predominantly used for additional spending on Medi-Cal, and to backfill any losses to state and local First 5 Commissions.

**Attorney General’s Summary.** Increases cigarette tax by \$2.00 per pack, with equivalent increase on other tobacco products and electronic cigarettes containing nicotine. Allocates revenues primarily to increase funding for existing healthcare programs; also for tobacco use prevention/control programs, tobacco-related disease research and law enforcement, University of California physician training, dental disease prevention programs, and administration. Excludes these revenues from Proposition 98 funding requirements. If tax causes decreased tobacco consumption, transfers tax revenues to offset decreases to existing tobacco-funded programs and sales tax revenues. Requires biennial audit.

**Fiscal Impact.** The Legislative Analyst’s Office suggests that the new excise taxes would increase state revenue by over \$1 billion in fiscal year 2017-18, with likely lower annual amounts in future years. Over \$1 billion in increased funding in 2017-18 would mostly be used for state health programs, and the net long-term impact on state and local governments’ health care costs is currently unknown.

**Staff Comments.** CSAC has long-supported efforts to increase taxes on tobacco products to both discourage tobacco use and raise funds for health needs and prevention efforts. Proposition 56 would provide revenue for state Medi-Cal activities, of which counties are supportive, and preserves critical funding for state and local First 5 (Proposition 10) activities.

**Ballot Measure Review Process.** The CSAC Health and Human Services Policy Committee considered Proposition 56 at their July 18 meeting. Only a “Yes on 56” speaker was available at the time, as the opposition was still in the organizing stages.

The Committee unanimously voted to recommend a SUPPORT position to the Executive Committee.

Should the Executive Committee adopt a position, it will then be forwarded to the CSAC Board of Directors for action before the November 2016 statewide election. The California statewide General Election will be held on Tuesday, November 8, 2016.

If “No Position” is recommended by the Executive Committee, it will be forwarded to the Board of Directors as an informational item only.

**CSAC Staff Contacts:**

Farrah McDaid Ting, CSAC Legislative Representative: [fmcdaid@counties.org](mailto:fmcdaid@counties.org), (916) 650-8110

Elizabeth Marsolais, CSAC Legislative Analyst: [emarsolais@counties.org](mailto:emarsolais@counties.org), (916) 327-7500 Ext. 524

**Attachments:**

- 1) Full Text of Proposition 56.
- 2) Fiscal Analysis by Legislative Analyst’s Office and California Department of Finance. November 30, 2015.
- 3) LAO Handout on the Cigarette Tax Initiative. June 14, 2016.

RECEIVED

NOV 12 2015

INITIATIVE COORDINATOR  
ATTORNEY GENERAL'S OFFICE

Law Offices of

OLSON

HAGEL &amp;

FISHBURN

LLP

November 10, 2015

VIA MESSENGER

Office of the Attorney General  
Attention: Ashley Johansson, Initiative Coordinator  
1300 "I" Street  
Sacramento, CA 95814**RE: Submission of Amendment to Statewide Initiative Measure -  
California Healthcare, Research and Prevention Tobacco Tax  
Act of 2016, No. 15-0081**

Dear Ms. Johansson:

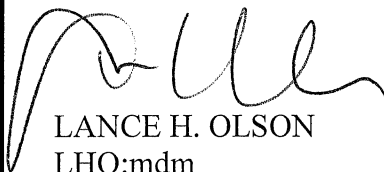
As you know, I serve as counsel for the proponents of the proposed statewide initiative, "California Healthcare, Research and Prevention Tobacco Tax Act of 2016." The proponents of the proposed initiative are Dustin Corcoran, Laphonza Butler and Olivia J. (Gertz) Diaz-Lapham. On their behalf, I am enclosing the following documents:

- The amended text of "California Healthcare, Research and Prevention Tobacco Tax Act of 2016"
- A red-line version showing the changes made in the amended text
- Signed authorizations from each of the proponents for the submission of the amended text together with their requests that the Attorney General's Office prepare a circulating title and summary using the amended text.

Please continue to direct all inquiries or correspondence relative to this proposed initiative to me at the address listed below:

Lance H. Olson  
Olson, Hagel & Fishburn LLP  
555 Capitol Mall, Suite 1425  
Sacramento, CA 95814

Very truly yours,

**OLSON HAGEL & FISHBURN LLP**


LANCE H. OLSON  
LHO:mdm

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Lance H. Olson  
Deborah B. Caplan  
Richard C. Mladich  
Richard R. RiosBruce J. Hagel  
of counsel  
Diane M. Fishburn  
of counsel  
Christopher W. Waddell  
Betty Ann Downing  
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Suite 1425  
Sacramento, CA  
95814-4602Tel: (916) 442-2952  
Fax: (916) 442-1280**Southern California**  
3605 Long Beach Blvd  
Suite 426  
Long Beach, CA  
90807-6010Tel: (562) 427-2100  
Fax: (562) 427-2237

**VIA MESSENGER**

November 3, 2016

Office of the Attorney General  
1300 "I" Street  
Sacramento, CA 95814

Attention: Ashley Johansson, Initiative Coordinator

Re: Submission of Amendment to California Healthcare, Research and Prevention Tobacco Tax Act of 2016, No. 15-0081, and Request to Prepare Circulating Title and Summary

Dear Ms. Johansson:

On October 7, 2015, the proponents of a proposed statewide initiative titled "California Healthcare, Research and Prevention Tobacco Tax Act of 2016" ("Initiative") submitted a request that the Attorney General prepare a circulating title and summary pursuant to section 10(d) of Article II of the California Constitution. Pursuant to Elections Code section 9002(b), the proponents hereby submit timely amendments to the text of the Initiative. As one of the proponents of the Initiative, I approve the submission of the amended text to the Initiative and I declare that the amendment is reasonably germane to the theme, purpose, and subject of the Initiative. I request that the Attorney General prepare a circulating title and summary using the amended Initiative.

Sincerely,

A handwritten signature in black ink, appearing to read "Dustin Corcoran", with a long horizontal flourish extending to the right.

Dustin Corcoran  
Chief Executive Officer, California Medical Association

**VIA MESSENGER**

November 3, 2016

Office of the Attorney General  
1300 "I" Street  
Sacramento, CA 95814

Attention: Ashley Johansson, Initiative Coordinator

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Sincerely,

A handwritten signature in black ink, appearing to read "Laphonza Butler", written over a horizontal line.

Laphonza Butler  
President, SEIU California State Council

**VIA MESSENGER**

November 3, 2016

Office of the Attorney General  
1300 "I" Street  
Sacramento, CA 95814

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Sincerely,



Olivia J. (Gertz) Diaz-Lapham  
President and Chief Executive Officer  
American Lung Association in California

November 13, 2015

VIA PERSONAL DELIVERY

Ashley Johansson, Initiative Coordinator  
Office of the Attorney General  
1300 I Street, 17th Floor, P.O. Box 944255  
Sacramento, CA 95814

**RECEIVED**

**NOV 17 2015**

INITIATIVE COORDINATOR  
ATTORNEY GENERAL'S OFFICE

Re: Request for to Add Proponent to Proposed  
Initiative

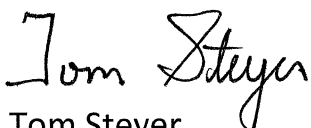
Dear Ms. Johansson:

Pursuant to Article II, Section 10(d) of the California Constitution, the attached proposed Initiative, entitled the "California Healthcare, Research and Prevention Tobacco Tax Act of 2016," was submitted to your office on October 7, 2015. I request to be added as a proponent of this measure. I also request that your office prepare a title and summary. Included with this submission is the required proponent affidavit pursuant to sections 9001 and 9608 of the California Elections Code.

All inquiries or correspondence relative to this initiative should be directed to Lance H. Olson at Olson, Hagel & Fishburn, LLP, 555 Capitol Mall, Suite 1415, Sacramento, CA 95814, (916) 442-2952.

Thank you for your assistance.

Sincerely,



Tom Steyer

Businessman and Philanthropist

November 3, 2015

VIA PERSONAL DELIVERY

Ashley Johansson, Initiative Coordinator  
Office of the Attorney General  
1300 I Street, 17th Floor, P.O. Box 944255  
Sacramento, CA 95814

Re: Request to Add Proponent to Proposed Initiative

Dear Ms. Johansson:

Pursuant to Article II, Section 10(d) of the California Constitution, the "California Healthcare, Research and Prevention Tobacco Tax Act of 2016" was submitted to your office on October 7, 2015. Tom Steyer has requested that his name be added as a proponent of this measure and is submitting the required proponent affidavit pursuant to sections 9001 and 9608 of the California Elections Code.

As a current proponent of this measure, I agree to the addition of Mr. Steyer as a proponent.

All inquiries or correspondence relative to this initiative should be directed to Lance H. Olson at Olson, Hagel & Fishburn, LLP, 555 Capitol Mall, Suite 1415, Sacramento, CA 95814, (916) 442-2952.

Thank you for your assistance.

Sincerely,

A handwritten signature in black ink, appearing to read "Dustin Corcoran", with a large, stylized flourish extending to the right.

Dustin Corcoran  
Chief Executive Officer  
California Medical Association



November 3, 2015

VIA PERSONAL DELIVERY

Ashley Johansson, Initiative Coordinator  
Office of the Attorney General  
1300 I Street, 17th Floor, P.O. Box 944255  
Sacramento, CA 95814

Re: Request to Add Proponent to Proposed Initiative

Dear Ms. Johansson:

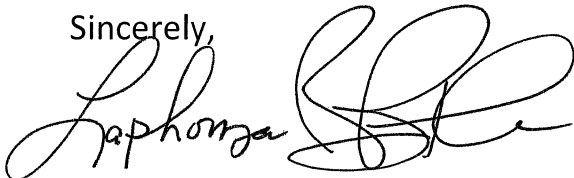
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Thank you for your assistance.

Sincerely,

A handwritten signature in black ink, appearing to read "Laphonza Butler". The signature is stylized and cursive, with a large, looping initial "L".

Laphonza Butler  
President  
SEIU California State Council

November 3, 2015

VIA PERSONAL DELIVERY

Ashley Johansson, Initiative Coordinator  
Office of the Attorney General  
1300 I Street, 17th Floor, P.O. Box 944255  
Sacramento, CA 95814

Re: Request to Add Proponent to Proposed Initiative

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Thank you for your assistance.

Sincerely,



Olivia J. (Gertz) Diaz-Lapham  
President and Chief Executive Officer  
American Lung Association in California

*The people of the State of California do enact as follows:*

**THE CALIFORNIA HEALTHCARE, RESEARCH AND PREVENTION TOBACCO  
TAX ACT OF 2016**

**SECTION 1. Findings and Declarations**

(a) Tobacco use is the single most preventable cause of death and disease in California, claiming the lives of more than 40,000 people every year. Each year thousands of Californians require medical and dental treatment as a result of tobacco use.

(b) Healthcare treatment of all types of cancer, cardiovascular and lung disease, oral disease and tobacco-related diseases continues to impose a significant financial burden upon California's overstressed healthcare system. Tobacco use costs Californians more than \$13.29 billion in healthcare expenses every year, of which \$3.5 billion is paid for by taxpayers through existing healthcare programs and services that provide healthcare, treatment, and services for Californians. The cost of lost productivity due to tobacco use adds an additional estimated \$10.35 billion to the annual economic consequences of smoking and tobacco use in California.

(c) An increase in the tobacco tax is an appropriate way to decrease tobacco use and mitigate the costs of healthcare treatment and improve existing programs providing for quality healthcare and access to healthcare services for families and children. It will save lives and save state and local government money in the future.

(d) An increase in funding for existing healthcare programs and services that treat all types of cancer, cardiovascular and lung disease, oral disease and tobacco-related diseases and conditions will expand the number of healthcare providers that treat patients with such diseases and conditions. Funds spent for this purpose can be used to match federal funds, with the federal government putting up as much as nine dollars for every dollar spent from this fund.

(e) Most electronic cigarettes contain nicotine, which is derived from tobacco and is a highly addictive drug. Electronic cigarettes are currently not subject to any tobacco taxation, making them cheaper and potentially more attractive, especially to young people.

(f) There are more than 470 electronic cigarette brands for sale today offered in over 7,700 flavors including candy-flavors that appeal to youth, such as Captain Crunch, gummy bear, cotton candy, Atomic Fireball, and fruit loops. The fastest growing age range for electronic cigarettes is middle school and high school students and according to the U.S. Centers for Disease Control and Prevention, electronic cigarette use among this group tripled from 2013 to 2014.

(g) Research into the causes, early detection, and effective treatment, care, prevention, and potential cures of all types of cancer, cardiovascular and lung disease, oral disease and tobacco-related diseases will ultimately save lives and save state and local government money in the future.

(h) There is an urgent need for research in California for new and effective treatments for all types of cancer, cardiovascular and lung disease, oral disease and tobacco-related diseases. Such research transforms scientific discoveries into clinical applications that reduce the incidence and mortality of such diseases and conditions.

(i) Funding prevention programs designed to discourage individuals, particularly youth, from taking up smoking and the use of other tobacco products through health education and health promotion programs will save lives and save state and local government money in the future.

(j) A reinvigorated tobacco control program will allow targeted public health efforts to combat the tobacco industry's predatory marketing to ethnic groups, driving down smoking rates and ultimately reducing cancer, cardiovascular and lung disease, oral disease and tobacco-related diseases in these California communities.

(k) Funding implementation and administrative programs to support law enforcement efforts to reduce illegal sales of tobacco products to minors,

cigarette smuggling, and tobacco tax evasion will save lives and save state and local government money in the future.

(l) California faces a shortage of physicians and dentists to meet the growing healthcare needs of its residents. As a result, access to primary and oral healthcare, treatment for tobacco-related diseases, regular check-ups and other urgent healthcare needs will suffer. California taxpayers support the education of thousands of medical and dental students every year, yet because of limits on the number of residency programs, many of those physicians and dentists are forced out of state to continue their training, leaving patients in California without access to care. Funding implementation and administrative programs that will help keep hundreds more doctors in California every year to improve the health of Californians will save lives and save state and local government money in the future.

(m) Medical studies have shown that the smoking of cigarettes and use of other tobacco products affects oral health by causing dental disease, including gum disease and bone loss, cancers of the mouth and throat, and severe tooth wear. Smoking causes half of the cases of gum disease, which results in increased tooth loss. Oral cancer risk for smokers is at least six times higher than for nonsmokers and 75% of all oral cancer in the United States is related to tobacco use. Oral cancer risk for smokeless tobacco increases 50-fold over nonsmokers. There is an association between maternal smoking during pregnancy and cleft lip development in fetuses. Tobacco cessation reduces the risk of mouth and throat cancer by 50%. Funding programs that educate, prevent and treat dental diseases, including those caused by use of tobacco, will improve the lives of Californians and save state and local government money in the future.

(n) Increasing the cost of cigarettes and tobacco products is widely recognized as the most effective way to reduce smoking across California, especially by young people. The 2000 U.S. Surgeon General's Report, *Reducing Tobacco Use*, found that raising tobacco-product prices decreases the prevalence of tobacco use, particularly among kids and young adults, and that tobacco tax increases produce "substantial long-term improvements in health." From its review of existing research, the report concluded that raising tobacco taxes is one of the most effective tobacco

prevention and control strategies. Reducing smoking saves lives and saves state and local government money in the future.

(o) Because increasing the tobacco tax will reduce smoking and the use of other tobacco products, it is important to protect existing tobacco tax funded programs from a decline in tax revenues.

(p) California currently taxes cigarettes at only \$0.87 per pack, and ranks 35th in tobacco tax rates, reflecting one of the lowest tobacco taxes in the United States. As of January, 2016, the national average will be \$1.60 per pack. Thirty-two states have cigarette tax rates of \$1 per pack or higher, and California is well below other western states (Washington: \$3.025; Oregon: \$1.31; Nevada: \$1.80; and Arizona: \$2). California last raised its tobacco tax in 1998.

## **SECTION 2. Statement of Purpose**

The purpose of this act is to increase the tax on tobacco and other tobacco products, including electronic cigarettes, in order to:

(a) Save the lives of Californians and save state and local government money in the future by reducing smoking and tobacco use among all Californians, but particularly youth.

(b) Provide funds to increase funding for existing healthcare programs and services that treat all types of cancer, cardiovascular and lung disease, oral disease and tobacco-related diseases, expand the number of healthcare providers, and maximize federal funding for these programs and services.

(c) Provide funds to support research into the causes of and cures for all types of cancer, cardiovascular and lung disease, oral disease and tobacco-related diseases, and to transform such scientific discoveries into clinical applications to reduce the incidence and mortality of such diseases and conditions.

(d) Provide funds to support prevention programs aimed at discouraging individuals from using cigarettes and other tobacco products, including

electronic cigarettes.

(e) Provide funds for implementation and administrative purposes to reduce cigarette smuggling, tobacco tax evasion, and illegal sales of tobacco products to minors, fund medical training for new doctors to treat diseases, including those caused by tobacco use, and fund programs to prevent and treat dental diseases including those caused by tobacco use.

(f) Protect existing tobacco tax funded programs, which currently save Californians millions of dollars in healthcare costs.

(g) Provide a full accounting of how funds raised are spent to further the purposes of this act without creating new bureaucracies.

### **SECTION 3. Definition of Tobacco Products**

Section 30121 of the Revenue and Taxation Code is amended to read:

30121. For purposes of this article:

(a) "Cigarettes" has the same meaning as in Section 30003, as it read on January 1, 1988.

(b) "Tobacco products" includes, but is not limited to, ~~all forms of cigars, smoking tobacco, chewing tobacco, snuff, and any other articles or products made of, or containing at least 50 percent, tobacco a~~ *product containing, made, or derived from tobacco or nicotine that is intended for human consumption, whether smoked, heated, chewed, absorbed, dissolved, inhaled, snorted, sniffed, or ingested by any other means, including, but not limited to, cigars, little cigars, chewing tobacco, pipe tobacco, or snuff, but does not include cigarettes. Tobacco products shall also include electronic cigarettes. Tobacco products shall not include any product that has been approved by the United States Food and Drug Administration for sale as a tobacco cessation product or for other therapeutic purposes where that product is marketed and sold solely for such approved use. Tobacco products does not include any food products as that term is defined pursuant to section 6359.*

(c) *“Electronic cigarettes” means any device or delivery system sold in combination with nicotine which can be used to deliver to a person nicotine in aerosolized or vaporized form , including, but not limited to, an e-cigarette, e-cigar, e-pipe, vape pen or e-hookah. Electronic cigarettes include any component, part or accessory of such a device that is used during the operation of the device when sold in combination with any liquid or substance containing nicotine. Electronic cigarettes also include any liquid or substance containing nicotine, whether sold separately or sold in combination with any device that could be used to deliver to a person nicotine in aerosolized or vaporized form. Electronic cigarettes do not include any device not sold in combination with any liquid or substance containing nicotine, or any battery, battery charger, carrying case or other accessory not used in the operation of the device if sold separately. Electronic cigarettes shall not include any product that has been approved by the United States Food and Drug Administration for sale as a tobacco cessation product or for other therapeutic purposes where that product is marketed and sold solely for such approved use. As used in this subdivision nicotine does not include any food products as that term is defined pursuant to section 6359.*

~~(c)~~(d) "Fund" means the Cigarette and Tobacco Products Surtax Fund created by Section 30122.

Section 30131.1 of the Revenue and Taxation Code is amended to read:

30131.1. The following definitions apply for purposes of this article:

(a) "Cigarette" has the same meaning as in Section 30003, as it read on January 1, 1997.

(b) ~~"Tobacco products" includes, but is not limited to, all forms of cigars, smoking tobacco, chewing tobacco, snuff, and any other articles or products made of, or containing at least 50 percent, tobacco, but does not include cigarettes~~ shall have the same meaning as in subdivision (b) of Section 30121, as amended by the California Healthcare, Research and Prevention Tobacco Tax Act of 2016.



**SECTION 4. The CALIFORNIA HEALTHCARE, RESEARCH AND PREVENTION TOBACCO TAX ACT OF 2016**

Article 2.5 (commencing with Section 30130.50) is added to Chapter 2 of Part 13 of Division 2 of the Revenue and Taxation Code, to read:

*§ 30130.50. Definitions*

*For the purposes of this article:*

*(a) "Cigarette" has the same meaning as that in Section 30003 as it read on January 1, 2015.*

*(b) "Tobacco products" has the same meaning as that in subdivision (b) of Section 30121, as amended by this act.*

*§ 30130.51. CALIFORNIA HEALTHCARE, RESEARCH AND PREVENTION TOBACCO TAX ACT OF 2016 Cigarette Distribution Tax*

*(a) In addition to any other taxes imposed upon the distribution of cigarettes under this part, there shall be imposed an additional tax upon every distributor of cigarettes at the rate of one hundred mills (\$0.100) for each cigarette distributed on or after the first day of the first calendar quarter commencing more than 90 days after the effective date of this act.*

*(b) The board shall adopt regulations providing for the implementation of an equivalent tax on electronic cigarettes as that term is defined in subdivision (c) of Section 30121, and the methods for collection of the tax. Such regulations shall include imposition of an equivalent tax on any device intended to be used to deliver aerosolized or vaporized nicotine to the person inhaling from the device when sold separately or as a package; any component, part, or accessory of such a device that is used during the operation of the device, whether sold separately or as a package with such device; and any liquid or substance containing nicotine, whether sold separately or as a package with any device that would allow it to be*

*inhaled. Such regulations may include, but are not limited to, defining who is a distributor of electronic cigarettes pursuant to Section 30011 and the licensing requirements of any such person.*

*(c) Notwithstanding any other provision of this part, all revenues resulting from the tax imposed by subdivision (a) of this section and all revenues resulting from the equivalent increase in the tax on tobacco products, including electronic cigarettes, imposed by subdivision (b) of Section 30123, shall be deposited into the CALIFORNIA HEALTHCARE, RESEARCH AND PREVENTION TOBACCO TAX ACT OF 2016 Fund created by Section 30130.53.*

**§ 30130.52. CALIFORNIA HEALTHCARE, RESEARCH AND PREVENTION TOBACCO TAX ACT OF 2016 Cigarette Floor Taxes**

*(a) (1) In addition to any other tax, every dealer and wholesaler, for the privilege of holding or storing cigarettes for sale, use, or consumption, shall pay a floor stock tax for each cigarette in its possession or under its control in this state at 12:01 a.m. on the first day of the first calendar quarter commencing more than 90 days after the effective date of this act at the rate of one hundred mills (\$0.100) for each cigarette.*

*(2) Every dealer and wholesaler shall file a return with the board on or before the first day of the first calendar quarter commencing more than 180 days after the effective date of this act on a form prescribed by the board, showing the number of cigarettes in its possession or under its control in this state at 12:01 a.m. on the first day of the first calendar quarter commencing more than 90 days after the effective date of this act. The amount of tax shall be computed and shown on the return.*

*(b) (1) Every licensed cigarette distributor, for the privilege of distributing cigarettes and for holding or storing cigarettes for sale, use, or consumption, shall pay a cigarette indicia adjustment tax for each California cigarette tax stamp that is affixed to any package of cigarettes and for each unaffixed California cigarette tax stamp in its possession or under its control at 12:01 a.m. on the first day of the first calendar quarter commencing more than 90 days after the effective date of this act at the following rates:*

*(A) Two dollars and fifty cents (\$2.50) for each stamp bearing the designation "25."*

*(B) Two dollars (\$2) for each stamp bearing the designation "20."*

*(C) One dollar (\$1) for each stamp bearing the designation "10."*

*(2) Every licensed cigarette distributor shall file a return with the board on or before the first day of the first calendar quarter commencing 180 days after the effective date of this act on a form prescribed by the board, showing the number of stamps described in subparagraphs (A), (B), and (C) of paragraph (1). The amount of tax shall be computed and shown on the return.*

*(c) The taxes required to be paid by this section are due and payable on or before the first day of the first calendar quarter commencing 180 days after the effective date of this act. Payments shall be made by remittances payable to the board and the payments shall accompany the return and forms required to be filed by this section.*

*(d) Any amount required to be paid by this section that is not timely paid shall bear interest at the rate and by the method established pursuant to Section 30202 from the first day of the first calendar quarter commencing 180 days after the effective date of this act, until paid, and shall be subject to determination, and redetermination, and any penalties provided with respect to determinations and redeterminations.*

**§ 30130.53. CALIFORNIA HEALTHCARE, RESEARCH AND PREVENTION TOBACCO TAX ACT OF 2016 Fund**

*(a) The CALIFORNIA HEALTHCARE, RESEARCH AND PREVENTION TOBACCO TAX ACT OF 2016 Fund is hereby established in the State Treasury.*

*(b) All revenues raised pursuant to the taxes imposed by this article, less refunds made pursuant to Article 1 (commencing with Section 30361) of Chapter 6, shall be deposited into the CALIFORNIA HEALTHCARE, RESEARCH AND PREVENTION TOBACCO TAX ACT OF 2016 Fund.*

*(c) Notwithstanding any other law, the CALIFORNIA HEALTHCARE, RESEARCH AND PREVENTION TOBACCO TAX ACT OF 2016 Fund is a trust fund established solely to carry out the purposes of this act and all revenues deposited into the CALIFORNIA HEALTHCARE, RESEARCH AND PREVENTION TOBACCO TAX ACT OF 2016 Fund, together with interest earned by the fund, are hereby continuously appropriated for the purposes of this act without regard to fiscal year and shall be expended only in accordance with the provisions of this act and its purposes.*

*(d) Notwithstanding any other law, revenues deposited into the CALIFORNIA HEALTHCARE, RESEARCH AND PREVENTION TOBACCO TAX ACT OF 2016 Fund, including any interest earned by the fund, shall only be used for the specific purposes set forth in this act, and shall be appropriated and expended only for the purposes expressed in this act and shall not be subject to appropriation, reversion, or transfer by the Legislature, the Governor, the Director of Finance, or the Controller for any purpose other than those specified in this act, nor shall such revenues be loaned to the General Fund or any other fund of the state or any local government fund.*

**§ 30130.54. CALIFORNIA HEALTHCARE, RESEARCH AND PREVENTION TOBACCO TAX ACT OF 2016 Effect on Tobacco Consumption and Tax Revenue**

*(a) The board shall determine within one year of the effective date of this act, and annually thereafter, the effect that the additional taxes imposed on cigarettes by this article, and the resulting increase in the tax on tobacco products required by subdivision (b) of Section 30123, have on the consumption of cigarettes and tobacco products in this state. To the extent that a decrease in consumption is determined by the board to be a direct result of the additional tax imposed on cigarettes by this article, and the resulting increase in the tax on tobacco products required by subdivision (b) of Section 30123, the board shall determine the fiscal effect the decrease in consumption has on the Cigarette and Tobacco Products Surtax Fund created by Section 30122 (Proposition 99 as approved by the voters at the November 8, 1988, statewide general election), the Breast Cancer Fund created by Section 30461.6, and the California Children and Families Trust Fund created by Section 30131 (Proposition 10 as approved by the voters at*

the November 3, 1998, statewide general election), and the revenues derived from Section 30101.

*(b) The Controller shall transfer from the CALIFORNIA HEALTHCARE, RESEARCH AND PREVENTION TOBACCO TAX ACT OF 2016 Fund to those affected funds described in subdivision (a) the amount necessary to offset the revenue decrease directly resulting from the imposition of additional taxes by this article.*

*(c) The board shall determine within one year of the effective date of this act, and annually thereafter, the effect, if any, that the additional taxes imposed on cigarettes by this article, and the resulting increase in the tax on tobacco products required by subdivision (b) of Section 30123, have on the consumption of cigarettes and tobacco products in this state, including from the illegal sale of cigarettes and tobacco products. To the extent that there is a loss of state or local government sales and use tax revenues and such loss is determined by the board to be a direct result of the additional tax imposed on cigarettes by this article, and the resulting increase in the tax on tobacco products required by subdivision (b) of Section 30123, including from the illegal sale of cigarettes and tobacco products, the board shall determine the fiscal effect on state and local government sales and use tax revenues.*

*(d) The Controller shall transfer from the CALIFORNIA HEALTHCARE, RESEARCH AND PREVENTION TOBACCO TAX ACT OF 2016 Fund to the general fund of the state and those affected local governments described in subdivision (c) the amount necessary to offset the state and local sales and use tax revenue decrease directly resulting from the imposition of additional taxes by this article, including from the illegal sale of cigarettes and tobacco products.*

*(e) Transfers under this section shall be made by the Controller at such times as the Controller determines necessary to further the intent of this section.*

**§ 30130.55. CALIFORNIA HEALTHCARE, RESEARCH AND PREVENTION TOBACCO TAX ACT OF 2016 Distribution of Revenue**

*After deducting and transferring the necessary funds pursuant to Section 30130.54 and subdivisions (a), (b), (c), (d), and (e) of Section 30130.57, the Controller shall annually allocate and transfer the remaining funds in the CALIFORNIA HEALTHCARE, RESEARCH AND PREVENTION TOBACCO TAX ACT OF 2016 Fund as follows:*

*(a) Eighty-two percent (82%) shall be transferred to the Healthcare Treatment Fund, which is hereby created, and shall be used by the California Department of Health Care Services to increase funding for the existing healthcare programs and services described in Chapter 7 (commencing with Section 14000) to Chapter 8.9 (commencing with Section 14700), inclusive, of Part 3 of Division 9 of the Welfare and Institutions Code, including those that provide healthcare, treatment, and services for Californians with tobacco-related diseases and conditions, by providing improved payments, for all healthcare, treatment, and services described in Chapter 7 (commencing with Section 14000) to Chapter 8.9 (commencing with Section 14700), inclusive, of Part 3 of Division 9 of the Welfare and Institutions Code. To the extent possible given the limits of funding under this article, payments and support for the nonfederal share of payments for healthcare, services, and treatment shall be increased based on criteria developed and periodically updated as part of the annual state budget process, provided that these funds shall not be used to supplant existing state general funds for these same purposes. These criteria shall include, but not be limited to, ensuring timely access, limiting specific geographic shortages of services, or ensuring quality care. Consistent with federal law, the funding shall be used to draw down federal funds. The funding shall be used only for care provided by health care professionals, clinics, health facilities that are licensed pursuant to Health and Safety Code Section 1250, and to health plans contracting with the California Department of Health Care Services to provide health benefits pursuant to this section. The funding can be used for the nonfederal share of payments from governmental entities where applicable. The department shall, if required, seek any necessary federal approval for the implementation of this section.*

*(b) Thirteen percent (13%) shall be used for the purpose of funding comprehensive tobacco prevention and control programs; provided that these funds are not to be used to supplant existing state or local funds for these same purposes. These funds shall be apportioned in the following*

manner:

*(1) Eighty-five percent (85%) to the California Department of Public Health Tobacco Control Program to be used for the tobacco control programs described beginning at Section 104375 of the Health and Safety Code. The California Department of Public Health shall award funds to state and local governmental agencies, tribes, universities and colleges, community based organizations, and other qualified agencies for the implementation, evaluation, and dissemination of evidence-based health promotion and health communication activities in order to monitor, evaluate and reduce tobacco and nicotine use, tobacco-related disease rates, tobacco-related health disparities, and develop a stronger evidence-base of effective prevention programming with not less than fifteen percent (15%) of health promotion, health communication activities, and evaluation and tobacco use surveillance funds being awarded to accelerate and monitor the rate of decline in tobacco-related disparities with the goal of eliminating tobacco-related disparities.*

*(2) Fifteen percent (15%) to the California Department of Education to be used for school programs to prevent and reduce the use of tobacco and nicotine products by young people as described in Section 104420 of the Health and Safety Code with not less than fifteen percent (15%) of these funds being awarded to accelerate and monitor the rate of decline in tobacco-related disparities for the purpose of eliminating tobacco-related disparities.*

*(c) Five percent (5%) to the University of California for medical research of cancer, heart and lung tobacco-related diseases pursuant to Article 2 (commencing with Section 104500) of Chapter 1 of Part 3 of Division 103 of the Health and Safety Code to supplement the Cigarette and Tobacco Products Surtax Medical Research Program, provided that these funds be used under the following conditions:*

*(1) The funds shall be used for grants and contracts for basic, applied, and translational medical research in California into the prevention of, early detection of, treatments for, complementary treatments for, and potential cures for all types of cancer, cardiovascular and lung disease,*

*oral disease and tobacco-related diseases. Notwithstanding any other provision of law, the University of California, through the Tobacco Related Disease Research Program, shall have authority to expend funds received under this act for the purposes set forth in this subdivision.*

*(2) Any grants and contracts awarded shall be awarded using existing medical research program infrastructure and on the basis of scientific merit as determined by an open, competitive peer review process that assures objectivity, consistency, and high quality.*

*(3) Individuals or entities that receive the grants and contracts pursuant to this subdivision must reside or be located entirely within California.*

*(4) The research must be performed entirely within California.*

*(5) The funds shall not be used to supplant existing state or local funds for these same purposes.*

#### *§ 30130.56. Independent Audit and Disclosure*

*To provide full public accountability concerning the uses to which funds from the CALIFORNIA HEALTHCARE, RESEARCH AND PREVENTION TOBACCO TAX ACT OF 2016 are put, and to ensure full compliance with the CALIFORNIA HEALTHCARE, RESEARCH AND PREVENTION TOBACCO TAX ACT OF 2016:*

*(a) The nonpartisan California State Auditor shall conduct at least biennially an independent financial audit of the state and local agencies receiving funds pursuant to the CALIFORNIA HEALTHCARE, RESEARCH AND PREVENTION TOBACCO TAX ACT OF 2016. An audit conducted pursuant to this section shall include, but not be limited to, a review of the administrative costs expended by the state agencies that administer the fund.*

*(b) Based on the independent audit, the nonpartisan California State Auditor shall prepare a report detailing its review and include any recommendations for improvements. The report shall be made available to*



*the public.*

*(c) Each state agency and department receiving funds pursuant to this act shall, on an annual basis, publish on its respective Internet Web site an accounting of how much money was received from the CALIFORNIA HEALTHCARE, RESEARCH AND PREVENTION TOBACCO TAX ACT OF 2016 Fund and how that money was spent. The annual accounting shall also be posted on any social media outlets the state agency or department deems appropriate.*

*(d) The use of the funds received by the California Department of Healthcare Services pursuant to subdivision (a) of Section 30130.55 shall be subject to the same restrictions, including, but not limited to audits and prevention of fraud, imposed by existing law.*

*(e) The use of the funds received by the California Department of Public Health, the California Department of Education and the University of California pursuant to subdivisions (b) and (c) of Section 30130.55 shall be subject to oversight by the Tobacco Education and Research Oversight Committee pursuant to Health and Safety Code Sections 104365 and 104370.*

*§ 30130.57. Implementation and Administrative Costs*

*(a) Moneys from the CALIFORNIA HEALTHCARE, RESEARCH AND PREVENTION TOBACCO TAX ACT OF 2016 Fund shall be used to reimburse the board for expenses incurred in the administration, calculation, and collection of the tax imposed by this article and for expenses incurred in the calculation and distribution of funds and in the promulgation of regulations as required by this act; provided, however, that after deducting the necessary funds pursuant to subdivision (b) of Section 30130.54, not more than five percent (5%) annually of the funds remaining in the CALIFORNIA HEALTHCARE, RESEARCH AND PREVENTION TOBACCO TAX ACT OF 2016 Fund shall be used for such administrative costs.*

*(b) Moneys from the CALIFORNIA HEALTHCARE, RESEARCH AND PREVENTION TOBACCO TAX ACT OF 2016 Fund shall be used to reimburse the independent nonpartisan California State Auditor up to four hundred*

*thousand dollars (\$400,000) annually for actual costs incurred to conduct each of the audits required by Section 30130.56 for the purpose of providing public transparency and ensuring that the revenues generated by this article are used for healthcare, tobacco use prevention and research.*

*(c) Moneys from the CALIFORNIA HEALTHCARE, RESEARCH AND PREVENTION TOBACCO TAX ACT OF 2016 Fund in the amount of forty million dollars (\$40,000,000) annually shall be used to provide funding to the University of California for the purpose and goal of increasing the number of primary care and emergency physicians trained in California. This goal shall be achieved by providing this funding to the University of California to sustain, retain and expand graduate medical education programs to achieve the goal of increasing the number of primary care and emergency physicians in the State of California based on demonstrated workforce needs and priorities.*

*(1) For the purposes of this subdivision, "primary care" means Internal Medicine, Family Medicine, Obstetrics / Gynecology, and Pediatrics.*

*(2) Funding shall be prioritized for direct graduate medical education costs for programs serving medically underserved areas and populations.*

*(3) For the purposes of this subdivision, all allopathic and osteopathic residency programs accredited by federally recognized accrediting organizations and located in California shall be eligible to apply to receive funding to support resident education in California.*

*(4) The University of California shall annually review physician shortages by specialty across the state and by region. Based on this review, to the extent that there are demonstrated state or regional shortages of non-primary care physicians, funds may be used to expand graduate medical education programs that are intended to address such shortages.*

*(d) Moneys from the CALIFORNIA HEALTHCARE, RESEARCH AND PREVENTION TOBACCO TAX ACT OF 2016 Fund in the amount of thirty million dollars (\$30,000,000) annually shall be used to provide funding to the State of California Department of Public Health State Dental Program for the purpose and goal of educating about, preventing and treating dental disease, including dental disease caused by use of cigarettes and other tobacco products. This goal shall be achieved by the program providing this funding to activities that support the State Dental Plan based on demonstrated oral health needs, prioritizing serving underserved areas and populations. Funded program activities shall include, but not be limited to, the following: education, disease prevention, disease treatment, surveillance, and case management.*

*The department shall have broad authority to fully implement and effectuate the purposes of this subdivision, including the determination of underserved communities, the development of program protocols, the authority to reimburse state-sponsored services related to the program, and the authority to contract with one or more individuals or public or private entities to provide program activities.*

*(e) Moneys from the CALIFORNIA HEALTHCARE, RESEARCH AND PREVENTION TOBACCO TAX ACT OF 2016 Fund in the amount of forty eight million dollars (\$48,000,000) annually shall be used for the purpose of funding law enforcement efforts to reduce illegal sales of tobacco products, particularly illegal sales to minors; to reduce cigarette smuggling, tobacco tax evasion, the sale of tobacco products without a license and the sale of counterfeit tobacco products; to enforce tobacco-related laws, court judgments and legal settlements; and to conduct law enforcement training and technical assistance activities for tobacco-related statutes; provided that these funds are not to be used to supplant existing state or local funds for these same purposes. These funds shall be apportioned in the following manner:*

*(1) Thirty million dollars (\$30,000,000) annually to go to the California Department of Justice/Office of the Attorney General to be distributed to local law enforcement agencies to support and hire front-line law enforcement peace officers for programs, including, but not limited to, enforcement of state and local laws related to the illegal sales and*

*marketing of tobacco to minors, and increasing investigative activities and compliance checks to reduce illegal sales of cigarettes and tobacco products to minors and youth.*

*(2) Six million dollars (\$6,000,000) annually to the board to be used to enforce laws that regulate the distribution and retail sale of cigarettes and other tobacco products, such as laws that prohibit cigarette and tobacco product smuggling, counterfeiting, selling untaxed cigarettes and other tobacco products, and selling cigarettes and other tobacco products without a proper license.*

*(3) Six million dollars (\$6,000,000) annually to the California Department of Public Health to be used to support programs, including, but not limited to, providing grants and contracts to local law enforcement agencies to provide training and funding for the enforcement of state and local laws related to the illegal sales of tobacco to minors, increasing investigative activities, and compliance checks, and other appropriate activities to reduce illegal sales of tobacco products to minors including, but not limited to, the Stop Tobacco Access to Kids Enforcement (STAKE) Act, pursuant to Section 22952 of the Business and Professions Code.*

*(4) Six million dollars (\$6,000,000) annually to the California Attorney General to be used for activities including, but not limited to, enforcing laws that regulate the distribution and sale of cigarettes and other tobacco products, such as laws that prohibit cigarette smuggling, counterfeiting, selling untaxed tobacco, selling tobacco without a proper license and selling tobacco to minors, and enforcing tobacco-related laws, court judgments, and settlements.*

*(f) Not more than five percent (5%) of the funds received pursuant to this article shall be used by any state or local agency or department receiving such funds for administrative costs.*

*(g) The California State Auditor shall promulgate regulations pursuant to the rulemaking provisions of the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code) to define administrative costs for purposes of this article.*

*Such regulations shall take into account the differing nature of the agencies or departments receiving funds.*

*(h) The board shall determine beginning two years following the effective date of this act, and annually thereafter, any reduction in revenues, following the first year after the effective date of this act, resulting from a reduction in the consumption of cigarettes and tobacco products due to the additional taxes imposed on cigarettes by this article, and the increase in the tax on tobacco products required by subdivision (b) of Section 30123. If the board determines there has been a reduction in revenues, the amount of funds allocated pursuant to subdivisions (c), (d) and (e) of this section shall be reduced proportionately.*

*§ 30130.58. Statutory References*

*Unless otherwise stated, all references in this act refer to statutes as they existed on January 1, 2016.*

**SECTION 5. Conforming Amendments to the Revenue and Taxation Code**

Section 30014 of the Revenue and Taxation Code is amended to read:

30014. (a) "Transporter" means any person transporting into or within this state any of the following:

(1) Cigarettes not contained in packages to which are affixed California cigarette tax stamps or meter impressions.

(2) Tobacco products upon which the tobacco products surtax imposed by Article 2 (commencing with Section 30121), *Article 2.5 (commencing with Section 30130.50)* and Article 3 (commencing with Section 30131) of Chapter 2 has not been paid.

(b) "Transporter" shall not include any of the following:

(1) A licensed distributor.

(2) A common carrier.

(3) A person transporting cigarettes and tobacco products under federal internal revenue bond or customs control that are non-tax-paid under Chapter 52 of the Internal Revenue Act of 1954 as amended.

Section 30104 of the Revenue and Taxation Code is amended to read:

30104. The taxes imposed by this part shall not apply to the sale of cigarettes or tobacco products by a distributor to a common carrier engaged in interstate or foreign passenger service or to a person authorized to sell cigarettes or tobacco products on the facilities of the carrier. Whenever cigarettes or tobacco products are sold by distributors to common carriers engaged in interstate or foreign passenger service for use or sale on facilities of the carriers, or to persons authorized to sell cigarettes or tobacco products on those facilities, the tax imposed by Sections 30101, 30123, and 30131.2 *under this part shall not be levied with respect to the sales of the cigarettes or tobacco products by the distributors, but a tax is hereby levied upon the carriers or upon the persons authorized to sell cigarettes or tobacco products on the facilities of the carriers, as the case may be, for the privilege of making sales in California at the same rate as set forth in Sections 30101, 30123, and 30131.2. under this part.* Those common carriers and authorized persons shall pay the tax imposed by this section and file reports with the board, as provided in Section 30186.

Section 30108 of the Revenue and Taxation Code is amended to read:

30108. (a) Every distributor engaged in business in this state and selling or accepting orders for cigarettes or tobacco products with respect to the sale of which the tax imposed by Sections 30101, 30123, and 30131.2 *under this part* is inapplicable shall, at the time of making the sale or accepting the order or, if the purchaser is not then obligated to pay the tax with respect to his or her distribution of the cigarettes or tobacco products, at the time the purchaser becomes so obligated, collect the tax from the purchaser, if the purchaser is other than a licensed distributor, and shall give to the purchaser a receipt therefor in the manner and

form prescribed by the board.

(b) Every person engaged in business in this state and making gifts of untaxed cigarettes or tobacco products as samples with respect to which the tax imposed by Sections 30101, 30123, and 30131.2 under *this part* is inapplicable shall, at the time of making the gift or, if the donee is not then obligated to pay the tax with respect to his or her distribution of the cigarettes or tobacco products, at the time the donee becomes so obligated, collect the tax from the donee, if the donee is other than a licensed distributor, and shall give the donee a receipt therefor in the manner and form prescribed by the board. This section shall not apply to those distributions of cigarettes or tobacco products ~~which~~ *that* are exempt from tax under Section 30105.5.

(c) "Engaged in business in the state" means and includes any of the following:

(1) Maintaining, occupying, or using, permanently or temporarily, directly or indirectly, or through a subsidiary, or agent, by whatever name called, an office, place of distribution, sales or sample room or place, warehouse or storage place, or other place of business.

(2) Having any representative, agent, salesperson, canvasser or solicitor operating in this state under the authority of the distributor or its subsidiary for the purpose of selling, delivering, or the taking of orders for cigarettes or tobacco products.

(d) The taxes required to be collected by this section constitute debts owed by the distributor, or other person required to collect the taxes, to the state.

Section 30166 of the Revenue and Taxation Code is amended to read:

30166. Stamps and meter register settings shall be sold *to licensed distributors* at their denominated values less *a discount of 0.85 percent, which shall be capped at the first one dollar (\$1.00) in denominated value* ~~to licensed distributors~~. Payment for stamps or meter register settings shall

be made at the time of purchase, provided that a licensed distributor, subject to the conditions and provisions of this article, may be permitted to defer payments therefor.

Section 30181 of the Revenue and Taxation Code is amended to read:

30181. (a) ~~When~~ *If* any tax imposed upon cigarettes under ~~Article 1 (commencing with Section 30101), Article 2 (commencing with Section 30121), and Article 3 (commencing with Section 30131) of Chapter 2~~ *this part* is not paid through the use of stamps or meter impressions, the tax shall be due and payable monthly on or before the 25th day of the month following the calendar month in which a distribution of cigarettes occurs, or in the case of a sale of cigarettes on the facilities of a common carrier for which the tax is imposed pursuant to Section 30104, the tax shall be due and payable monthly on or before the 25th day of the month following the calendar month in which a sale of cigarettes on the facilities of the carrier occurs.

(b) Each distributor of tobacco products shall file a return in the form, as prescribed by the board, ~~which~~ *that* may include, but not be limited to, electronic media respecting the distributions of tobacco products and their wholesale cost during the preceding month, and any other information as the board may require to carry out this part. The return shall be filed with the board on or before the 25th day of the calendar month following the close of the monthly period for which it relates, together with a remittance payable to the board, of the amount of tax, if any, due under Article 2 (commencing with Section 30121) or Article 3 (commencing with Section 30131) of Chapter 2 for that period.

(c) To facilitate the administration of this part, the board may require the filing of the returns for longer than monthly periods.

(d) Returns shall be authenticated in a form or pursuant to methods as may be prescribed by the board.

~~(e) This section shall become operative on January 1, 2007.~~

## **SECTION 6. Conformity with State Constitution**



*Section 23 is added to Article XVI of the California Constitution, to read:*

*SEC. 23 The tax imposed by the CALIFORNIA HEALTHCARE, RESEARCH AND PREVENTION TOBACCO TAX ACT OF 2016 and the revenue derived therefrom, including investment interest, shall not be considered General Fund revenues for purposes of Section 8 of Article XVI of the California Constitution and its implementing statutes, and shall not be considered "General Fund revenues," "state revenues," or "General Fund proceeds of taxes" for purposes of Section 8(a) and (b) of Article XVI of the California Constitution and its implementing statutes.*

*Section 14 is added to Article XIII B of the California Constitution, to read:*

*SEC. 14. "Appropriations subject to limitation" of each entity of government shall not include appropriations of revenue from the CALIFORNIA HEALTHCARE, RESEARCH AND PREVENTION TOBACCO TAX ACT OF 2016 Fund created by the CALIFORNIA HEALTHCARE, RESEARCH AND PREVENTION TOBACCO TAX ACT OF 2016 Act of 2016. No adjustment in the appropriations limit of any entity of government shall be required pursuant to Section 3 as a result of revenue being deposited in or appropriated from the CALIFORNIA HEALTHCARE, RESEARCH AND PREVENTION TOBACCO TAX ACT OF 2016 Fund.*

#### **SECTION 7. Severability**

If the provisions of this act, or part thereof, are for any reason held to be invalid or unconstitutional, the remaining provisions shall not be affected, but shall remain in full force and effect and to this end the provisions of this act are severable.

#### **SECTION 8. Conflicting Measures**

(a) It is the intent of the people that in the event that this measure and another measure relating to the taxation of tobacco shall appear on the same statewide election ballot, the provisions of the other measure or measures shall not be deemed to be in conflict with this measure, and if approved by the voters, this measure shall take effect notwithstanding

approval by the voters of another measure relating to the taxation of tobacco by a greater number of affirmative votes.

(b) If this measure is approved by the voters but superseded by law by any other conflicting ballot measure approved by the voters at the same election, and the conflicting measure is later held invalid, this measure shall be self-executing and given the full force of law.

## **SECTION 9. Amendments**

(a) Except as hereafter provided, this act may only be amended by the electors as provided in subdivision (c) of Section 10 of Article II of the California Constitution.

(b) The Legislature may amend subdivisions (a) and (c) of Section 30130.55 and Section 30130.57 of the Revenue and Taxation Code to further the purposes of the CALIFORNIA HEALTHCARE, RESEARCH AND PREVENTION TOBACCO TAX ACT OF 2016 by a statute passed in each house by roll-call vote entered in the journal, two-thirds of the membership concurring.

(c) The Legislature may amend subdivision (b) of Section 30130.55 of the Revenue and Taxation Code to further the purposes of the CALIFORNIA HEALTHCARE, RESEARCH AND PREVENTION TOBACCO TAX ACT OF 2016 by a statute passed in each house by roll-call vote entered in the journal, four-fifths of the membership concurring.

## **SECTION 10. Effective Date**

This act shall become effective as provided in Section 10(a) of Article II of the California Constitution; provided, however, the amendment to section 30121 of the Revenue and Taxation Code shall become effective April 1, 2017.

November 30, 2015

Hon. Kamala D. Harris  
Attorney General  
1300 I Street, 17<sup>th</sup> Floor  
Sacramento, California 95814

Attention: Ms. Ashley Johansson  
Initiative Coordinator

Dear Attorney General Harris:

Pursuant to Elections Code Section 9005, we have reviewed the proposed constitutional and statutory initiative (A.G. File No. 15-0081, Amendment #1) that would increase the state's cigarette excise tax from 87 cents to \$2.87 per pack and apply the tobacco products excise tax to electronic cigarettes.

## BACKGROUND

### Tobacco Products and Electronic Cigarettes

Tobacco products are derived from tobacco plants, contain nicotine, and are intended for human consumption, such as cigarettes and smokeless tobacco. Electronic cigarettes are battery-operated products that are generally designed to deliver nicotine, flavor, and other chemicals. These devices turn chemicals, including nicotine, into an aerosol that is inhaled by the user. Some types of electronic cigarettes are sold together with those chemicals, while others are sold separately. (There are also some electronic cigarettes that produce aerosols that do not contain nicotine.)

### Tobacco and Electronic Cigarette Taxes

Tobacco products are subject to state and federal excise taxes, and state and local sales and use taxes. In contrast, electronic cigarettes are currently not subject to state and federal excise taxes but are subject to state and local sales and use taxes.

*Existing State Excise Taxes on Tobacco Products.* Current state law imposes excise taxes on the distribution of cigarettes and other tobacco products, such as cigars and chewing tobacco. Tobacco excise taxes are paid by distributors who supply cigarettes and other tobacco products to retail stores. These taxes are typically passed on to consumers as higher prices on cigarettes and other tobacco products.

The state's cigarette excise tax is currently 87 cents per pack. Figure 1 describes the different components of the per-pack tax. As the figure shows, two voter-approved measures—

Proposition 99 in 1988 and Proposition 10 in 1998—are responsible for generating the vast majority of tobacco excise tax revenues. As the figure indicates, total state revenues from existing excise taxes on cigarettes and other tobacco products were just under \$840 million in 2014-15.

<b>Figure 1</b>		
<b>Existing State Tobacco Excise Taxes</b>		
<i>(Dollars in Millions)</i>		
<b>Description</b>	<b>Cents Per Pack of Cigarettes</b>	<b>Estimated 2014-15 Net Revenue<sup>a</sup></b>
<b>State General Fund:</b> Initially enacted by the Legislature in 1959 for general support of the state budget.	10¢	\$86
<b>Proposition 99:</b> Enacted by the voters in 1988 for the purposes of supporting tobacco education and prevention efforts, tobacco-related disease research programs, health care services for low-income persons, and environmental protection and recreational resources.	25	268 <sup>b</sup>
<b>Breast Cancer Fund:</b> Enacted by the Legislature in 1993 for the purposes of supporting breast cancer screening programs for uninsured women and research related to breast cancer.	2	21
<b>Proposition 10:</b> Enacted by the voters in 1998 for the purposes of supporting early childhood development programs.	50	461 <sup>b</sup>
<b>Totals</b>	<b>87¢</b>	<b>\$836<sup>c</sup></b>

<sup>a</sup> Accounts for payments from Proposition 10 to other funds in order to maintain pre-Proposition 10 revenue levels.  
<sup>b</sup> Total includes excise tax revenue from other types of tobacco products, such as cigars and chewing tobacco.  
<sup>c</sup> Does not total due to rounding.

Revenues from existing excise taxes on other tobacco products support Proposition 10 and Proposition 99 purposes. Under current law, any increase in cigarette taxes automatically triggers an equivalent increase in excise taxes on other tobacco products, with the latter revenues going to support Proposition 99 purposes.

**Existing Federal Excise Tax on Tobacco Products.** The federal government imposes an excise tax on cigarettes and other tobacco products. In 2009, this tax was increased by 62 cents per pack (to a total of \$1.01 per pack) to help fund the Children’s Health Insurance Program, which provides subsidized health insurance coverage to children in low-income families.

**Existing State and Local Sales and Use Taxes on Tobacco Products and Electronic Cigarettes.** Sales of cigarettes, other tobacco products, and electronic cigarettes are subject to state and local sales and use taxes. These taxes are imposed on the retail price of a product, which includes excise taxes that have generally been passed along from distributors. The average retail price of a pack of cigarettes in California currently is close to \$6. Roughly \$400 million in annual revenue from sales and use taxes on cigarettes and other tobacco products go to the state and local governments.

**State and Local Health Programs**

**Department of Health Care Services (DHCS).** The DHCS administers the Medicaid program, known as the California Medical Assistance Program (Medi-Cal) in California. Medi-Cal is a joint federal-state program that provides health care services to qualified low-income

persons. Currently, Medi-Cal provides health care services to over 12 million people, with a General Fund budget estimated at \$18 billion for 2015-16. Federal law establishes some minimum requirements for state Medicaid programs regarding the types of services offered and who is eligible to receive them. Required services include hospital inpatient and outpatient care, skilled nursing care, and doctor visits. In addition, California offers an array of services considered optional under federal law, such as coverage of prescription drugs and durable medical equipment. While Medi-Cal is by far the largest healthcare program that DHCS administers in terms of both funding level and persons served, the department also administers a few other programs that provide health care services.

***Department of Public Health (DPH).*** The DPH administers and oversees a wide variety of programs with the goal of optimizing the health and well-being of Californians. The department's programs address a broad range of health issues, including tobacco-related diseases, maternal and child health, cancer and other chronic diseases, communicable disease control, and inspection of health facilities. Many public health programs and services are delivered at the local level, while the state provides funding, oversight, and overall strategic leadership for improving population health. The state also centrally administers certain public health programs, such as licensing and certification of health facilities.

### **State Spending Limit**

The State Constitution contains various rules affecting the state budget, such as the state spending limit that has been in place since passage of Proposition 4 in 1979. The Constitution requires the state to issue taxpayer rebates if the state exceeds the spending limit.

## **PROPOSAL**

This measure increases excise taxes on the distribution of cigarettes and other tobacco products. It also applies, for the first time, the tobacco products excise tax (as amended by the measure) to certain types of electronic cigarettes. The additional revenues would be used to increase funding for existing healthcare programs and services, tobacco-related prevention and cessation programs, law enforcement programs, medical research on tobacco-related diseases, and for other specified purposes. The major provisions of the measure are described below.

### **New State Tobacco Taxes**

This measure increases—effective April 1, 2017—the existing state excise tax on cigarettes by \$2 per pack. The total state excise tax, therefore, would be \$2.87 per pack. This measure also creates a one-time “floor tax” on cigarettes that are stored by businesses at the time the new excise tax is levied. Floor taxes are typically used to prevent businesses from avoiding taxes by stockpiling products before a tax goes into effect.

As described above, any increase in cigarette taxes automatically triggers an equivalent increase in excise taxes on other tobacco products. As a result, the \$2 per pack cigarette tax increase would lead to an equivalent increase in the tax rate on other tobacco products, which is currently equivalent to a \$1.37 per pack tax on cigarettes. The new tax rate on other tobacco products would be equivalent to a \$3.37 per pack tax on cigarettes.

## **Tax on Electronic Cigarettes**

This measure also applies the tobacco products excise tax to electronic cigarettes that contain nicotine or are sold with liquid containing nicotine (hereafter referred to as “e-cigarettes”). As with other tobacco products, the tax rate would be equivalent to \$3.37 per pack of cigarettes. The equivalent of 87 cents per pack would support Proposition 99 purposes, the equivalent of 50 cents per pack would support Proposition 10 purposes and the equivalent of \$2 per pack would support the purposes of this measure.

## **How Revenues From New Tobacco and E-Cigarette Taxes Would Be Spent**

Revenues from the cigarette, other tobacco product, and e-cigarette excise taxes that are increased by this measure would be deposited directly into a new special fund, called the California Healthcare, Research and Prevention Tobacco Tax Act of 2016 Fund (hereafter referred to as the fund). Revenues deposited in the fund would only be used for purposes set forth in the measure and would not be subject to appropriation by the Legislature. Here we describe how the revenues would be spent in the order required by the measure. (Revenues from expanding the taxpaying base of existing taxes to include e-cigarettes would support Proposition 99 and Proposition 10 purposes as described in Figure 1.)

***Backfill of Existing Tobacco Tax Programs.*** This measure requires the transfer of some revenues raised by the new taxes to “backfill,” or offset, any revenue losses that occur to funds supported by existing state cigarette and tobacco taxes as a direct result of the imposition of the new taxes. These revenue losses would occur mainly because an increase in the price of cigarettes and other tobacco products generally reduces consumption and leads some consumers to acquire untaxed products instead of taxed ones. This, in turn, would reduce the amount of revenues collected through the existing state excise taxes described above. The amount of backfill payments needed to offset any loss of funding in these areas would be determined by the Board of Equalization (BOE).

***Backfill of State and Local Sales and Use Tax Revenue Losses.*** Similarly, the measure requires backfill payments to the state and affected local governments in respect of any revenue losses of state and local sales and use taxes resulting directly from the new taxes on cigarettes and tobacco products.

***BOE Would Receive Up to 5 Percent of Remaining Funds for Administrative Costs.*** The BOE would receive not more than 5 percent of the funds remaining after backfill of existing tobacco programs to cover administrative expenses resulting from the new tax. (The BOE would also receive additional funds for enforcement of the new tax as explained below.)

***Specified State Entities Would Receive Predetermined Amounts.*** After backfilling for specified revenue losses due to the imposition of the new taxes and providing funds to BOE for administrative costs, the University of California (UC), California Department of Justice (DOJ), Office of the Attorney General (OAG), BOE, and DPH would annually receive predetermined amounts of funding as follows:

- ***UC Would Receive \$40 Million for Physician Training.*** Forty million dollars would be used to provide funding to UC for the purpose of increasing the number of primary

care and emergency physicians trained in California. The UC provides instruction to about 8,000 graduate medical students at six of its campuses. In addition, the university operates five teaching hospitals that support clinical teaching programs.

- ***DPH Would Receive \$30 Million for Dental Program.*** Thirty million dollars would be provided to the DPH State Dental Program for the purpose of educating about, preventing, and treating dental disease. The funds shall be used for activities including, but not limited to, education, disease prevention, disease treatment, surveillance, and case management.
- ***DOJ and OAG Would Receive \$30 Million for Local Law Enforcement.*** Thirty million dollars would be provided to the DOJ and the OAG to, in turn, distribute to local law enforcement agencies. The funds would be used to support and hire law enforcement officers for programs including, but not limited to, enforcement of state and local laws related to the illegal sales and marketing of tobacco to minors, increasing investigative activities, and compliance checks to reduce illegal sales of tobacco products to minors and youth tobacco use.
- ***OAG Would Receive \$6 Million to Enforce Tobacco Laws.*** Six million dollars would be provided to the OAG for activities including, but not limited to, enforcing laws that regulate the distribution and sale of cigarettes and other tobacco products.
- ***DPH Would Receive \$6 Million for Tobacco Enforcement Programs.*** Six million dollars would be provided to DPH to support programs, including, but not limited to, providing grants and contracts to local law enforcement agencies to provide training and funding for the enforcement of state and local laws related to the illegal sales of tobacco to minors, increasing investigative activities and compliance checks, and other activities to reduce the illegal sales of tobacco to minors.
- ***BOE Would Receive \$6 Million for Enforcement.*** Six million dollars would be provided to the BOE for enforcement of laws that regulate the distribution and retail sale of cigarettes and other tobacco products. The BOE administers a variety of tax programs, including sales and use taxes, property taxes, and special taxes, such as those on cigarettes and other tobacco products.

***Predetermined Amounts Would Be Adjusted to Reflect Revenues.*** If the BOE determines that there has been a reduction in revenues resulting from a reduction in the consumption of cigarette and tobacco products due to the measure, the predetermined amounts of funding described above would be adjusted proportionately. The BOE would make such determinations annually beginning two years after the measure went into effect.

***Remaining Funds Go to State Health Programs.*** After backfilling for specified revenue losses, paying BOE administrative costs, and distributing predetermined amounts of funding to specified state entities, the following state agencies would receive the remaining funds for health programs:

- ***Medi-Cal in DHCS.*** Eighty-two percent of the remaining funds would be allocated to DHCS to provide funding to increase the level of payment for health care, services,

and treatment provided to Medi-Cal beneficiaries. Examples of health care, services, and treatment would include physician visits, hospital care, and prescription drugs. While this measure requires DHCS to use revenues from this measure to supplement, not supplant, existing state funding for Medi-Cal, it is unclear how this requirement would be interpreted and enforced.

- ***California Tobacco Control Program (CTCP) in DPH.*** About 11 percent of the remaining funds would fund tobacco prevention and control programs administered by CTCP. The DPH administers the CTCP with the aim of reducing illness and death from tobacco-related diseases. The CTCP, with a budget estimated at \$38 million in 2014-15, funds programs aimed at countering pro-tobacco messages, reducing secondhand smoke exposure, reducing access to tobacco products, and increasing smoking cessation services.
- ***California Department of Education (CDE).*** About 2 percent of the remaining funds would be provided to CDE for school programs to prevent and reduce the use of tobacco products by young people. The department administers various education programs, and allocates funding to various types of local education agencies, including county offices of education, school districts, and charter schools. The CDE's budget for tobacco education and prevention programs is estimated at \$16 million for 2014-15, with the funding for these programs coming from Proposition 99.
- ***Tobacco-Related Disease Research Program Administered by UC.*** Five percent of the remaining funds would be allocated to the Tobacco-Related Disease Research Program administered by UC for medical research into prevention, early detection, treatments, and potential cures of all types of cancer, cardiovascular and lung disease, and other tobacco-related diseases. Currently funded with Proposition 99 tobacco tax revenues, this research program supports research on the prevention and treatment of tobacco-related diseases in California by awarding grant funding to researchers at California public, private, and nonprofit entities, such as universities, hospitals, laboratories, local health departments, and managed care organizations.

***Administrative Costs Limited to 5 Percent.*** The measure would limit the amount of revenues raised by the measure that could be used to pay for administrative costs. Entities receiving funds would be allowed to use not more than 5 percent of the funds for administrative costs.

### **Other Major Provisions**

***California State Auditor.*** The California State Auditor would conduct audits of agencies receiving funds from the new taxes at least every other year. The Auditor would receive up to \$400,000 annually to cover costs incurred from conducting these audits. The Auditor provides independent and nonpartisan assessments of the California government's financial and operational activities in compliance with generally accepted government accounting standards.

***Revenues From Measure Would Be Exempt From State Spending Limit.*** The measure would amend the State Constitution to exempt the measure's revenues and spending from the



state's constitutional spending limit. (This constitutional exemption is similar to ones already in place for prior, voter-approved increases in tobacco taxes.)

## FISCAL EFFECTS

This measure would have a number of fiscal effects on state and local governments. The major impacts are discussed below.

### Impacts on State and Local Revenues

***Revenues Would Be Affected by Consumer Response.*** Our revenue estimates assume that the proposed excise tax increases would be passed along to consumers. In other words, we assume that the retail prices of cigarettes, other tobacco products, and e-cigarettes would be raised to include the excise tax increase. We expect consumers to respond to this price increase in two ways: by reducing their consumption of cigarettes, other tobacco products, and e-cigarettes and by changing the way they acquire cigarettes, other tobacco products, and e-cigarettes so that fewer transactions are taxed. For example, consumers could avoid paying the new tax on e-cigarettes by purchasing untaxed e-cigarettes from Internet vendors.

***Revenues From New Excise Taxes.*** We estimate that the new excise taxes on cigarettes and other tobacco products (including e-cigarettes) required by this measure would raise an estimated \$1.3 billion to \$1.6 billion in annual revenue. The range reflects the uncertainty of the magnitude of the consumer response to the proposed tax increase discussed above. Our estimate of the allocation of new excise tax revenues in 2017-18 (the first full-year impact) is shown in Figure 2. After backfilling losses in existing tax revenue (described in more detail below), the new cigarette excise tax would generate an estimated \$1 billion to \$1.4 billion in net revenue in 2017-18 for the purposes described in the measure. (These estimates do not include additional revenue from the provision of the measure that expands the taxpaying base of existing excise taxes to include e-cigarettes, which we discuss below. They also do not include revenue from the one-time floor stock tax.) The excise tax increases would generate somewhat lower amounts of revenue in subsequent years, based on our projections of continued declines in cigarette consumption.

***Effects on Revenues From Existing Excise Taxes.*** The classification of certain e-cigarettes as a tobacco product would expand the set of products subject to the existing excise tax on other tobacco products. As a result, it would generate additional revenue for the Proposition 99 and Proposition 10 purposes described earlier in Figure 1. In 2017-18, excise taxes on e-cigarettes could generate revenue ranging from tens of millions of dollars to over \$100 million for Proposition 99 purposes and an amount in the low-to-mid tens of millions of dollars for Proposition 10 purposes.

The decline in consumption of cigarettes and other tobacco products caused by this measure would reduce revenues from the existing excise taxes that go to support Proposition 99 and Proposition 10 purposes, the General Fund, and the Breast Cancer Fund. The measure provides for the backfill of these losses from revenues raised by the new excise taxes. We estimate that the amount of backfill funding needed to comply with this requirement would range from \$200 million to \$230 million in 2017-18.

**Figure 2**  
**How Estimated Revenue From New Cigarette, Other Tobacco Product, and E-Cigarette Taxes Would Be Allocated<sup>a</sup>**  
*(In Millions)*

	2017-18 Funding <sup>b</sup> (Full Year)	
	Low Estimate <sup>c</sup>	High Estimate <sup>c</sup>
<b>Estimated Revenue From New Excise Taxes</b>	\$1,270	\$1,620
Less backfill for specified revenue losses	230 <sup>d,e</sup>	200 <sup>d,e</sup>
<b>Estimated Net Revenue</b>	<b>\$1,040</b>	<b>\$1,420</b>
<b>Allocation of Estimated Net Revenue</b>		
Board of Equalization—administrative expenses	\$50	\$70
University of California	40	40
Department of Justice and Office of the Attorney General	30	30
Office of the Attorney General	6	6
Department of Public Health	36	36
Board of Equalization—enforcement	6	6
Medi-Cal	710	1,010
Tobacco Control Program	100	140
Department of Education	20	20
University of California Tobacco-Related Disease Program	40	60
Bureau of State Audits	0.4	0.4

<sup>a</sup> Numbers may not add due to rounding.  
<sup>b</sup> The estimates do not include revenues from the one-time floor stock tax or new revenues for Proposition 99 and Proposition 10 as a result of expanding the definition of tobacco products to include e-cigarettes for purposes of existing excise taxes.  
<sup>c</sup> The consumer response to the proposed tax increases is uncertain, so we present a range of plausible outcomes. The low-revenue estimate reflects a strong consumer response, while the high-revenue estimate reflects a weak consumer response.  
<sup>d</sup> LAO estimate. Backfill amounts would be determined by the Board of Equalization.  
<sup>e</sup> A strong consumer response would reduce estimated revenues from the new excise taxes but increase the amount needed to backfill for specified revenue losses.

**Effect on State and Local Sales and Use Tax Revenues.** Sales and use taxes are levied on a variety of products, including the retail price of cigarettes, other tobacco products, and e-cigarettes. The retail price usually includes the cost of all excise taxes. The excise tax increases under the measure would raise the retail price of taxable cigarettes, tobacco products, and e-cigarettes, and consumers would respond by buying fewer of those goods. As a result, the effect of the measure’s tax increases on sales and use tax revenue from the sale of cigarettes, tobacco products, and e-cigarettes could be positive or negative, depending on the magnitude of the consumer response. For cigarettes and tobacco products, the measure provides for the backfill of sales and use tax revenue losses from revenues raised by the new excise taxes. We estimate this provision is not likely to be used.

**Effects on Excise Tax Collection.** As discussed above, the measure would allocate \$48 million to the DOJ, OAG, DPH, and BOE to support state law enforcement efforts. These funds would be used to support increased enforcement efforts to reduce tax evasion, counterfeiting, smuggling, and the unlicensed sales of cigarettes and other tobacco products. The funds would also be used to support efforts to reduce sales of tobacco products to minors. These activities could bring in more excise tax revenue, but the magnitude of this effect is uncertain.

## Impact on State and Local Government Health Care Costs

The state and local governments in California incur costs for providing (1) health care for low-income and uninsured persons and (2) health insurance coverage for state and local government employees and retirees. Consequently, changes in state law such as those made by this measure that affect the health of the general population—and low-income and uninsured persons and public employees in particular—would affect publicly funded health care costs.

For example, as discussed above, this measure would result in a decrease in the consumption of tobacco products as a result of the expected price increase of tobacco products. Further, this measure provides funding for tobacco prevention and cessation programs, and to the extent these programs are effective, this would further decrease consumption of tobacco products. The use of tobacco products has been linked to various adverse health effects by the federal health authorities and numerous scientific studies. Thus, this measure would reduce state and local government health care spending on tobacco-related diseases over the long term. This measure would have other fiscal effects that offset these cost savings. For example, health care and social services that otherwise would not have occurred as a result of individuals who avoid tobacco-related diseases living longer. Further, the impact of a tax on e-cigarettes on health and the associated costs over the long term is unknown, because e-cigarettes are relatively new devices and the health impacts of e-cigarettes are still being studied. Thus, the net long-term fiscal impact of this measure on state and local government costs is unknown.

***Potential Other Effects on State General Fund Resulting From Increases in Health Care Provider Reimbursement.*** As noted above, a portion of the funds from this measure are to be used to increase the level of payment for health care providers that provide services to individuals enrolled in Medi-Cal. Currently, certain types of Medi-Cal providers, such as managed care plans, typically receive rate increases that account for such things as medical inflation and changes in the amount and types of health care services provided to enrollees. These rate increases are partially funded with state General Fund monies. In addition, absent the measure, there may be some pressure for the state to increase payment to other types of Medi-Cal providers to ensure beneficiaries have adequate access to health care services. To the extent funds generated by the measure are used to increase provider payments that would otherwise have been covered by the General Fund, the measure would reduce state General Fund costs. On the other hand, higher provider payments created by the measure could establish an expectation that similar payment levels will be maintained in future years. The funds generated from this measure are expected to decline over time as cigarette consumption decreases and fewer cigarettes are purchased. To the extent the measure would create pressure to maintain the level of provider payments initially achieved by this measure, it could create pressure to use state General Fund monies to backfill the expected decline in funds available from this measure. The net fiscal effect of these two potential impacts of the measure cannot be estimated.

## Summary of Fiscal Effects

This measure would have the following major fiscal effects:

- Net increase in excise tax revenues in the range of \$1.1 billion to \$1.6 billion annually by 2017-18, with revenues decreasing slightly in subsequent years. The

majority of funds would be used for payments to health care providers. The remaining funds would be used for a variety of specified purposes, including tobacco-related prevention and cessation programs, law enforcement programs, medical research on tobacco-related diseases, and early childhood development programs.

Sincerely,

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Mac Taylor  
Legislative Analyst

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Michael Cohen  
Director of Finance

LAO   
**75**  
YEARS OF  
SERVICE

## Cigarette Tax Initiative

Presented to:

Assembly Health Committee

Hon. Jim Wood, Chair;

Assembly Revenue and Taxation Committee

Hon. Sebastian Ridley-Thomas, Chair; and

Senate Health Committee

Hon. Ed Hernandez, Chair





## LAO Role in Initiative Process

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### **Fiscal Analysis Prior to Signature Collection**

- State law requires our office to work with the Department of Finance to prepare a joint impartial fiscal analysis of each initiative before it can be circulated for signatures.
- State law requires that this analysis provide an estimate of the measure's fiscal impact on state and local governments.
- A summary of the estimated fiscal impact is included on the initiative petitions circulated for signatures.



### **Analysis After Measure Collects Sufficient Signatures to Qualify for the Ballot**

- State law requires our office to provide impartial analyses of all statewide ballot propositions for the voter information guide. These analyses are required to include a description of the measure and its fiscal effects.
- We currently are in the process of preparing these materials.



## Summary of Measure

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### **Increases State Excise Taxes on Tobacco Products**

- Raises tax on cigarettes from 87 cents per pack to \$2.87 per pack.
- Taxes on other tobacco products—such as cigars—would increase by an equivalent amount.
- Taxes would be extended to electronic cigarettes for the first time.



### **New Revenues Predominantly Used for Additional Spending on the State's Medi-Cal Program**



## Background

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### Types of Products Affected by the Measure

- **Cigarettes.** Smoking cigarettes is the most common way to use tobacco.
- **Other Tobacco Products.** Other tobacco products, such as cigars and chewing tobacco, can be consumed by smoking or other forms of ingestion.
- **Electronic Cigarettes.** These are battery-operated devices that turn specially designed liquid, which can contain nicotine, into a vapor. The vapor is inhaled by the user.



### Existing Taxes on Products Affected by the Measure

- **Excise Taxes.** Taxes on a specific good.
  - Current state excise taxes on cigarettes are 87 cents per pack. The state excise taxes on other tobacco products are the equivalent of \$1.37 per pack of cigarettes. Excise taxes on these products currently support a number of purposes.
  - Current federal excise taxes are \$1.01 per pack of cigarettes and varying amounts for other tobacco products.
  - There are currently no state or federal excise taxes on electronic cigarettes.
- **State and Local Sales Taxes.** Taxes based on the retail price of a wide assortment of goods.
  - Current state and local sales taxes apply to retail sale of cigarettes, other tobacco products, and electronic cigarettes.
  - Current state and local sales taxes range from 7.5 percent to 10 percent depending on the city or county.





### State and Local Health Programs

- **Medi-Cal.** Medi-Cal is California's Medicaid program, which provides health care coverage to over 13 million low-income individuals, or nearly one-third of California residents, with a budget of nearly \$95 billion (about \$23 billion General Fund) for 2015-16.
- **Public Health Programs.** Local governments provide many public health programs, while the state provides funding (primarily federal and special funds), oversight, and leadership for these programs.



### Smoking Trends in California

- While cigarette smoking rates in California declined over the past couple of decades for a variety of reasons, more recently this trend appears to have stalled. In 2013, roughly 12 percent of adults in California smoked cigarettes.
- As electronic cigarettes are relatively new products, historical trend data on use is limited.



### Recent Changes to State Law and Federal Rules

- As part of the special session on health care, the Legislature passed and the Governor signed a package of legislation affecting tobacco products and electronic cigarettes. This legislation does not directly affect the taxes on these products or the programs that receive funding from the taxes.
- Recently, the U.S. Food and Drug Administration (FDA) ruled that electronic cigarettes are subject to the existing Federal Food, Drug, and Cosmetic Act, which gives the FDA the authority to regulate various products. As above, this recent federal rule change does not directly affect state taxes on tobacco products and electronic cigarettes or the programs that receive funding from these taxes.



## Proposal

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- Increases State Excise Taxes on Cigarettes and Other Tobacco Products**
  - Increases cigarette tax by \$2 per pack—from 87 cents to \$2.87 per pack.
  - Raises equivalent tax on other tobacco products by the same \$2—from \$1.37 to \$3.37.
  
- Imposes State Excise Taxes on Electronic Cigarettes**
  - Changes the definition of other tobacco products for purposes of taxation to include electronic cigarettes that contain nicotine or liquid containing nicotine. Changing the definition in this way causes the \$3.37 equivalent tax to apply to these products.
  
- Specifies Distribution of the Revenues to a Variety of State Programs and Other Purposes (See Figure on Next Page)**
  
- Exempts Revenues From State Spending Limit and Proposition 98 Education Funding Requirements**



**Proposal**

*(Continued)*

<b>How New Tax Revenue Would Be Spent</b>		
<b>Program or Entity<sup>a</sup></b>	<b>Amount</b>	<b>Purpose</b>
<b>Step 1: Replace Revenues Lost</b>		
Existing Tobacco Tax Funds	Determined by BOE	To maintain tobacco-related revenues that tobacco tax funds would have received before this measure.
State and Local Sales and Use Tax	Determined by BOE	To maintain tobacco-related revenues the state and local governments would have received before this measure.
<b>Step 2: Pay for Tax Administration</b>		
Board of Equalization (BOE)—administration	5 percent of remaining funds	For costs to administer the tax.
<b>Step 3: Allocate Specific Amounts for Various State Entities<sup>b</sup></b>		
Various state entities—enforcement <sup>c</sup>	\$48 million	For various enforcement activities of tobacco-related laws.
University of California (UC)—physician training	\$40 million	For physician training to increase the number of primary care and emergency physicians in California.
Department of Public Health (DPH)—State Dental Program	\$30 million	For education on preventing and treating dental disease.
California State Auditor	\$400,000	For audits of agencies receiving funds from new taxes, at least every other year.
<b>Step 4: Distribute Remaining Funds for State Health Programs</b>		
Medi-Cal—Department of Health Care Services (DHCS)	82 percent of remaining funds	For increasing the level of payment for health care, services, and treatment provided to Medi-Cal beneficiaries. DHCS cannot use these funds to replace existing state funds for these same purposes.
California Tobacco Control Program—DPH	11 percent of remaining funds	For tobacco prevention and control programs aimed at reducing illness and death from tobacco-related diseases.
Tobacco-Related Disease Program—UC	5 percent of remaining funds	For medical research into prevention, early detection, treatments, and potential cures of all types of cancer, cardiovascular and lung disease, and other tobacco-related diseases. UC cannot replace existing state and local funds for this purpose with these new revenues.
School Programs—California Department of Education	2 percent of remaining funds	For school programs to prevent and reduce the use of tobacco products by young people.
<sup>a</sup> The measure would limit the amount of revenues raised that could be used to pay for administrative costs, to be defined by the State Auditor through regulation, to not more than 5 percent for each recipient of funding. <sup>b</sup> Predetermined amounts would be adjusted proportionately by BOE annually, beginning two years after the measure went into effect, if the BOE determines that there has been a reduction in revenues resulting from a reduction in the consumption of cigarette and tobacco products due to the measure. <sup>c</sup> Funds distributed to Department of Justice/Office of Attorney General (\$30 million), Office of Attorney General (\$6 million), DPH (\$6 million) and BOE (\$6 million).		



## Fiscal Effects

- New Excise Taxes Would Increase State Revenue by Over \$1 Billion in 2017-18, With Likely Lower Annual Amounts in Future Years**
- Over \$1 Billion in Increased Funding in 2017-18 Mostly for State Health Programs**
- Net Long-Term Impact on State and Local Governments' Health Care Costs Unknown**

<b>How Estimated Revenues in 2017-18 Would Be Allocated</b>		
<i>(In Millions)</i>		
	2017-18	
	Low Range <sup>a</sup>	High Range <sup>a</sup>
Estimated revenue from new excise taxes	\$1,270	\$1,610
Replace revenue loss <sup>b</sup>	230	200
<b>Estimated Net Revenue to Be Allocated</b>	<b>\$1,040</b>	<b>\$1,410</b>
<b>Tax Administration</b>		
Board of Equalization—administrative expenses	\$50	\$70
<b>Specific Amounts Allocated to State Entities</b>		
Various state entities—enforcement	\$48	\$48
University of California—physician training	40	40
Department of Public Health—State Dental Program	30	30
California State Auditor—audits	0.4	0.4
<b>Remaining Funds Allocated to State Health Programs</b>		
Medi-Cal	\$710	\$1,000
Tobacco Control Program	100	130
University of California Tobacco-Related Disease Program	40	60
School Programs	20	20

<sup>a</sup> The consumer response to the proposed tax increases is uncertain, so we present a range of plausible outcomes. The low-revenue estimate reflects a strong consumer response, while the high-revenue estimate reflects a weak consumer response. Figures not presented as a range reflect fixed allocations prescribed by the measure.

<sup>b</sup> LAO estimate. Revenue loss replacement amounts would be determined by the Board of Equalization.



## Issues Raised by Stakeholders

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### **Two Statutory Interpretation Issues Raised Regarding Initiative's Language That Would Need to Be Resolved by the Board of Equalization as Administrator of the Taxes Imposed by the Measure**

- Two potential definitions of electronic cigarettes.
  - “Electronic cigarettes include any component part, accessory of such a device that is used during the operation of the device when sold in combination with any liquid or substance containing nicotine.”
  - “Such regulations shall include imposition of an equivalent tax on any device intended to be used to deliver aerosolized or vaporized nicotine to the person inhaling from the device when sold separately or as a package; any component, part, or accessory of such a device that is used during the operation of the device; and any liquid or substance containing nicotine, whether sold separately or as a package with any device that would allow it to be inhaled.”
- Potential for additional \$2 tax on electronic cigarettes as levied on other tobacco products under Proposition 10, which would bring the total excise tax on electronic cigarettes to \$5.37 under the measure.



August 4, 2016

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To: Members, CSAC Executive Committee

From: DeAnn Baker, Deputy Executive Director of Legislative Affairs  
Darby Kernan Legislative Representative  
Stanicia Boatner, Legislative Analyst

Re: **2016 Ballot Measure: Proposition 57. Criminal Sentences. Juvenile Criminal Proceedings and Sentencing – ACTION ITEM**

**Recommendation:** CSAC staff are recommending a “neutral position” to the Administration of Justice Policy Committee which will be meeting on July 28, 2016 to hear this measure.

**Background:** Proposition 57 amends the California Constitution to give parole consideration to individuals sent to prison for a non-violent felony once they have completed the full term of their primary offense. The Initiative defines primary offense as the longest term imposed excluding any additional terms that are added to an offender’s sentence such as enhancements, consecutive sentences, or alternative sentences. In addition, Proposition 57 amends the California Constitution to specify that the California Department of Corrections and Rehabilitation (CDCR) have the authority to award credits to inmates for good behavior and approved rehabilitative and educational achievements. Both of these provisions require the Secretary of CDCR to certify that they protect and enhance public safety. The proponent’s intent is to give offenders an incentive to participate in rehabilitative programs in prison and earn an opportunity to go before the Board of Parole Hearings (BPH).

Proposition 57 also makes statutory amendments to the 2000 initiative, Proposition 21, that increased a variety of criminal penalties committed by youth and resulted in an increase of youth offenders into the adult criminal justice system. Proposition 57 eliminates the ability for a district attorney to direct file to adult court on juvenile cases. Juveniles alleged to have committed a felony can be tried in adult court only if the court, after a hearing determines the minor should be tried in adult court. All presumptions are removed and the court must weigh the factors and decide whether the youth should be charged as an adult or juvenile. The initiative also limits the ability to charge minors 14 and 15 years-of-age in adult court for certain serious/violent offenses.

**Attorney General’s Summary:** Proposition 57 allows parole consideration for persons convicted of nonviolent felonies upon completion of full prison term for primary offense, as defined. The Initiative authorizes CDCR to award sentence credits for rehabilitation, good behavior, or educational achievements. Requires the Department to adopt regulations to implement new parole and sentence credit provisions and certify they enhance public safety. Provides juvenile court judges shall make determination, upon prosecutor motion, whether juveniles age 14 and older should be prosecuted and sentenced as adults.

**Fiscal Impact:** The Legislative Analyst’s Office (LAO) suggests that there could be savings to the state depending on how specific provisions in Proposition 57 are implemented and costs to county governments. For state savings it would depend on the extent to which BPH grants parole and CDCR awards additional credits. To the extent that credits expedite the release of inmates who would be supervised by probation on Post-Release Community Supervision

(PRCS), this would temporarily increase county costs to supervise these individuals in the community following their release. The LAO estimates that these costs could range from minor to the tens of millions of dollars annually for a period of years.

The changes to the process for juveniles will increase county costs primarily because counties are responsible for paying a portion of the costs of housing juvenile offenders in the state Division of Juvenile Justice (DJJ). There are additional costs for probation departments which are responsible for supervising these youthful offenders upon their release from DJJ.

**Staff Comments:** California has undergone major criminal justice reforms in the last few years resulting in counties taking on more responsibility for felony offenders in county jails and on supervision by probation departments. There is a concern that additional reforms will impact the bandwidth of local criminal justice systems. With that said, California's prison system is under a federal court-ordered population cap and without additional reforms there is a very real possibility that California could exceed the population cap and a court appointed compliance officer will be required to release inmates. Both processes have an impact on county governments, however, Proposition 57 at least ensures that offenders are disciplinary free, have completed rehabilitative and educational programs, and are no longer considered a risk to public safety. There are no criteria for the compliance officer in determining releases.

Currently, under the federal court order, CDCR is currently implementing credit and parole reforms that include credit earning increases for non-violent, non-sex registrant second strike offenders and minimum custody inmates; parole consideration by BPH for non-violent second-strike offenders who have served 50% of their sentence; parole consideration by BPH for certain inmates with indeterminate sentences granted parole with future parole dates; medical parole; and parole consideration for elderly inmates over 60 years of age.

Proposition 57 formalizes what CDCR is already doing to meet the Federal Court requirements. This is needed in order to meet the federal court requirements of a "durable solution" and to eventually have the state take back its prison system.

The Chief Probation Officers of California support Proposition 57 and the California State Sheriffs Association has not taken a position on Proposition 57. The California District Attorneys Association opposes Proposition 57.

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**Attachments:**

- 1) Full text of Proposition 57
- 2) Legislative Analyst Office Fiscal Analysis

**THE PUBLIC SAFETY AND REHABILITATION ACT OF 2016**

**SECTION 1. Title.**

This measure shall be known and may be cited as “The Public Safety and Rehabilitation Act of 2016.”

**SEC. 2. Purpose and Intent.**

In enacting this Act, it is the purpose and intent of the people of the State of California to:

1. Protect and enhance public safety.
2. Save money by reducing wasteful spending on prisons.
3. Prevent federal courts from indiscriminately releasing prisoners.
4. Stop the revolving door of crime by emphasizing rehabilitation, especially for juveniles.
5. Require a judge, not a prosecutor, to decide whether juveniles should be tried in adult court.

**SEC. 3. Section 32 is added to Article I of the California Constitution, to read:**

SEC. 32. (a) The following provisions are hereby enacted to enhance public safety, improve rehabilitation, and avoid the release of prisoners by federal court order, notwithstanding anything in this article or any other provision of law:

(1) Parole consideration: Any person convicted of a non-violent felony offense and sentenced to state prison shall be eligible for parole consideration after completing the full term for his or her primary offense.

(A) For purposes of this section only, the full term for the primary offense means the longest term of imprisonment imposed by the court for any offense, excluding the imposition of an enhancement, consecutive sentence, or alternative sentence.

(2) Credit Earning: The Department of Corrections and Rehabilitation shall have authority to award credits earned for good behavior and approved rehabilitative or educational achievements.

(b) The Department of Corrections and Rehabilitation shall adopt regulations in furtherance of these provisions, and the Secretary of the Department of Corrections and Rehabilitation shall certify that these regulations protect and enhance public safety.

**SEC. 4. Judicial Transfer Process.**

**Sections 602 and 707 of the Welfare and Institutions Code are hereby amended.**

Section 602 of the Welfare and Institutions Code is amended to read:

602. ~~(a)~~ Except as provided in ~~subdivision (b)~~ Section 707, any person who is under 18 years of age when he or she violates any law of this state or of the United States or any ordinance of any city or county of this state defining crime other than an ordinance establishing a curfew based



solely on age, is within the jurisdiction of the juvenile court, which may adjudge such person to be a ward of the court.

~~(b) Any person who is alleged, when he or she was 14 years of age or older, to have committed one of the following offenses shall be prosecuted under the general law in a court of criminal jurisdiction:~~

~~(1) Murder, as described in Section 187 of the Penal Code, if one of the circumstances enumerated in subdivision (a) of Section 190.2 of the Penal Code is alleged by the prosecutor, and the prosecutor alleges that the minor personally killed the victim.~~

~~(2) The following sex offenses, if the prosecutor alleges that the minor personally committed the offense, and if the prosecutor alleges one of the circumstances enumerated in the One Strike law, subdivision (d) or (e) of Section 667.61 of the Penal Code, applies:~~

~~(A) Rape, as described in paragraph (2) of subdivision (a) of Section 261 of the Penal Code.~~

~~(B) Spousal rape, as described in paragraph (1) of subdivision (a) of Section 262 of the Penal Code.~~

~~(C) Forcible sex offenses in concert with another, as described in Section 264.1 of the Penal Code.~~

~~(D) Forcible lewd and lascivious acts on a child under 14 years of age, as described in subdivision (b) of Section 288 of the Penal Code.~~

~~(E) Forcible sexual penetration, as described in subdivision (a) of Section 289 of the Penal Code.~~

~~(F) Sodomy or oral copulation in violation of Section 286 or 288a of the Penal Code, by force, violence, duress, menace, or fear of immediate and unlawful bodily injury on the victim or another person.~~

~~(G) Lewd and lascivious acts on a child under 14 years of age, as defined in subdivision (a) of Section 288, unless the defendant qualifies for probation under subdivision (d) of Section 1203.066 of the Penal Code.~~

Section 707 of the Welfare and Institutions Code is amended to read:

707. (a)(1) In any case in which a minor is alleged to be a person described in ~~subdivision (a) of~~ Section 602 by reason of the violation, when he or she was 16 years of age or older, of any felony criminal statute, or ordinance except those listed in subdivision (b), or of an offense listed in subdivision (b) when he or she was 14 or 15 years of age, the District Attorney or other appropriate prosecuting officer may make a motion to transfer the minor from juvenile court to a court of criminal jurisdiction. ~~upon~~ The motion of the petitioner must be made prior to the attachment of jeopardy. Upon such motion, the juvenile court shall ~~cause order~~ the probation officer to ~~investigate and~~ submit a report on the behavioral patterns and social history of the minor, ~~being considered for a determination of unfitness.~~ The report shall include any written or oral statement offered by the victim pursuant to Section 656.2.

(2) Following submission and consideration of the report, and of any other relevant evidence that the petitioner or the minor may wish to submit, the juvenile court shall decide whether the minor should be transferred to a court of criminal jurisdiction. In making its decision, the court shall consider the criteria specified in subparagraphs (A) to (E) below. If the court orders a transfer of jurisdiction, the court shall recite the basis for its decision in an order entered upon the minutes. In any case in which a hearing has been noticed pursuant to this section, the court shall postpone the taking of a plea to the petition until the conclusion of the transfer hearing, and no plea that may have been entered already shall constitute evidence at the hearing. ~~may find that the minor is not a fit and proper subject to be dealt with under the juvenile court law if it concludes that the minor would not be amenable to the care, treatment, and training program available through the facilities of the juvenile court, based upon an evaluation of the criteria specified in clause (i) of subparagraphs (A) to (E), inclusive:~~

(A)(i) The degree of criminal sophistication exhibited by the minor.

(ii) When evaluating the criterion specified in clause (i), the juvenile court may give weight to any relevant factor, including, but not limited to, the minor's age, maturity, intellectual capacity, and physical, mental, and emotional health at the time of the alleged offense, the minor's impetuosity or failure to appreciate risks and consequences of criminal behavior, the effect of familial, adult, or peer pressure on the minor's actions, and the effect of the minor's family and community environment and childhood trauma on the minor's criminal sophistication.

(B)(i) Whether the minor can be rehabilitated prior to the expiration of the juvenile court's jurisdiction.

(ii) When evaluating the criterion specified in clause (i), the juvenile court may give weight to any relevant factor, including, but not limited to, the minor's potential to grow and mature.

(C)(i) The minor's previous delinquent history.

(ii) When evaluating the criterion specified in clause (i), the juvenile court may give weight to any relevant factor, including, but not limited to, the seriousness of the minor's previous delinquent history and the effect of the minor's family and community environment and childhood trauma on the minor's previous delinquent behavior.

(D)(i) Success of previous attempts by the juvenile court to rehabilitate the minor.

(ii) When evaluating the criterion specified in clause (i), the juvenile court may give weight to any relevant factor, including, but not limited to, the adequacy of the services previously provided to address the minor's needs.

(E)(i) The circumstances and gravity of the offense alleged in the petition to have been committed by the minor.

(ii) When evaluating the criterion specified in clause (i), the juvenile court may give weight to any relevant factor, including but not limited to, the actual behavior of the person, the mental state of the person, the person's degree of involvement in the crime, the level of harm actually caused by the person, and the person's mental and emotional development.

A determination that the minor is not a fit and proper subject to be dealt with under the juvenile court law may be based on any one or a combination of the factors set forth above in clause (i) of subparagraphs (A) to (E), inclusive, which shall be recited in the order of unfitness. In any case in which a hearing has been noticed pursuant to this section, the court shall postpone the taking of a plea to the petition until the conclusion of the fitness hearing, and no plea that may have been entered already shall constitute evidence at the hearing.

~~(2)(A) This paragraph shall apply to a minor alleged to be a person described in Section 602 by reason of the violation, when he or she has attained 16 years of age, of any felony offense when the minor has been declared to be a ward of the court pursuant to Section 602 on one or more prior occasions if both of the following apply:~~

~~(i) The minor has previously been found to have committed two or more felony offenses.~~

~~(ii) The offenses upon which the prior petition or petitions were based were committed when the minor had attained 14 years of age.~~

~~(B) Upon motion of the petitioner made prior to the attachment of jeopardy the court shall cause the probation officer to investigate and submit a report on the behavioral patterns and social history of the minor being considered for a determination of unfitness. Following submission and consideration of the report, and of any other relevant evidence that the petitioner or the minor may wish to submit, the minor shall be presumed to be not a fit and proper subject to be dealt with under the juvenile court law unless the juvenile court concludes, based upon evidence, which evidence may be of extenuating or mitigating circumstances, that the minor would be amenable to the care, treatment, and training program available through the facilities of the juvenile court based upon an evaluation of the criteria specified in subclause (I) of clauses (i) to (v), inclusive:~~

~~(i)(I) The degree of criminal sophistication exhibited by the minor.~~

~~(II) When evaluating the criterion specified in subclause (I), the juvenile court may give weight to any relevant factor, including, but not limited to, the minor's age, maturity, intellectual capacity, and physical, mental, and emotional health at the time of the alleged offense, the minor's impetuosity or failure to appreciate risks and consequences of criminal behavior, the effect of familial, adult, or peer pressure on the minor's actions, and the effect of the minor's family and community environment and childhood trauma on the minor's criminal sophistication.~~

~~(ii)(I) Whether the minor can be rehabilitated prior to the expiration of the juvenile court's jurisdiction.~~

~~(II) When evaluating the criterion specified in subclause (I), the juvenile court may give weight to any relevant factor, including, but not limited to, the minor's potential to grow and mature.~~

~~(iii)(I) The minor's previous delinquent history.~~

~~(II) When evaluating the criterion specified in subclause (I), the juvenile court may give weight to any relevant factor, including, but not limited to, the seriousness of the minor's previous~~

~~delinquent history and the effect of the minor's family and community environment and childhood trauma on the minor's previous delinquent behavior.~~

~~(iv)(I) Success of previous attempts by the juvenile court to rehabilitate the minor.~~

~~(II) When evaluating the criterion specified in subclause (I), the juvenile court may give weight to any relevant factor, including, but not limited to, the adequacy of the services previously provided to address the minor's needs.~~

~~(v)(I) The circumstances and gravity of the offense alleged in the petition to have been committed by the minor.~~

~~(II) When evaluating the criterion specified in subclause (I), the juvenile court may give weight to any relevant factor, including, but not limited to, the actual behavior of the person, the mental state of the person, the person's degree of involvement in the crime, the level of harm actually caused by the person, and the person's mental and emotional development.~~

~~A determination that the minor is a fit and proper subject to be dealt with under the juvenile court law shall be based on a finding of amenability after consideration of the criteria set forth in subclause (I) of clauses (i) to (v), inclusive, and findings therefore recited in the order as to each of the those criteria that the minor is fit and proper under each and every one of those criteria. In making a finding of fitness, the court may consider extenuating and mitigating circumstances in evaluating each of those criteria. In any case in which the hearing has been noticed pursuant to this section, the court shall postpone the taking of a plea to the petition until the conclusion of the fitness hearing and no plea that may have been entered already shall constitute evidence at the hearing. If the minor is found to be a fit and proper subject to be dealt with under the juvenile court law pursuant to this subdivision, the minor shall be committed to placement in a juvenile hall, ranch camp, forestry camp, boot camp, or secure juvenile home pursuant to Section 730, or in any institution operated by the Department of Corrections and Rehabilitation, Division of Juvenile Facilities.~~

~~(3) If, pursuant to this subdivision, the minor is found to be not a fit and proper subject for juvenile court treatment and is tried in a court of criminal jurisdiction and found guilty by the trier of fact, the judge may commit the minor to the Department of Corrections and Rehabilitation, Division of Juvenile Facilities, in lieu of sentencing the minor to the state prison, unless the limitations specified in Section 1732.6 apply.~~

~~(b) Subdivision (e) (a) shall be applicable in any case in which a minor is alleged to be a person described in Section 602 by reason of the violation of one of the following offenses when he or she was 14 or 15 years of age:~~

~~(1) Murder.~~

~~(2) Arson, as provided in subdivision (a) or (b) of Section 451 of the Penal Code.~~

~~(3) Robbery.~~

~~(4) Rape with force, violence, or threat of great bodily harm.~~

- (5) Sodomy by force, violence, duress, menace, or threat of great bodily harm.
- (6) A lewd or lascivious act as provided in subdivision (b) of Section 288 of the Penal Code.
- (7) Oral copulation by force, violence, duress, menace, or threat of great bodily harm.
- (8) An offense specified in subdivision (a) of Section 289 of the Penal Code.
- (9) Kidnapping for ransom.
- (10) Kidnapping for purposes of robbery.
- (11) Kidnapping with bodily harm.
- (12) Attempted murder.
- (13) Assault with a firearm or destructive device.
- (14) Assault by any means of force likely to produce great bodily injury.
- (15) Discharge of a firearm into an inhabited or occupied building.
- (16) An offense described in Section 1203.09 of the Penal Code.
- (17) An offense described in Section 12022.5 or 12022.53 of the Penal Code.
- (18) A felony offense in which the minor personally used a weapon described in any provision listed in Section 16590 of the Penal Code.
- (19) A felony offense described in Section 136.1 or 137 of the Penal Code.
- (20) Manufacturing, compounding, or selling one-half ounce or more of a salt or solution of a controlled substance specified in subdivision (e) of Section 11055 of the Health and Safety Code.
- (21) A violent felony, as defined in subdivision (c) of Section 667.5 of the Penal Code, which also would constitute a felony violation of subdivision (b) of Section 186.22 of the Penal Code.
- (22) Escape, by the use of force or violence, from a county juvenile hall, home, ranch, camp, or forestry camp in violation of subdivision (b) of Section 871 if great bodily injury is intentionally inflicted upon an employee of the juvenile facility during the commission of the escape.
- (23) Torture as described in Sections 206 and 206.1 of the Penal Code.
- (24) Aggravated mayhem, as described in Section 205 of the Penal Code.
- (25) Carjacking, as described in Section 215 of the Penal Code, while armed with a dangerous or deadly weapon.

(26) Kidnapping for purposes of sexual assault, as punishable in subdivision (b) of Section 209 of the Penal Code.

(27) Kidnapping as punishable in Section 209.5 of the Penal Code.

(28) The offense described in subdivision (c) of Section 26100 of the Penal Code.

(29) The offense described in Section 18745 of the Penal Code.

(30) Voluntary manslaughter, as described in subdivision (a) of Section 192 of the Penal Code.

~~(c) With regard to a minor alleged to be a person described in Section 602 by reason of the violation, when he or she was 14 years of age or older, of any of the offenses listed in subdivision (b), upon motion of the petitioner made prior to the attachment of jeopardy the court shall cause the probation officer to investigate and submit a report on the behavioral patterns and social history of the minor being considered for a determination of unfitness. Following submission and consideration of the report, and of any other relevant evidence that the petitioner or the minor may wish to submit, the minor shall be presumed to be not a fit and proper subject to be dealt with under the juvenile court law unless the juvenile court concludes, based upon evidence, which evidence may be of extenuating or mitigating circumstances, that the minor would be amenable to the care, treatment, and training program available through the facilities of the juvenile court based upon an evaluation of each of the following criteria specified in subparagraph (A) of paragraphs (1) to (5), inclusive:~~

~~(1)(A) The degree of criminal sophistication exhibited by the minor.~~

~~(B) When evaluating the criterion specified in subparagraph (A), the juvenile court may give weight to any relevant factor, including, but not limited to, the minor's age, maturity, intellectual capacity, and physical, mental, and emotional health at the time of the alleged offense, the minor's impetuosity or failure to appreciate risks and consequences of criminal behavior, the effect of familial, adult, or peer pressure on the minor's actions, and the effect of the minor's family and community environment and childhood trauma on the minor's criminal sophistication.~~

~~(2)(A) Whether the minor can be rehabilitated prior to the expiration of the juvenile court's jurisdiction.~~

~~(B) When evaluating the criterion specified in subparagraph (A), the juvenile court may give weight to any relevant factor, including, but not limited to, the minor's potential to grow and mature.~~

~~(3)(A) The minor's previous delinquent history.~~

~~(B) When evaluating the criterion specified in subparagraph (A), the juvenile court may give weight to any relevant factor, including, but not limited to, the seriousness of the minor's previous delinquent history and the effect of the minor's family and community environment and childhood trauma on the minor's previous delinquent behavior.~~

~~(4)(A) Success of previous attempts by the juvenile court to rehabilitate the minor.~~

~~(B) When evaluating the criterion specified in subparagraph (A), the juvenile court may give weight to any relevant factor, including, but not limited to, the adequacy of the services previously provided to address the minor's needs.~~

~~(5)(A) The circumstances and gravity of the offenses alleged in the petition to have been committed by the minor.~~

~~(B) When evaluating the criterion specified in subparagraph (A), the juvenile court may give weight to any relevant factor, including, but not limited to, the actual behavior of the person, the mental state of the person, the person's degree of involvement in the crime, the level of harm actually caused by the person, and the person's mental and emotional development.~~

~~A determination that the minor is a fit and proper subject to be dealt with under the juvenile court law shall be based on a finding of amenability after consideration of the criteria set forth in subparagraph (A) of paragraphs (1) to (5), inclusive, and findings therefore recited in the order as to each of those criteria that the minor is fit and proper under each and every one of those criteria. In making a finding of fitness, the court may consider extenuating or mitigating circumstances in evaluating each of those criteria. In any case in which a hearing has been noticed pursuant to this section, the court shall postpone the taking of a plea to the petition until the conclusion of the fitness hearing and no plea which may have been entered already shall constitute evidence at the hearing. If, pursuant to this subdivision, the minor is found to be not a fit and proper subject for juvenile court treatment and is tried in a court of criminal jurisdiction and found guilty by the trier of fact, the judge may commit the minor to the Department of Corrections and Rehabilitation, Division of Juvenile Facilities, in lieu of sentencing the minor to the state prison, unless the limitations specified in Section 1732.6 apply.~~

~~(d) (1) Except as provided in subdivision (b) of Section 602, the district attorney or other appropriate prosecuting officer may file an accusatory pleading in a court of criminal jurisdiction against any minor 16 years of age or older who is accused of committing an offense enumerated in subdivision (b).~~

~~(2) Except as provided in subdivision (b) of Section 602, the district attorney or other appropriate prosecuting officer may file an accusatory pleading against a minor 14 years of age or older in a court of criminal jurisdiction in any case in which any one or more of the following circumstances apply:~~

~~(A) The minor is alleged to have committed an offense that if committed by an adult would be punishable by death or imprisonment in the state prison for life.~~

~~(B) The minor is alleged to have personally used a firearm during the commission or attempted commission of a felony, as described in Section 12022.5 or 12022.53 of the Penal Code.~~

~~(C) The minor is alleged to have committed an offense listed in subdivision (b) in which any one or more of the following circumstances apply:~~

~~(i) The minor has previously been found to be a person described in Section 602 by reason of the commission of an offense listed in subdivision (b).~~

~~(ii) The offense was committed for the benefit of, at the direction of, or in association with any criminal street gang, as defined in subdivision (f) of Section 186.22 of the Penal Code, with the specific intent to promote, further, or assist in criminal conduct by gang members.~~

~~(iii) The offense was committed for the purpose of intimidating or interfering with any other person's free exercise or enjoyment of a right secured to him or her by the Constitution or laws of this state or by the Constitution or laws of the United States and because of the other person's race, color, religion, ancestry, national origin, disability, gender, or sexual orientation, or because the minor perceives that the other person has one or more of those characteristics, as described in Title 11.6 (commencing with Section 422.55) of Part 1 of the Penal Code.~~

~~(iv) The victim of the offense was 65 years of age or older, or blind, deaf, quadriplegic, paraplegic, developmentally disabled, or confined to a wheelchair, and that disability was known or reasonably should have been known to the minor at the time of the commission of the offense.~~

~~(3) Except as provided in subdivision (b) of Section 602, the district attorney or other appropriate prosecuting officer may file an accusatory pleading in a court of criminal jurisdiction against any minor 16 years of age or older who is accused of committing one or more of the following offenses, if the minor has previously been found to be a person described in Section 602 by reason of the violation of a felony offense, when he or she was 14 years of age or older:~~

~~(A) A felony offense in which it is alleged that the victim of the offense was 65 years of age or older, or blind, deaf, quadriplegic, paraplegic, developmentally disabled, or confined to a wheelchair, and that disability was known or reasonably should have been known to the minor at the time of the commission of the offense.~~

~~(B) A felony offense committed for the purposes of intimidating or interfering with any other person's free exercise or enjoyment of a right secured to him or her by the Constitution or laws of this state or by the Constitution or laws of the United States and because of the other person's race, color, religion, ancestry, national origin, disability, gender, or sexual orientation, or because the minor perceived that the other person had one or more of those characteristics, as described in Title 11.6 (commencing with Section 422.55) of Part 1 of the Penal Code.~~

~~(C) The offense was committed for the benefit of, at the direction of, or in association with any criminal street gang as prohibited by Section 186.22 of the Penal Code.~~

~~(4) In any case in which the district attorney or other appropriate prosecuting officer has filed an accusatory pleading against a minor in a court of criminal jurisdiction pursuant to this subdivision, the case shall then proceed according to the laws applicable to a criminal case. In conjunction with the preliminary hearing as provided in Section 738 of the Penal Code, the magistrate shall make a finding that reasonable cause exists to believe that the minor comes within this subdivision. If reasonable cause is not established, the criminal court shall transfer the case to the juvenile court having jurisdiction over the matter.~~



~~(5) For an offense for which the prosecutor may file the accusatory pleading in a court of criminal jurisdiction pursuant to this subdivision, but elects instead to file a petition in the juvenile court, if the minor is subsequently found to be a person described in subdivision (a) of Section 602, the minor shall be committed to placement in a juvenile hall, ranch camp, forestry camp, boot camp, or secure juvenile home pursuant to Section 730, or in any institution operated by the Department of Corrections and Rehabilitation, Division of Juvenile Facilities.~~

~~(6) If, pursuant to this subdivision, the minor is found to be not a fit and proper subject for juvenile court treatment and is tried in a court of criminal jurisdiction and found guilty by the trier of fact, the judge may commit the minor to the Department of Corrections and Rehabilitation, Division of Juvenile Facilities, in lieu of sentencing the minor to the state prison, unless the limitations specified in Section 1732.6 apply.~~

~~(e) A report submitted by a probation officer pursuant to this section regarding the behavioral patterns and social history of the minor being considered for a determination of unfitness shall include any written or oral statement offered by the victim, the victim's parent or guardian if the victim is a minor, or if the victim has died, the victim's next of kin, as authorized by subdivision (b) of Section 656.2. Victims' statements shall be considered by the court to the extent they are relevant to the court's determination of unfitness.~~

#### **SEC. 5. Amendment.**

This Act shall be broadly construed to accomplish its purposes. The provisions of Section 4 of this measure may be amended so long as such amendments are consistent with and further the intent of this Act by a statute that is passed by a majority vote of the members of each house of the Legislature and signed by the Governor.

#### **SEC. 6. Severability.**

If any provision of this measure, or part of this measure, or the application of any provision or part to any person or circumstances, is for any reason held to be invalid, the remaining provisions, or applications of provisions, shall not be affected, but shall remain in full force and effect, and to this end the provisions of this measure are severable.

#### **SEC. 7. Conflicting Initiatives.**

(a) In the event that this measure and another measure addressing credits and parole eligibility for state prisoners or adult court prosecution for juvenile defendants shall appear on the same statewide ballot, the provisions of the other measure or measures shall be deemed to be in conflict with this measure. In the event that this measure receives a greater number of affirmative votes than a measure deemed to be in conflict with it, the provisions of this measure shall prevail in their entirety, and the other measure or measures shall be null and void.

(b) If this measure is approved by voters but superseded by law by any other conflicting measure approved by voters at the same election, and the conflicting ballot measure is later held invalid, this measure shall be self-executing and given full force and effect.

**SEC. 8. Proponent Standing.**

Notwithstanding any other provision of law, if the State, government agency, or any of its officials fail to defend the constitutionality of this act, following its approval by the voters, any other government employer, the proponent, or in their absence, any citizen of this State shall have the authority to intervene in any court action challenging the constitutionality of this act for the purpose of defending its constitutionality, whether such action is in any trial court, on appeal, or on discretionary review by the Supreme Court of California and/or the Supreme Court of the United States. The reasonable fees and costs of defending the action shall be a charge on funds appropriated to the Department of Justice, which shall be satisfied promptly.

**SEC. 9. Liberal Construction.**

This Act shall be liberally construed to effectuate its purposes.

February 11, 2016

Hon. Kamala D. Harris  
Attorney General  
1300 I Street, 17<sup>th</sup> Floor  
Sacramento, California 95814

Attention: Ms. Ashley Johansson  
Initiative Coordinator

Dear Attorney General Harris:

Pursuant to Elections Code Section 9005, we have reviewed the proposed constitutional and statutory initiative related to parole consideration, credits, and the prosecution of juveniles in adult court (A.G. File No. 15-0121, Amendment No. 1).

## **BACKGROUND**

### **Parole Consideration and Credits for Prison Inmates**

*Parole Consideration Hearings.* Under indeterminate sentencing, prison inmates receive a sentence range, such as 25-years-to-life, and typically appear before the state Board of Parole Hearings (BPH) for a parole consideration hearing in order to be granted release from prison. Most inmates, however, receive determinate sentences. Under determinate sentencing, inmates receive fixed prison terms and do not need a parole consideration hearing to be released from prison. However, in certain circumstances, inmates serving determinate sentences are eligible for parole consideration hearings before they have served their entire sentence. For example, under current law, inmates who committed their crime before the age of 23 and receive a determinate sentence are eligible for parole consideration hearings after serving 15 years of their sentences. In addition, pursuant to a federal court order, there are other determinately sentenced inmates that receive parole consideration partway through their terms. This was one of several measures put in place to keep the prison population below a limit put in place by the court.

*Credits.* State law currently provides the California Department of Corrections and Rehabilitation (CDCR) with the authority to award credits to prison inmates that reduce the time that they must serve. The credits are provided for good behavior, or for participating in work, training, or education programs. Inmates can reduce their sentence by as much as one-half through these credits. However, state law restricts the amount of credits that certain inmates can earn. For example, the most inmates convicted of using a firearm while committing certain crimes can reduce their sentences with credits is 15 percent.

## Juvenile Justice

***Youths in Juvenile Delinquency Court.*** Individuals accused of committing crimes when they were under 18 years of age are generally tried in juvenile delinquency court rather than in adult criminal court. Juvenile court proceedings differ from adult court proceedings in various ways. For example, rather than sentencing a youth to a set term of incarceration, juvenile court judges determine the appropriate placement and treatment for the youth, based on such factors as the youth's offense, prior record, and criminal sophistication.

Counties are generally responsible for the youths placed by juvenile courts. These youth are typically allowed to remain with their families. However, some are placed outside of their home, such as in county-run camps or ranches. In addition, if the judge finds that the youth committed certain major crimes specified in statute (such as murder, robbery, and certain sex offenses), the judge can place the youth in a facility operated by the state Division of Juvenile Justice (DJJ). State law requires that counties pay a portion of the cost of housing such youths committed to DJJ by juvenile courts. Youths who are released from DJJ are generally supervised in the community by county probation officers. In total, about 52,000 youths were tried in juvenile delinquency court in 2014.

***Youths in Adult Court.*** In certain circumstances, individuals accused of committing crimes when they were age 14 or older can be tried in adult criminal court and subject to adult sentences. (Youths accused of committing crimes before they were age 14 must have their cases heard in juvenile court.) Such cases can generally end up in adult criminal court in one of the three following ways:

- ***Fitness Hearing.*** A prosecutor can request a fitness hearing in which a juvenile court judge decides whether a youth should be transferred to adult court. For youths accused of committing crimes when they were age 14 or 15, the crime must be one of certain major crimes specified in statute (such as murder, robbery, or certain sex offenses). For youths accused of committing a crime when they were age 16 or 17, the prosecutor can seek this hearing for any crime, but typically will only do so for more serious crimes or for youths with a significant criminal history.
- ***Direct Filing.*** If a youth has a significant criminal history and/or is accused of certain crimes specified in statute (such as murder), a prosecutor can "direct file" charges in adult criminal court without needing to seek a fitness hearing. There are more circumstances for which youths accused of committing crimes when they were age 16 or 17 can be subject to direct filings.
- ***Mandatory Filing.*** If a youth is accused of committing murder or certain sex offenses with specified aggravating special circumstances (such as also being accused of torturing the victim), he or she must be tried in adult court.

Relatively few youths are tried in adult criminal court each year. For example, only about 400 youths were tried in adult criminal court in 2014.

Youths who are convicted in adult criminal court when they are under 18 years of age are typically held in DJJ for the first portion of their sentences. When these youth turn age 18, they are generally transferred to state prison. However, if their sentence is short enough that they are able to complete their terms before turning age 21, they serve their entire sentences in DJJ. The state is solely responsible for the cost of housing youths in DJJ who were convicted in adult criminal court.

After completing their sentences, youth convicted in adult court are generally supervised in the community by state parole agents whether they are released from DJJ or state prison.

## PROPOSAL

This measure makes changes to the State Constitution to increase the number of inmates eligible for parole consideration and provide CDCR with additional authority to award credits to inmates. The measure also makes statutory changes to require that youths have a hearing in juvenile delinquency court before they can be transferred to adult criminal court. We describe these provisions in greater detail below.

***Parole Consideration for Non-Violent Offenders.*** The measure amends the State Constitution to specify that any person convicted of a non-violent felony offense and sentenced to state prison shall be eligible for parole consideration after completing the full term for his or her primary offense. The measure defines primary offense as the longest term imposed excluding any additional terms that are added to an offender's sentence. Such additional terms include: (1) the sentences for the lesser crimes the inmate is convicted of in certain cases where the inmate is convicted of multiple crimes and (2) sentencing enhancements (such as the additional time an inmate must serve for using a firearm while committing a crime). As a result, these offenders could be released on an expedited basis, after serving the term for their primary offense. In addition, the measure authorizes CDCR to adopt regulations to implement the above changes and requires the Secretary of CDCR to certify that they protect and enhance public safety.

***Authority to Award Credits.*** The measure also amends the State Constitution to specify that CDCR shall have the authority to award credits to inmates for good behavior and approved rehabilitative or educational achievements. As a result, CDCR could authorize credits beyond the current limits. In addition, the measure authorizes CDCR to adopt regulations to implement the above changes and requires the Secretary of CDCR to certify that they protect and enhance public safety.

***Juvenile Transfer Hearings.*** The measure modifies statute regarding fitness hearings to require that all youths have a hearing in juvenile delinquency court before they can be transferred to adult criminal court. As a result, prosecutors would no longer be able to file charges directly in adult criminal court and no youths would have their cases heard in adult criminal court on a mandatory basis. In addition, the measure specifies that hearings to transfer youths to adult criminal court could only be sought for (1) youths accused of committing certain major crimes specified in statute (such as murder, robbery, and certain sex offenses) when they were age 14 or 15 and (2) youths accused of committing a felony when they were 16 years of age or older. As a result, there may be fewer youth tried in adult court. These youth would likely be subject to shorter terms than would be the case if they were subject to adult sentences.

## FISCAL EFFECTS

This measure would have various fiscal effects on the state and local governments. However, the magnitude of these effects would depend on how certain provisions in the measure are interpreted and implemented, such as the extent to which BPH grants parole and CDCR awards additional credits. As such, our estimates below encompass a relatively wide range.

### **Parole Consideration for Non-Violent Offenders**

*Net State Savings.* To the extent that non-violent offenders serve shorter terms in prison due to the parole consideration provisions of the measure, it would reduce state costs as the size of the prison population would decline. However, these savings would be partially offset by a couple of factors. First, BPH would experience costs associated with considering inmates for parole. Second, under current law, indeterminately sentenced offenders and offenders with convictions for serious crimes are supervised by state parole agents following their release from prison. To the extent that this measure expedited the release of these offenders, the above prison savings would be slightly offset by increased parole costs for roughly a decade following the implementation of the measure. In total, we estimate that the net savings to the state from these factors would likely be in the tens of millions of dollars annually on an ongoing basis. We note that in the short term the net savings would likely be higher.

*County Costs.* Under current law, offenders whose current conviction is not violent or serious are supervised in the community by county probation officers following their release from prison. Accordingly, to the extent that this measure expedited the release of these offenders, it would temporarily increase county costs to supervise these individuals in the community. We estimate that these costs could range between the millions and tens of millions of dollars annually for a few years following the initial implementation of the measure.

### **Credits for Prison Inmates**

*Net State Savings.* To the extent that CDCR decides to grant additional credits beyond those currently authorized, the size of the prison population would decline—resulting in a reduction in state correctional costs. Under current law, offenders convicted of serious or violent offenses are supervised by state parole agents following their release from prison. Accordingly, to the extent that the measure expedited the release of these offenders, the above prison savings would be slightly offset by increased parole costs for a period of years following the implementation of the measure. The precise fiscal effect would depend on how much average sentence lengths were reduced by CDCR. For example, if the department only granted a minor increase in credits, the net savings would be minimal. On the other hand, if the department granted sufficient credits to reduce average inmate sentences by a few months, the measure could eventually result in net state savings reaching into the low hundreds of millions of dollars annually.

*County Costs.* To the extent that the measure's changes to credits expedite the release of inmates from state prison who have not been convicted of serious or violent crimes, the measure would temporarily increase county costs to supervise these individuals in the community following their release. We estimate that these costs could range from minor to the tens of millions of dollars annually for a period of years following the implementation of the measure.

### **Prosecution of Youth in Adult Court**

*Net Reduction in State Costs.* If fewer youths are tried and convicted in adult criminal court, the measure would have a number of fiscal effects on the state. First, it would reduce state prison and parole costs as youths affected by the measure would no longer spend any time in prison or be supervised by state parole agents following their release. In addition, because juvenile delinquency court proceedings are generally shorter than adult criminal court proceedings, the measure would reduce state court costs. These savings would be partially offset by increased state juvenile justice

costs as youths affected by the measure would generally spend a greater amount of time in a DJJ facility. However, a portion of the cost of housing these youths in DJJ would be paid for by counties. In total, we estimate that the net savings to the state from the above effects could be around a few million dollars annually.

***Net Increase in County Costs.*** If fewer youths are tried and convicted as adults, the measure would also have a number of fiscal effects on counties. First, as discussed above, counties would be responsible for paying a portion of the costs of housing these youth in DJJ. In addition, county probation departments would be responsible for supervising these youths following their release from DJJ. We also note that because juvenile delinquency proceedings are generally shorter than adult criminal proceedings, the above county costs would be partially offset by some savings in various ways. For example, because youths can be housed in county juvenile halls prior to and during court proceedings, youths affected by the measure would likely spend less time in these facilities. Similarly, county agencies involved in court proceedings for these youths, such as district attorneys and public defenders, would also experience a reduction in workload. In total, we estimate that the net costs to counties due to the above effects could be a few million dollars annually.

### **Summary of Fiscal Effects**

We estimate that this measure would have the following major fiscal effects, which could widely range depending on such factors as the discretion exercised by (1) the Board of Parole Hearings in determining whether to grant inmates parole and (2) the California Department of Corrections and Rehabilitation in determining whether to grant additional credits:

- Net state savings that could range from the tens of millions of dollars to the low hundreds of millions of dollars annually primarily due to a reduction in the prison population from additional paroles granted and credits earned.
- Net county costs that could range from the millions to tens of millions of dollars annually, declining to a few million dollars after initial implementation of the measure.

Sincerely,

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Mac Taylor  
Legislative Analyst

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Michael Cohen  
Director of Finance



® August 4, 2016

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To: CSAC Executive Committee  
From: CSAC Agriculture, Environment & Natural Resources (AENR) Policy Committee  
CSAC Government, Finance and Administration (GFA) Policy Committee  
Cara Martinson, CSAC Legislative Representative

**RE: Proposition 64: Adult Use of Marijuana Act (AUMA)**

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**Summary.** Proposition 64, the Adult Use of Marijuana Act (AUMA), would allow adults age 21 and older to possess, transport, purchase, consume and share up to one ounce of marijuana and eight grams of non-medical marijuana. AUMA has six major components, including: adult use of non-medical marijuana; adult use of medical marijuana; and regulation of non-medical marijuana; taxation; local control provisions and criminal penalties. The following memo outlines in greater detail these provisions and their impact on local government.

**Staff Recommendation.** CSAC staff is recommending a neutral position on Proposition 64 (AUMA) to the CSAC AENR & GFA Policy Committees which will meet on July 28<sup>th</sup> to review the measure. While AUMA will have a significant impact on local government, the measure is reflective of CSAC's input and fundamentally respects key aspects of local control and regulation. Staff had a discussion regarding our participation and input into the measure with the CSAC Executive Committee in 2015, and, as a result, provided detailed feedback to ballot drafters on key aspects critical to local government.

While CSAC did not, and has not, indicated any level of support or opposition to the measure, staff was able to provide comments and suggested language on several key issues critical to county government. Several points that were emphasized included the need for adequate funding and resources on the medical marijuana provisions; strong focus on local control and local regulation on both the medical and non-medical consumption; the need for local revenue generating authority; and, the need for adequate resources to address environmental and cultivation issues.

**Background.** *Legalization Efforts.* California is one of the latest states to enter into the recreational marijuana legalization debate. Voters in Alaska, Colorado, Oregon, Washington and the District of Columbia have legalized small amounts of marijuana for adult recreational use. Colorado and Washington measures passed in 2012, and Alaska, Oregon and District of Columbia in the fall of 2014. No state legislature, to date, has legalized recreational marijuana separate from a voter initiative.

In November 2016, California, Maine, Massachusetts and Nevada will have adult-use measures on the ballot. However, this is not the first time that marijuana legalization for non-medical use has come before the voters in California. Proposition 19, the Regulate, Control & Tax Cannabis Act was an initiative on the November 2, 2010 statewide ballot. It was defeated, with 53.5% of California voters voting "No" and 46.5%



voting "Yes." Much like AUMA, if passed the ballot measure would have legalized various marijuana-related activities, allowed local governments to regulate these activities, permitted local governments to impose and collect marijuana-related fees and taxes, and authorized various criminal and civil penalties.

*Medical Marijuana.* California has been at the forefront of medicinal marijuana access, the first state to legalize medical marijuana nearly 20 years ago. Voters passed Proposition 215, the Compassionate Use Act, in 1996. The measure amended state law to allow persons to grow or possess marijuana for medical use when recommended by a physician. Proposition 215 also allowed caregivers to grow and possess marijuana for a person for whom marijuana is recommended. In 2003, the Legislature passed Senate Bill 420 (Chapter 875 of 2003) which established the Medical Marijuana Program Act (MMPA). The MMPA, among other things, requires the California Department of Public Health to establish and maintain a program for the voluntary registration of qualified marijuana patients and their primary caregivers through a statewide identification card system. In addition, it authorized the formation of medical marijuana cooperatives—non-profit organizations that cultivate and distribute marijuana for medical uses to their members through dispensaries. While these initial efforts developed a very basic framework for medical marijuana, they lacked any formal statewide regulatory structure and enforcement mechanisms.

Since that time, many counties exercised their police powers and passed their own ordinances relative to medical marijuana land use policies, cultivation, and business licensing and regulation. The six north state counties, including Sonoma, Humboldt, Mendocino, Lake, Trinity and Del Norte developed their own specific north state policy to call for certain uniform state regulation while at the same time allowing local governments the flexibility to address individual community needs. Other counties, such as Los Angeles, have been at the forefront of non-medical marijuana regulation. The Los Angeles County Board of Supervisors voted recently to propose a local ballot measure this fall that seeks to take a potentially significant new source of government revenues, from marijuana sales, and use it to address its homeless population. The county proposal calls for a 10% levy on the gross receipts of businesses that produce or distribute marijuana and related products. It would apply to medical marijuana operations as well as the non-marijuana industry if California voters decide to legalize it in November.

In 2015, the Legislature enacted a package of bills establishing a new regulatory framework for medical marijuana cultivation and use in California. Three separate bills comprise the Medical Marijuana Regulation and Safety Act (MMRSA) – AB 243 (Wood), AB 266 (Bonta), and SB 643. Each deals with different aspects of regulation. Combined, MMRSA implements a new structure for licensing and enforcement of medical marijuana cultivation, product manufacturing, testing, transportation, storage, and distribution.

More specifically, the MMRSA does the following:

- Authorizes state and local governments to collect specified fees and taxes, as well as issue penalties for violations. Allows state departments to establish licensing fees to cover regulatory costs.
- Requires the state to set standards for labeling, testing, and packaging medical marijuana products and to develop an information technology (IT) system to track such products throughout the supply chain.
- Institutes system for regulating, monitoring, and reducing environmental impacts of marijuana cultivation.
- Phases out medical marijuana cooperatives within a few years and replaces them with state-licensed businesses.
- Creates the Bureau of Medical Cannabis Regulation (BMCR) within the Department of Consumer Affairs. Also tasks five other departments with various responsibilities relative to regulation.
- Assigns various responsibilities to both state and local governments.

The bills develop a much more comprehensive approach to medical marijuana in California. However, it is anticipated that the regulations will not developed until January 1, 2018.

*Federal Law.* While any marijuana cultivation or use is illegal under federal law, current federal policy is not to prosecute marijuana users and businesses that act in compliance with state marijuana laws so long as federal priorities are upheld (including not distributing to minors or transporting across state lines).

**Ballot Measure Summary.** *Executive Summary.* Proposition 64, the AUMA, would allow adults 21 and older to possess, transport, purchase, consume and share up to one ounce, or 28.5 grams of marijuana, 8 grams of "concentrated cannabis" or edibles, and up to six living cannabis plants of non-medical marijuana for recreational use. AUMA includes regulatory, local control, taxation and revenue provisions as well as criminal penalties. AUMA would allow local governments to regulate non-medical marijuana businesses through zoning and other laws, including requiring businesses to obtain local permits or licenses in addition to state licenses. The measure aligns with recently chaptered medical marijuana legislation and allows local governments to establish their own taxes on medical and non-medical marijuana. Other provisions relate to rights of employers, driving under the influence, and marijuana business locations.

The following are notable provisions of Adult Use:

- Allows adults age 21 and older to possess, transport, purchase, consume and share up to an ounce of nonmedical marijuana and eight grams of nonmedical marijuana concentrates.
- Adults can also grow up to six plants at their household for non-medical use, but plants must be out of public view and secure from children.
- Local governments may ban outdoor home cultivation.
- Using marijuana in public remains illegal.

- Driving while impaired by marijuana remains illegal.

*Medical Marijuana.* Numerous key details of AUMA's regulatory system are modeled after the medical legislation, MMRSA. It should be noted that AUMA is drafted to incorporate non-medical marijuana into the framework established for medical marijuana regulation, renaming the Bureau of Medical Cannabis Regulation as the Bureau of Marijuana Control, while leaving the roles of the agencies unchanged. Generally speaking and with a few exceptions, medical marijuana will be controlled and regulated according to MMRSA, and AUMA will regulate its nonmedical counterpart.

The following are notable provisions of medical marijuana within AUMA:

- Mandates that all patients obtain medical marijuana based on doctor's recommendations that meet the standards of the recently signed MMRSA legislation.
- Counties are required to develop compliant protocols by January 1, 2018.
- Caps fees for voluntary ID cards at \$100. MediCal beneficiaries receive a 50% fee reduction and the fee is waived entirely for medically indigent adults who participate in the California Medical Services Program. This is different from current law, which does not cap fees. Counties currently charge fees that range from \$104-224. However, if non-medical marijuana is legalized, it is unclear how many patients will continue to apply for ID cards.
- Exempts patients with ID cards from the state sales tax when purchasing marijuana.
- Requires counties to identify patients using unique identifiers instead of names, and subjects any databases to the privacy protections of the Confidentiality of Medical Information Act (state equivalent of federal HIPPA). Neither the state nor any county health department may disclose, or be ordered by a state court to disclose, patient information sooner than 10 days after providing the patient with notice of the request to disclose their information unless the patient consents.
- In all other respects, maintains existing privileges for medical marijuana patients.

*Regulation of non-medical marijuana.* AUMA maintains consistency with recently passed medical legislation, MMRSA, including the designation of the same regulatory agencies to serve as lead regulators. AUMA appoints the Department of Consumer Affairs (DCA) to serve as the lead regulatory agency for all marijuana, both nonmedical and medical.

The following are notable regulatory provisions of AUMA:

- Designates the Department of Public Health (DPH) to oversee testing and manufacturing for all marijuana, while the Department of Food & Agriculture (DFA) will oversee cultivation, again mirroring the medical legislation.

- Establishes a number of license types, with small, medium and large-scale licenses for cultivation.
- Delays issuance of large cultivation licenses, which permit a licensee to cultivate 22,000 square feet or greater, for the first five years that AUMA is in effect, allowing smaller growers to establish themselves in the market.
- Beginning in 2023, large cultivation licenses may be issued at the discretion of state regulators. If issued, however, large-scale cultivators will be subject to similar restrictions on vertical integration as contained in the medical marijuana legislation, meaning large-scale cultivators cannot also be distributors of marijuana.
- Requires DCA, DPH, and DFA to follow criteria established in AUMA when determining whether to issue a non-medical marijuana business license. Explicitly empowers state regulators to deny a license or license renewal to prevent “creation or maintenance of unlawful monopoly power”. Also prohibits licensees from engaging in anti-competitive behavior and provides that violators will be liable for monetary penalties. Businesses will need to apply for each license separately. However, holders of a micro-business license, who are limited to producing non-medical marijuana on 10,000 square feet, may engage in all business activities, including sale and distribution. Holders of a large cultivation license will not be permitted to hold a distribution license.
- Prohibits the retail sale of marijuana by businesses that sell alcohol or tobacco.
- Permits licensed businesses, subject to local approval, to sell non-medical marijuana for the purposes of on-site consumption by adults. Those businesses may not sell or permit the consumption of alcohol and tobacco.
- Provides existing medical marijuana businesses will get priority for the new licenses to establish product market.
- Requires the Bureau to establish appellations of origin for marijuana grown or cultivated in a particular California county.
- Permits licensed retailers to deliver non-medical marijuana to adult customers, except where a local jurisdiction chooses to ban that activity.

*Revenue and Taxation.* As with MMRSA, AUMA provides broad and explicit taxing authority to counties in addition to establishing statewide taxes on non-medical marijuana. According to an analysis from the Legislative Analyst’s Office, the measure could raise state and local tax revenues of over \$1 billion annually. In addition, the measure could potentially save state and local governments \$100 million annually, due to reduced costs in enforcing certain marijuana-related offenses, including reduced legal and incarceration costs.

The following are notable taxation and revenue provisions of AUMA:

- Allows local government to establish their own taxes on medical and non-medical marijuana consistent with existing state law. Explicit authority is granted to counties to levy a tax on cultivating, manufacturing, producing, processing, preparing, storing, providing, donating, selling or distributing marijuana, pursuant to existing voter-approval requirements

- On the state level, a 15% excise tax on all retail sales of marijuana, both non-medical and medical. However, medical marijuana purchased by patients with ID cards will be exempted from regular sales taxes. Also imposes a tax on licensed marijuana growers, based on the weight of the plants grown. The rates are \$9.25 per ounce of marijuana flowers and \$2.75 per ounce of marijuana leaves.
- The majority of funds are disbursed into the following subaccounts: The Youth Education, Prevention, Early Intervention and Treatment Account, the State and Local Government Law Enforcement Account, and the Environmental Restoration and Protection Account.

The exact percentage allocations into each account and the purposes of the account are as follows:

- 60% of funds are disbursed to the Youth Education, Prevention, Early Intervention and Treatment Account, which establishes public health and education programs focused on minors that provide treatment and counseling, educate against and prevent substance abuse.
- 20% of funds are disbursed to the State and Local Government Law Enforcement Account, which is used to train local law enforcement to administer the new laws, with a focus on DUIs, grants to local governments and organizations that educate the public on traffic safety, and major grants to local governments for enforcement of laws related to regulation of adult use of marijuana.
- 20% of funds are disbursed to the Environmental Restoration and Protection Account, which is used for environmental cleanup, remediated and restoration of public lands damaged by cultivation, as well as environmental enforcement against illegal water diversion, illegal cultivation, distribution and use of marijuana on public lands.

*Local Control Provisions.* AUMA includes multiple local control provisions, respecting local government police powers to ban commercial marijuana activity within their respective jurisdiction by ordinance. However, no local jurisdiction may ban the consumption of marijuana within its jurisdiction, or the allowance of up to six plants for personal use. As mentioned above, AUMA also provides broad taxing authority for local governments. However, local government fee authority is not explicit in the Act and is derived from statutes related to local fee recovery authority.

The following are notable local control provisions of AUMA:

- Aligns with medical legislation, MMRSA, to provide local control over non-medical marijuana businesses within their jurisdiction (MMRSA allows for local regulation over medical activity), including the authority to ban commercial marijuana activity by ordinance.
- Allows local government to regulate non-medical marijuana businesses through zoning and other local laws, including requiring that the businesses obtain local permits or licenses in addition to state licenses.

- Allows local government to enact and enforce reasonable restrictions on home cultivation of marijuana and allows a local government to ban outdoor home cultivation.
- Empowers local government to enforce state regulations in their jurisdictions when authorized by the relevant state agency. Enforcement would be done by local authorities, but pursuant to state standards and protocols.
- Allows local government to establish their own taxes on medical and non-medical marijuana consistent with existing state law. Explicit authority to do so is granted to counties, as previously mentioned.

*Criminal Penalties.* AUMA eliminates or substantially reduces certain criminal penalties for marijuana offenses, beyond what is explicitly made legal by the AUMA. Certain crimes, such as selling marijuana to minors (under 18- year old) and manufacturing marijuana with a volatile substance without a license, will remain felonies.

The following are notable criminal penalty provisions of AUMA:

- Allows prosecutors to continue charging the most serious marijuana-related offenses as felonies, including providing marijuana to a minor, cultivating marijuana illegally on public lands and transporting marijuana across state lines for unlawful sale.
- Some offenses committed by adults, such as possessing more marijuana for personal use than AUMA permits, are converted to misdemeanors. These penalties become wobblers that may be charged as felonies based on aggravating circumstances, such a repeat offense...
- Allows those previously convicted of a marijuana-related crime, which under AUMA would no longer be crimes or have a reduced penalty, to petition the court for penalty reduction or record expungement.

The full text of the initiative can be found [here](#).

**Existing Policy.** CSAC does not have any specific policy dealing with the legalization of marijuana. However, CSAC has policy relative to medical marijuana and its environmental impacts. The following is CSAC’s Medical Marijuana Policy, adopted by the Board of Directors in 2014:

“CSAC believes that the constitutional police powers of counties to protect the health, safety, and general welfare of the public authorizes counties to take actions to address what an elected Board of Supervisors legislatively determines to be the negative secondary effects of medical marijuana dispensaries and cultivation. The proliferation of such dispensaries and cultivation has created a variety of problems in many areas of the State. Counties must be able to enact prohibitions or regulations in the face of threats to the public health, safety and general welfare. Such decisions represent legislative judgments made by locally elected legislative bodies about the wisdom and need for local control over a particularly vexing and unusual land use. Under well settled constitutional separation of powers principles, deference must be afforded to the

legislative judgments made by locally elected officials, who are in the best position to evaluate local conditions, community needs, and the public welfare. Accordingly, CSAC believes that any legislation to develop a statewide program for the regulation of medical marijuana dispensaries and cultivation must allow individual local governments the discretion to either adopt that program in full, to modify the program as they see fit, or to opt out of the program completely.

In addition, the cultivation of marijuana is often accompanied by land use and operational activities such as clearing of land, grading, road-building, water withdrawals from streams and application of herbicides, pesticides and fertilizers. These activities are routinely regulated and enforced by Federal, State and local agencies when they are associated with industries such as timber, ranching or farming, so as to reduce their potential impacts on the environment. CSAC believes responsible agencies should be given clear guidance and adequate resources to regulate and enforce existing environmental laws when they are associated with the cultivation of marijuana. CSAC also supports a requirement that state agencies coordinate with local governments to ensure uniform application in enforcement efforts.”

**Local Government Impact.** As noted above in the revenue and taxation section as well as the local control section of this analysis, there are numerous provisions within AUMA dealing specifically with local regulation, enforcement and taxation. The legalization of non-medical marijuana will undoubtedly have a significant impact on local government. However, AUMA was written with these issues in mind and many, if not the majority, of CSAC’s comments and suggestions were incorporated into the ballot measure that will go before the voters in November.

It is clear that the development of a regulatory framework to control the legal use and production of marijuana would consume a tremendous amount of time and resources. It is also clear that the proliferation of medical marijuana is having a deleterious impact on our environment and some ways, communities. Clearly, there would also be social impacts associated with the legalization of marijuana for non-medical use, though what they would be can and will be the subject of considerable debate. Given the emotive significance of the issue and the social implications of such a significant policy shift, CSAC is recommending a neutral position as many of the issues concerning local control and regulation have been adequately addressed and included in the measure.

**Support/ Opposition.** *Support.* The major funder for AUMA is Napster founder and former Facebook president Sean Parker, and the measure is endorsed by Lt. Gov. Gavin Newsom, who convened a Blue Ribbon panel on marijuana legalization last year. It also has the support of the California Medical Association, California Democratic Party, California NAACP, ACLU of California, California Cannabis Industry Association, Drug Policy Alliance, MPP, Students for Sensible Drug Policy, and national NORML, among others.

*Opposition.* The opposition campaign for this initiative is led by Californians for Responsible Drug Policies. Organizations officially in opposition to the measure include

the California Hospital Association, Small Growers Association, California Teamsters Union, California Correctional Supervisor's Association and the California Police Chiefs Association.

**Requested Action.** CSAC staff recommends that the CSAC AENR and GFA Committees recommend a position of "neutral" to the CSAC Executive Committee.

**Staff Contact.** Cara Martinson, CSAC Legislative Representative, can be reached at 916-327-7500, ext. 504, or [cmartinson@counties.org](mailto:cmartinson@counties.org).





August 4, 2016

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To: CSAC Executive Committee  
From: CSAC Agriculture, Environment and Natural Resources Policy Committee  
Cara Martinson, CSAC Legislative Representative

**RE: Proposition 65: Carry Out Bags: Charges**

---

**Summary.** This measure would redirect money collected by grocery and other retail stores through the sale of carryout bags, whenever any state law bans free distribution of a particular kind of carryout bag and mandates the sale of any other kind of carryout bag. Proposition 65 would require stores to deposit bag sale proceeds into a special fund administered by the Wildlife Conservation Board (WCB) to support specified categories of environmental projects.

**Staff Recommendation.** CSAC staff is recommending “no position” on this measure to the CSAC Agriculture, Environment and Natural Resources Policy Committee, which will take the measure up for review on July 28th. While CSAC has supported bills in the past that dedicated reusable bag fees for environmental purposes, this measure raises Proposition 26 issues, requiring a 2/3 vote of the electorate for passage.

**Background.** Although plastic represents a relatively small fraction of the overall waste stream in California, plastic waste is the predominate form of marine debris. Plastics are estimated to comprise 60% to 80% of all marine debris and 90% of all floating debris. According to the California Coastal Commission, the primary source of marine debris is urban runoff, of which lightweight plastic bags and plastic film are particularly susceptible. According to the Department of Resources, Recycling and Recovery (Cal Recycle), a large amount of this plastic is accumulating in waterways and landscapes around the world, including the Pacific Ocean’s Gyre (also known as the Great Pacific Garbage Patch).

In addition, cities and counties are responsible for reducing storm water pollution to the Maximum Extent Practicable (MEP) and eliminate discharge through a National Pollutant Discharge Elimination System (NPDES). Part of this includes removing trash, including plastic from our storm drains and gutters. Storm water permits are costly, and because of Proposition 218, local governments are unable to raise their fees without a vote of the people.

In November 2010, California voters passed Proposition 26 (Prop 26). Prop 26 redefines regulatory fees as taxes. This means that new regulatory fees must now be treated like taxes and must be approved by a legislative supermajority (at the state level) and a voter supermajority for local measures. In response to Prop 26, local governments have begun to restructure their bag ordinances by having the proceeds from the charge on paper or reusable bags go to the retailer instead of the government. To date, over 140 jurisdictions have enacted plastic bag bans in their communities. Proposition 65 was placed on the ballot through the initiative process and there is pending case law as to whether or not this triggers the Prop 26 supermajority

vote. As such, this measure could jeopardize a statewide plastic bag ban if successful, but does not achieve a super-majority vote.

**Ballot Measure Summary.** Proposition 65 would redirect the fees collected by grocery and other retail stores through the sale of carryout bags. SB 270 (Padilla, 2014) established requirements for reusable bags and prohibited stores from distributing reusable bags and recycled paper bags for less than \$0.10 per bag. The fee associated with the statewide ban is allowed to be retained by stores that charge the fee to comply with the law. As you recall, Proposition 67 (see Proposition 67 Memo) is also on the November ballot as a referendum on SB 270.

Proposition 65 directs fees collected from bag sales to be used for environmental purposes and also provides for the Wildlife Conservation Board (WCB) to develop regulations implementing the law. All funds deposited in the Environmental Protection and Enhancement Fund shall be continuously appropriated to the WCB. WCB shall use the funds to support environmental protection and enhancement grants.

Projects and programs eligible for grant funds are as follows:

- Drought mitigation projects including, but not limited to, drought-stressed forest remediation and projects that expand or restore wetlands, fish or waterfowl habitat.
- Recycling.
- Clean drinking water supplies.
- State, regional, and local parks.
- Beach cleanup.
- Litter removal.
- Wildlife habitat restoration.

In addition, the measure would require the California State Auditor to conduct and post on its Internet website a biennial independent financial audit of the programs receiving grant funds. Proposition 65 also allows local governments to require funds generated or collected by their locally adopted bag ban ordinance to be deposited in the Environmental Protection and Enhancement Fund. Finally, the measure prohibits WCB from using more than 2% of the funds for administrative costs, and prohibits grant recipients from using more than 5% of the funds received for administrative costs.

**Existing Policy.** While CSAC does not have specific policy on plastic bag fees, CSAC does have policy to support for grants and loans to counties to assist with waste diversion.

**Local Government Impact.** The measure directs WCB to develop specific regulations to implement environmental protection and enhancement grants. However, it is unclear how much of the funds collected would be directed towards programs that directly benefit local governments. In addition, this measure has the potential to impact the

statewide ban on plastic bags (pending approval of Proposition 67) due to Proposition 26 implications.

**Support.** The official proponent of the initiative is Doyle Johnson. However, according to a press release from the American Progressive Bag Alliance (APBA), they submitted approximately 600,000 signatures to county registrars for signature verification.

**Opposition.** Staff has been unable to determine any formal opposition to the initiative.

**Action Requested.** CSAC staff requests that the CSAC Agriculture, Environmental and Natural Resources Committee recommend “no position” on Proposition 65 to the CSAC Executive Committee.

**Staff Contact.** Cara Martinson, CSAC Legislative Representative can be reached at [cmartinson@counties.org](mailto:cmartinson@counties.org). 916-327-7500, ext. 504.



August 4, 2016

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To: CSAC Executive Committee  
From: CSAC Agriculture, Environment and Natural Resources Policy Committee  
Cara Martinson, Legislative Representative

**Re: Proposition 67: Plastic Bag Ban Referendum**

---

**Summary:** A majority of “no” votes on the referendum would repeal SB 270 (Chapter 850, Statutes of 2014), which prohibited certain stores from distributing lightweight, single-use plastic bags. SB 270 established requirements for reusable bags and prohibited stores from distributing reusable bags and recycled paper bags for less than \$0.10 per bag.

**Staff Recommendation.** Staff is recommending “no position” on Proposition 67 to the CSAC Agriculture, Environment and Natural Resources Policy Committee, which will meet on July 28, 2016 to review the measure.

**Background. Pollution.** Although plastic represents a relatively small fraction of the overall waste stream in California, plastic waste is the predominate form of marine debris. Plastics are estimated to comprise 60% to 80% of all marine debris and 90% of all floating debris. According to the California Coastal Commission, the primary source of marine debris is urban runoff, of which lightweight plastic bags and plastic film are particularly susceptible. According to the Department of Resources, Recycling and Recovery (Cal Recycle), a large amount of this plastic is accumulating in waterways and landscapes around the world, including the Pacific Ocean’s Gyre (also known as the Great Pacific Garbage Patch).

In addition, cities and counties are responsible for reducing storm water pollution to the Maximum Extent Practicable (MEP) and eliminate discharge through a National Pollutant Discharge Elimination System (NPDES). Part of this includes removing trash, including plastic from our storm drains and gutters. Storm water permits are costly and because of Proposition 218, local governments are unable to raise their fees without a vote of the people.

**Legislative Efforts.** SB 270, by Senators Padilla, de León and Lara, was adopted by the Legislature and signed by the Governor in 2014. This bill established a statewide ban on the distribution of single-use plastic grocery bags at most stores. It was passed after several years of efforts, including numerous other legislative attempts and was ultimately supported by environmental groups, grocers, retailers, various local governments and labor. CSAC did not ultimately take a position on SB 270 due to amendments that directed the fee placed on reusable bags to remain with retail establishments rather than dedicated to environmental programs. CSAC did support previous bag ban bills, including AB 2829 (Davis, 2008), AB 68 (Brownley, 2009), AB 87 (Davis, 2009) & AB 158 (Levine, 2013-14). These previous legislative attempts to ban plastic bags would have dedicated proceeds from the sale of reusable bags for environmental mitigation purposes. SB 270 does preempt local governments from

passing an ordinance that differs from the statewide ban, while grandfathering in existing ordinances passed prior to September 2014. There currently are over 140 local city and county ordinances banning single-use carry out bags in California.

*Proposition 26.* In November 2010, California voters passed Proposition 26 (Prop 26). Prop 26 redefines regulatory fees as taxes. This means that new regulatory fees must now be treated like taxes and must be approved by a legislative supermajority (at the state level) and a voter supermajority for local measures. In response to Prop 26, local governments have begun to restructure their local bag ordinances by having the proceeds from the charge on paper or reusable bags go to the retailer instead of the government. CSAC supported previous legislative attempts to ban plastic bags before the issue of Prop 26 required either a supermajority vote or proceeds of sales to remain with the retailer.

**Initiative Summary.** A "yes" vote on Proposition 67 is a vote in favor of upholding or ratifying the contested legislation banning plastic bags. A majority of "no" votes on the referendum would repeal SB 270. SB 270 established requirements for reusable bags and prohibited stores from distributing reusable bags and recycled paper bags for less than \$0.10 per bag. Specifically, SB 270 does the following:

- Prohibits stores from making single-use carryout bags available at the point of sale on the following timeline: On and after January 1, 2015, at either a grocery store or retailer with at least 10,000 square feet of retail space and a pharmacy.
- On and after July 1, 2016, at a convenience food store and food mart.
- Authorizes a store to make available a reusable grocery bag or recycled paper bag at the point of sale.
- Requires that these bags may not be sold to a consumer for less than \$0.10.
- Requires that all monies collected by stores pursuant to this bill be retained at the store and be used for costs associated with complying with this bill; actual costs of providing recycled paper bags and reusable grocery bags; and costs associated with a store's educational materials or educational campaign encouraging the use of reusable bags.
- Requires a store to provide a reusable bag or recycled paper bag at no charge to any customer using California Special Supplemental Food Program for Women, Infants and Children benefits, CalFresh benefits (federally known as Supplemental Nutrition Assistance Program [SNAP] benefits), California Food Assistance Program benefits, or cash aid benefits.
- Authorizes a city, county, city and county, or the state to impose civil liability of \$1,000 for the first violation of the proposed law, \$2,000 for the second violation, and \$5,000 for each subsequent violation. Collected penalties must be paid to whichever agency brought the action.
- Grandfathers in all local ordinances adopted before September 1, 2014, relating to reusable grocery bags, single-use carryout bags, or recycled paper bags.
- Preempts local ordinances adopted on or after September 1, 2014, relating to reusable grocery bags, single-use carryout bags, or recycled paper bags.

- Appropriated \$2 million from the Recycled Market Development Revolving Loan Subaccount for loans for the creation and retention of jobs and economic activity in the state for the manufacture and recycling of plastic reusable grocery bags that use recycled content. Required recipients of a loan to retain and retrain existing employees for the manufacturing of reusable grocery bags that meet the requirements of this bill.

**Impact on Local Government.** Plastic bag pollution poses several direct impacts on local government. As previously mentioned, there are currently over 140 jurisdictions that have taken action at the local level to ban plastic bags in their communities. SB 270 does grandfather in local ordinances prior to 2014. While CSAC supported previous attempts to ban plastic bags, we do not have specific policy related to the direction of the fee on reusable bags.

**Support.** The following organizations are the main proponents of upholding the ban on plastic bags:

California League of Conservation Voters (CLCV)  
Californians Against Waste (CAW)  
Environment California  
Heal the Bay  
Natural Resources Defense Council (NRDC)  
Sierra Club California  
Surfrider Foundation

**Opposition.** The American Progressive Bag Alliance, an opponent of the measure, is leading the campaign to repeal SB 270. Other organizations in opposition include the Howard Jarvis Taxpayers Association and the California Manufacturer's and Technology Association.

**Action Requested.** Staff recommends that the CSAC Agriculture, Environment and Natural Resources Policy Committee recommend “no position” on Proposition 67 to the CSAC Executive Committee.

**Staff Contact.** Please contact Cara Martinson, CSAC Legislative Representative at 916-327-7500, ext. 504, or [cmartinson@counties.org](mailto:cmartinson@counties.org) for questions or additional information.



August 4, 2016

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**To:** Members, CSAC Executive Committee

**From:** DeAnn Baker, Deputy Executive Director for Legislative Affairs  
Kiana Valentine, CSAC Legislative Representative  
Darby Kernan, CSAC Legislative Representative  
Farrah McDaid Ting, CSAC Legislative Representative

**RE: Los Angeles County Proposal for a Statewide Emergency Declaration on Homelessness – ACTION ITEM**

---

**Staff Recommendation:** The CSAC Health and Human Services Policy Committee considered a request by the County of Los Angeles to support their efforts urging the Governor to issue a statewide emergency declaration on the issue of homelessness. The Policy Committee expressed concerns about timing and gravitated toward seeking more input from CSAC leadership, including the Executive Committee. The Policy Committee voted to “forward the discussion to the Executive Committee for further discussion and refinement.”

Los Angeles County has sponsored H.R. 56, which asks the Governor to declare a statewide homelessness emergency and the Assembly approved it on June 29. The County is working to draft a similar Senate Resolution and has requested CSAC support for this to-be-released measure. Based on input from the HHS Policy Committee, staff recommends a SUPPORT position on the upcoming Senate Resolution sponsored by Los Angeles County.

**Background.** On Tuesday, June 14, 2016, the Los Angeles County Board of Supervisors passed a motion to urge Governor Brown to declare a state of emergency on homelessness that would include:

- 1) Access to \$500 million from the Special Fund for Economic Uncertainties to implement statewide re-housing efforts including street engagement, service triage, crisis housing, permanent housing navigation, rental subsidies, case management, other appropriate and essential services, and any resources once the state of emergency is declared;
- 2) Immediate orders to deploy State agencies and personnel to help provide housing assistance to homeless camp hotspots in Los Angeles County and other heavily affected areas in the State and to set up emergency command posts and triage site for the coordination of homeless service delivery;
- 3) Assembly of a State public sector/private sector “Red Team” to develop a short-term plan to combat homelessness; and
- 4) A commitment to identify and develop streams of ongoing funding for localities so they can sustain successful efforts to combat homelessness.

Further, since the letter was released, the Assembly has also passed House Resolution 56, a resolution asking Gov. Jerry Brown to declare a statewide emergency to help California's homeless population.

In 2015, faced with nearly double the number of homeless individuals on the streets since the Great Recession began, Los Angeles County has focused on the issue of homelessness with a variety of efforts, including adopting a comprehensive, stakeholder-driven plan to combat homelessness and committing \$100 million in county funds toward the goal of eliminating homelessness. Collaboration, coordination, and integration of services are the cornerstones of the county's efforts, with additional efforts aimed toward leveraging existing housing and services funding to move the needle on homelessness.

Ideas put forth by the county include seeking state matching funds or another long-term revenue source to help fund subsidized housing for homeless disabled individuals pursuing Supplemental Security Income (SSI), rapid re-housing, Housing Choice vouchers for permanent supportive housing, interim/bridge housing for those exiting institutions, and enhancing the emergency shelter system. The County's report, "Approved Strategies to Combat Homelessness," can be viewed at <http://priorities.lacounty.gov/wp-content/uploads/2016/03/HI-Report-Approved2.pdf>.

**Los Angeles County Request.** The Los Angeles County Board of Supervisors is asking CSAC, counties, and cities to pass a similar motion urging state assistance by declaring a state of emergency. To date, San Francisco County has done so. Los Angeles County is also sponsoring a Senate Resolution that will mirror H.R. 56.

**Attachments:**

The Los Angeles County Board of Supervisors 5-signature letter urging state assistance.

**CSAC Staff Contacts:**

Farrah McDaid Ting, CSAC Legislative Representative: [fmcdaid@counties.org](mailto:fmcdaid@counties.org), (916) 650-8110

Elizabeth Marsolais, CSAC Legislative Analyst: [emarsolais@counties.org](mailto:emarsolais@counties.org), (916) 327-7500 Ext. 524





# COUNTY OF LOS ANGELES BOARD OF SUPERVISORS

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LORI GLASGOW  
EXECUTIVE OFFICER

June 14, 2016

The Honorable Anthony Rendon  
Speaker of the Assembly  
State Capitol, Room 219  
Sacramento, CA 95814

Dear Speaker Rendon:

We are writing to respectfully request that the Assembly pass a resolution urging Governor Brown to declare a state of emergency due to the increased number of homeless persons in California.

Los Angeles County is facing a pervasive and deepening homelessness crisis that endangers the health and safety of thousands of County residents, including veterans, women, children, LGBT youth, persons with disabilities and seniors. On any given night, roughly 47,000 persons in Los Angeles County are homeless. This includes over 6,000 parents and their children. Since 2013, the number of homeless women has risen by 55 percent, and the number of homeless persons living in encampments, tents and vehicles has increased by a staggering 123 percent.

The statewide numbers are similarly alarming. In 2015, with 115,738 homeless persons, California accounted for 21 percent of the nation's homeless population. Among all states, California had the highest percentage of homeless people counted in unsheltered locations (64 percent or 73,699 homeless unsheltered persons).

The tremendous scale of homelessness in Los Angeles County threatens the economic stability of the region by burdening emergency medical services and the social services infrastructure. Many homeless persons face severe threats to their health and safety on a daily basis. Research has shown that homeless persons are three to four times more likely to die prematurely than the general population often from acute and chronic medical conditions that are aggravated by homelessness.


It is imperative that we act now to address the crisis of homelessness in California. Therefore, we request that the Assembly pass a resolution to respectfully urge Governor Brown to declare a state of emergency on homelessness that would include:


The Honorable Anthony Rendon  
June 14, 2016  
Page 2

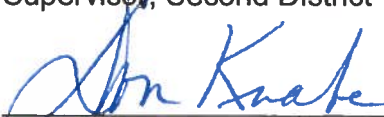
- Access to \$500 million from the Special Fund for Economic Uncertainties to implement statewide re-housing efforts including street engagement, service triage, crisis housing, permanent housing navigation, rental subsidies, case management, other appropriate and essential services, and any other resources once the state of emergency is declared.
- Immediate orders to deploy State agencies and personnel to help provide housing assistance to homeless camp hotspots in Los Angeles County and other heavily affected areas in the State and to set up emergency command posts and triage site for the coordination of homeless service delivery.
- Assembly of a State public sector/private sector "Red Team" to develop a short-term plan to combat homelessness; and
- A commitment to identify and develop streams of ongoing funding for localities so they can sustain successful efforts to combat homelessness.


We look forward to working with you to address this humanitarian crisis and to mobilize needed local and statewide resources to ensure that over 115,000 homeless persons receive vital housing and supportive services.

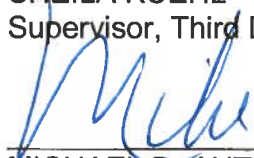
Sincerely,

  
\_\_\_\_\_  
HILDA L. SOLIS  
Chair of the Board  
Supervisor, First District

  
\_\_\_\_\_  
MARK RIDLEY-THOMAS  
Supervisor, Second District

  
\_\_\_\_\_  
DON KNABE  
Supervisor, Fourth District

  
\_\_\_\_\_  
SHEILA KUEHL  
Supervisor, Third District

  
\_\_\_\_\_  
MICHAEL D. ANTONOVICH  
Supervisor, Fifth District

c: Each Member California State Assembly



# COUNTY OF LOS ANGELES BOARD OF SUPERVISORS

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LORI GLASGOW  
EXECUTIVE OFFICER

June 14, 2016

The Honorable Chad Mayes  
Assembly Minority Floor Leader  
State Capitol, Room 3104  
Sacramento, CA 95814

Dear Assembly Member Mayes:

We are writing to respectfully request that the Assembly pass a resolution urging Governor Brown to declare a state of emergency due to the increased number of homeless persons in California.

Los Angeles County is facing a pervasive and deepening homelessness crisis that endangers the health and safety of thousands of County residents, including veterans, women, children, LGBT youth, persons with disabilities and seniors. On any given night, roughly 47,000 persons in Los Angeles County are homeless. This includes over 6,000 parents and their children. Since 2013, the number of homeless women has risen by 55 percent, and the number of homeless persons living in encampments, tents and vehicles has increased by a staggering 123 percent.

The statewide numbers are similarly alarming. In 2015, with 115,738 homeless persons, California accounted for 21 percent of the nation's homeless population. Among all states, California had the highest percentage of homeless people counted in unsheltered locations (64 percent or 73,699 homeless unsheltered persons).

The tremendous scale of homelessness in Los Angeles County threatens the economic stability of the region by burdening emergency medical services and the social services infrastructure. Many homeless persons face severe threats to their health and safety on a daily basis. Research has shown that homeless persons are three to four times more likely to die prematurely than the general population often from acute and chronic medical conditions that are aggravated by homelessness.

It is imperative that we act now to address the crisis of homelessness in California. Therefore, we request that the Assembly pass a resolution to respectfully urge Governor Brown to declare a state of emergency on homelessness that would include:

The Honorable Chad Mayes  
June 14, 2016  
Page 2

- Access to \$500 million from the Special Fund for Economic Uncertainties to implement statewide re-housing efforts including street engagement, service triage, crisis housing, permanent housing navigation, rental subsidies, case management, other appropriate and essential services, and any other resources once the state of emergency is declared.
- Immediate orders to deploy State agencies and personnel to help provide housing assistance to homeless camp hotspots in Los Angeles County and other heavily affected areas in the State and to set up emergency command posts and triage site for the coordination of homeless service delivery.
- Assembly of a State public sector/private sector "Red Team" to develop a short-term plan to combat homelessness; and
- A commitment to identify and develop streams of ongoing funding for localities so they can sustain successful efforts to combat homelessness.

We look forward to working with you to address this humanitarian crisis and to mobilize needed local and statewide resources to ensure that over 115,000 homeless persons receive vital housing and supportive services.

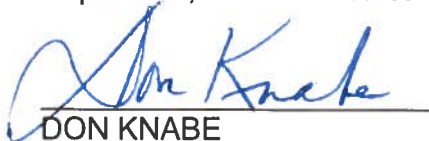
Sincerely,



HILDA L. SOLIS  
Chair of the Board  
Supervisor, First District



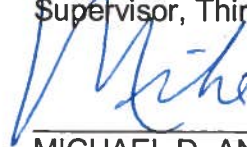
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Supervisor, Fourth District



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Supervisor, Third District



MICHAEL D. ANTONOVICH  
Supervisor, Fifth District

c: Each Member California State Assembly



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August 4, 2016

**To:** CSAC Executive Committee

**From:** Kiana Valentine, CSAC Legislative Representative  
Chris Lee, CSAC Legislative Analyst

**Re: SB 879 (Beall): Affordable Housing Bond Act of 2016 – ACTION ITEM**

**Recommendation.** CSAC staff recommends that the Executive Committee take a “support” position on SB 879 (Beall), the Affordable Housing Bond Act of 2016.

**Background.** According to the Legislative Analyst’s Office, housing prices in California continue to far exceed prices in the rest of the country. The average price of a home in the state is two-and-a-half times the average national price and rents are fifty percent higher than the rest of the country. The housing affordability crisis is in part due to the demand to live in California, the state’s geographic constraints, high regulatory costs, and high costs for land and construction in the state.

To help address the housing crisis, Senator Jim Beall introduced SB 879, which would provide \$3 billion to fund affordable housing programs via a statewide general obligation bond that would be implemented over five years. Specifically, the bill would allocate the bond revenues to six existing state affordable housing programs as follows:

- Multifamily Housing Program - \$1.5 billion
- CalHome Program - \$300 million
- Joe Serna, Jr. Farmworker Housing Program - \$300 million
- Local Housing Trust Fund Matching Grant Program - \$300 million
- Transit-Oriented Development Program - \$300 million
- Infill Infrastructure Financing Program - \$300 million

Counties are eligible to participate in all of the programs proposed for funding under SB 879, either as individual applicants or as joint applicants with non-profit or for-profit housing developers.

The Northern California Carpenters Regional Council—a group from which CSAC has used economic analyses of transportation funding proposals—and California Housing Partnership analyzed the economic impacts of the proposed bond. Including the \$11 billion in funds the bond is anticipated to leverage if passed by the voters, SB 879 would:

- Create nearly 52,000 new and rehabilitated housing units
- 147,000 jobs (both direct construction jobs and jobs resulting from increased economic activity)

- More than \$9 billion in labor income
- \$24.5 billion in economic activity
- \$1.1 billion in additional local and state sales tax and fee revenue

The Senate Governance and Finance Committee Analysis for SB 879 noted that bonds are in high demand, and earlier this year, the interest rate on 30-year bonds was 3.17%. The impact to the State's General Fund would be debt service costs of approximately \$152 million to \$169 million annually.

**Policy Considerations.** CSAC has made affordable housing one of its top priorities for 2016 and has been actively working on various legislative proposals that try to make incremental progress to address the housing affordability crisis in the state (e.g. density bonus, second units, and tax credits). CSAC staff is also currently working with the Brown Administration and the California Department of Housing and Community Development to advocate for amendments to the Governor's by-right proposal, which seeks to streamline local decision-making on multi-family housing projects that include at least a specified percentage of units affordable to low-income households. The Legislature and Administration struck a deal during budget negotiations that \$400 million in general fund revenues would be appropriated for various affordable housing programs contingent on a deal on the Governor's by-right proposal.

CSAC supported the last statewide housing bond – Proposition 1C: the Emergency Shelter Trust Fund Act of 2006 – which generated approximately \$2.9 billion in general obligation bond revenues. Bonds have been a traditional source of revenue for affordable housing programs in the state for many decades. Without a permanent source of funding for affordable housing development, the state will likely be forced to rely on bonds or general fund dollars for the creation of affordable units to address the estimated 1.5 million unit shortfall of affordable homes in California.

**Action Requested.** CSAC staff request that the Executive Committee take action in “support” of SB 879 (Beall), “The Affordable Housing Bond Act of 2016.” With a support position, CSAC staff would formally endorse the measure and advocate for its passage by the Legislature and the Governor's signature.

**Staff Contacts.**

Kiana Valentine can be reached at (916) 327-7500 Ext. 566 or [kvalentine@counties.org](mailto:kvalentine@counties.org).  
Chris Lee can be reached at (916) 327-7500 Ext. 521 or [clee@counties.org](mailto:clee@counties.org).

**Attachments.**

- 1) SB 879 Fact Sheet
- 2) SB 879 Bond Proposal
- 3) SB 879 Economic Impacts Analysis

**SB 879 (Beall)**  
**Affordable Housing Bond Act of 2016**  
*Amended June 16, 2016*

**ISSUE**

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This bill seeks to provide \$3 billion through a statewide housing bond to fund existing critical and successful affordable housing programs in California.

**BACKGROUND**

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California is home to 21 of the 30 most expensive rental housing markets in the country, which has had a disproportionate impact on the middle class and the working poor. A person earning minimum wage must work three jobs on average to pay the rent for a two-bedroom unit. Additionally, units affordable to low-income earners, if available, are often in serious states of disrepair.

California also faces a housing shortage: 2.2 million extremely low-income (ELI) and very low-income (VLI) renter households are competing for only 664,000 affordable rental homes. This leaves more than 1.54 million of California's lowest income households without access to affordable housing.

As a result, low-income families are forced to spend more and more of their income on rent, which leaves little else for other basic necessities. Many renters must postpone or forego homeownership, live in more crowded housing, commute further to work, or, in some cases, choose to live and work elsewhere.

California has seen a significant reduction of state funding in recent years. The funds from Proposition 46 of 2002 and Proposition 1C in 2006 -- totaling nearly \$5 billion for a variety of affordable housing programs -- have been expended. Combined with the loss of redevelopment funds, \$1.5 billion of annual state investment dedicated to housing has been lost, leaving several critical housing programs unfunded.

**THIS BILL**

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SB 879 provides for \$3 billion through a statewide housing general obligation bond to fund existing and successful affordable housing programs in California, with the intent of addressing the shortage of housing stock. SB 879 will fund the following existing state programs:

- Multifamily Housing
- CalHome
- Joe Serna Farmworker Housing

- Local Housing Trust Fund Matching Grant
- Transit-Oriented Development
- Infill Infrastructure Financing

As demonstrated through Prop 46 and Prop 1C and the 183,000 units they created, SB 879 will have a real and lasting impact on the housing shortage by providing \$3 billion to fund existing and successful affordable housing programs in California. The programs in this bill specifically fund the construction, rehabilitation, and preservation of housing for persons who earn up to 60% of the area median income, as well as those at risk of or currently experiencing homelessness.

Investing in affordable housing would save Californians money. According to a 2015 study conducted by the Economic Roundtable on homelessness in Santa Clara County, the estimated cost to the public of permitting homeless residents to remain homeless was \$62,473 per person annually. The estimated average cost of housing each individual was \$19,767 annually, or a reduction of \$42,706 annually. The costs of housing in lower cost areas of California would be significantly less. Another cost study conducted in Los Angeles found that public costs are reduced by 79% when the chronically homeless are housed and 50% when the entire homeless population is housed.

Further, SB 879 will result create jobs and provide local benefits through the construction of affordable housing. The estimated one-year impacts of building 100 rental apartments in a typical local area include \$11.7 million in local income, \$2.2 million in taxes and other revenue for local governments, and 161 local jobs (1.62 jobs per apartment). The additional, annually recurring impacts of building 100 rental apartments in a typical local area include \$2.6 million in local income, \$503,000 in taxes and other revenue for local governments, and 44 local jobs (.44 jobs per apartment).

Investments in housing under SB 879 will also leverage federal dollars. For each \$0.70 of state funding for the multifamily housing program, the state leverages \$1 of 4% federal tax credits and \$2 of federal tax-exempt bonds that California otherwise would not be eligible to receive.

## STATUS/VOTES

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Introduced – January 15, 2016  
Senate T&H Committee (May 3<sup>rd</sup>) – 9:1  
Senate G&F Committee (May 11<sup>th</sup>) – 5:1  
Senate Floor (June 2<sup>nd</sup>) – 28:9  
Asm. H&CD (June 15<sup>th</sup>) – 4:2

## SUPPORT

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Association of Bay Area Governments  
California Apartment Association  
California Coalition for Rural Housing  
California Building Industry Association  
California Economic Summit  
California Housing Consortium  
California Housing Partnership Corporation  
City and County of San Francisco  
City of Berkeley, Housing Advisory Commissioner -  
Marian Wolfe  
City of Santa Monica  
City of West Hollywood  
Coachella Valley Housing Coalition  
Community Economics Inc.  
EAH Housing  
Eden Housing  
First Community Housing  
Food Empowerment Project  
Gubb and Barshay, LLP  
Hello Housing  
League of California Cities  
League of Women Voters  
Mammoth Lakes Housing  
MidPen Housing  
Non-Profit Housing Association of Northern  
California  
Northern California Community Loan Fund  
Paulett Taggart Architects  
Resources for Community Development  
San Diego Housing Federation  
Silicon Valley Independent Living Center  
Sonoma County Board of Supervisors  
SV@Home  
TLCS, Inc.

## OPPOSITION

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Howard Jarvis Taxpayers Association

## FOR MORE INFORMATION

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### **Staff Contact:**

Alison Dinmore

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## SB 879 - \$3 BILLION STATEWIDE HOUSING BOND PROPOSAL

The Housing and Emergency Shelter Trust Fund Act of 2006, approved by voters in November 2006 through the approval of Proposition 1C (Prop 1C) allowed for the sale of \$2.85 billion in general obligation bonds to support a variety of affordable housing and housing-related infrastructure programs. Nearly all of these funds have been expended, however. This document describes the breakdown in funds proposed under SB 879, the Affordable Housing Bond Act of 2016 as compared to the funds provided under Prop 1C.

### **MULTIFAMILY RENTAL HOUSING – 50%**

**\$1.5 Bn** **Multifamily Housing Program.** The Multifamily Housing Program (MHP) assists the new construction, rehabilitation, and preservation of permanent and transitional rental housing for lower-income households through loans to local governments and non- and for-profit developers. Funds would be for incomes up to 60% AMI and the program permits a rural set aside. Allow HCD, through the current Statewide Housing Plan process, to determine how to divide this up amongst sub-programs, such as the Multifamily Housing Program – Supportive Housing and funding housing for vulnerable populations including but not limited to homeless youth, single mothers with children, and survivors of domestic violence. *Prop 1C allocated \$345 million to MFH.*

### **TRANSIT ORIENTED DEVELOPMENT – 20%**

**\$300 m** **Transit-Oriented Development (TOD) Program.** Under the program, low-interest loans are available as gap financing for rental housing developments that include affordable units, and as mortgage assistance for homeownership developments. Grants to cities, counties, and transit agencies are for the provision of the infrastructure necessary for the development of higher density uses within close proximity to a transit station and loans for the planning and development of affordable housing with ¼ mile of a transit station. *Prop 1C allocated \$300 million to TOD.*

**\$300 m** **Infill Infrastructure Financing.** This program assists in the new construction and rehabilitation of infrastructure that supports higher-density affordable and mixed-income housing in locations designated as infill. *Prop 1C allocated \$850 million for infill financing and brownfield clean-up.*

### **\$600 m TOTAL MULTIFAMILY RENTAL HOUSING**

### **SPECIAL POPULATIONS – 20%**

**\$300 m** **Joe Serna, Jr. Farmworker Housing Grant Program.** This program finances the new construction, rehabilitation and acquisition of owner-occupied and rental units for agricultural workers, with a priority for lower income households. *Prop 1C provided \$135 million for Farmworker housing.*

**\$300 m** **Local Housing Trust Fund Matching Grant Program.** This provides matching grants to local governments and non-profits that raise money for affordable housing. *Pursuant to SB 586 of 2007, this program received \$35 million in Prop 1C funds through the Affordable Housing Innovation Fund.*

**\$600 m TOTAL SPECIAL POPULATIONS AND INNOVATIVE HOUSING**

**HOMEOWNERSHIP - 10%**

**\$300 m** **CalHome.** This program provides grants to local public agencies and nonprofit developers to assist individual households through deferred-payment loans. The funds would provide direct, forgivable loans to assist development projects involving multiple ownership units, including single-family subdivisions. This money would also be available to self-help mortgage assistance programs and manufactured homes. *Prop 1C allocated \$300 million for CalHome.*

# ECONOMIC POLICY BRIEF

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## Shelter from the Storm: Assessing the Economic Impacts of the Affordable Housing Bond Act of 2016 (SB 879 Beall)

June 2016

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### CONTACTS

Alex Lantsberg, Northern California Carpenters Regional Council [alantsberg@nccrc.org](mailto:alantsberg@nccrc.org)

Matt Schwartz, California Housing Partnership [mschwartz@chpc.net](mailto:mschwartz@chpc.net)

In January 2016 Senator Jim Beall introduced SB 879 to provide \$3 billion through a statewide housing general obligation bond to fund existing and successful affordable housing programs in California, with the intent of making significant progress in addressing the state's deficit of more than 1.5 million affordable homes. SB 879 will fund the following existing state programs while helping to leverage billions in Federal, Local, and private funds for residential investment:

- **\$1.5 billion** for Multifamily Housing
- **\$300 million** for CalHome
- **\$300 million** for Joe Serna Farmworker Housing
- **\$300 million** for Local Housing Trust Fund Matching Grant
- **\$600 million** for Transit-Oriented Development & Infill Infrastructure

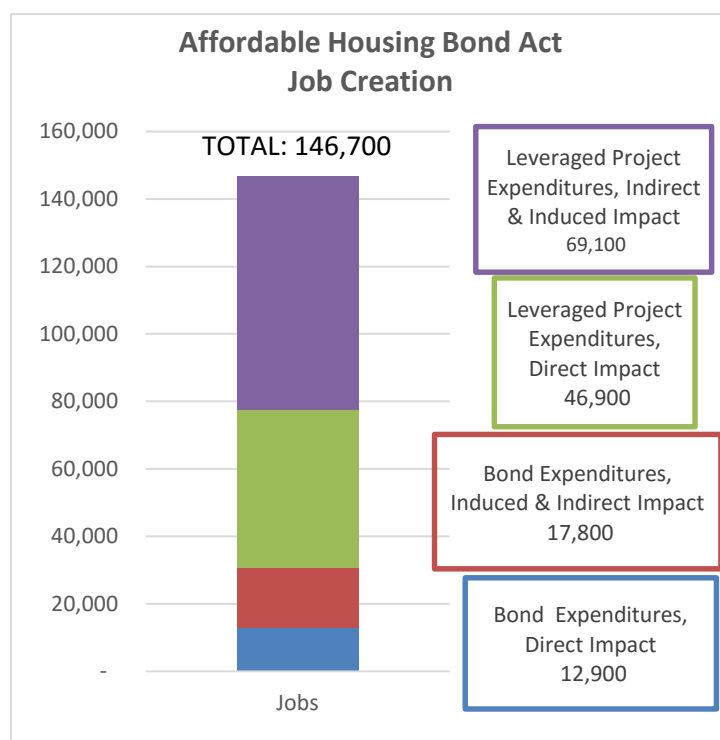
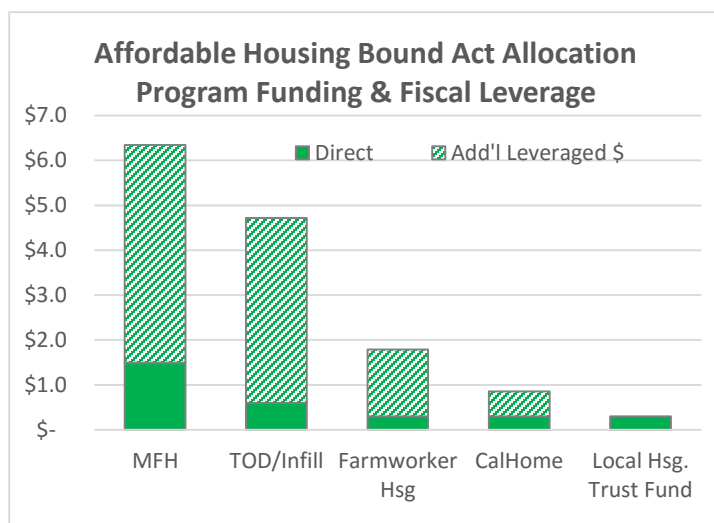
In collaboration with the California Housing Partnership, the research department of the Northern California Carpenters Regional Council (NCCRC) analyzed the economic impacts of the proposed bond. The NCCRC is affiliated with the United Brotherhood of Carpenters and represents more than 30,000 carpenters and affiliated craftspeople throughout Northern California.

Taken together with and additional \$11 billion in leveraged funding, the impacts of the state's investment of \$3 billion over the 5-year bond implementation period are summarized below:

- **Nearly 52,000 new and rehabilitated housing units**
- **147,000 jobs**
- **More than \$9 billion in labor income**
- **\$24.5 billion in economic activity**
- **\$1.1 in additional local and state taxes & fee revenue**

The state's directly funded expenditures alone would result in a total economic impact of approximately \$4.8 billion, nearly 1.6 times the amount authorized by the bond and produce almost 31,000 jobs, \$1.8 billion in labor income in every region of the state.

The financial returns to the state's economy produced by the Affordable Housing Bond go beyond simply direct program expenditures because the state's investment will be leveraged several-fold through Federal Low Income Housing Tax Credits, local funds, and private investment. Based on experience with Propositions 1C (2006) and 46 (2002), the state's direct \$3 billion investment is expected to be leveraged nearly fourfold to inject an additional \$11.1 billion into California's economy.<sup>1</sup>

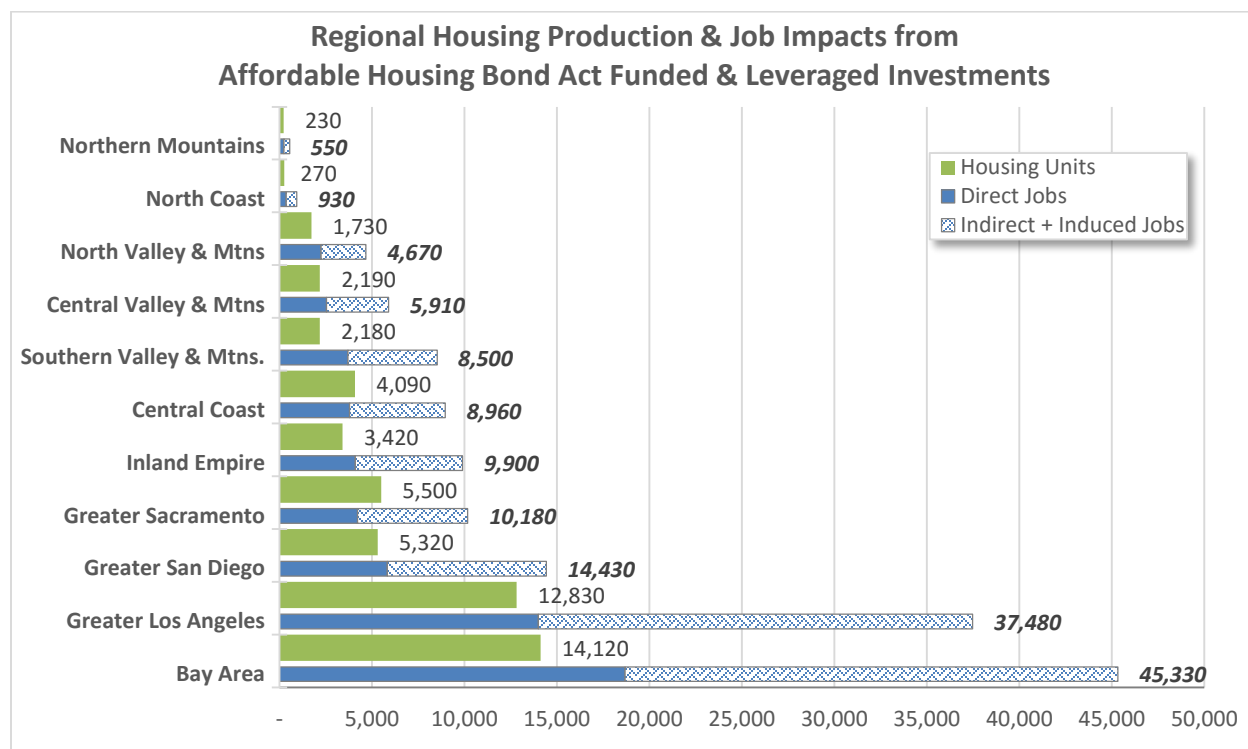


Design, development, and construction of the 52,000 housing units made possible as a result of the Affordable Housing Bond Act will create nearly 60,000 jobs across the state during the life of the grant program. More than 25,000 of those will be in construction occupations at family-supporting prevailing wages with health care and retirement benefits.<sup>2</sup> California's public works apprenticeship requirements will also create workforce development pathways for persons just establishing their construction careers. Additionally, this investment will create another 87,000 jobs in supporting industries (such as suppliers) as well as throughout the

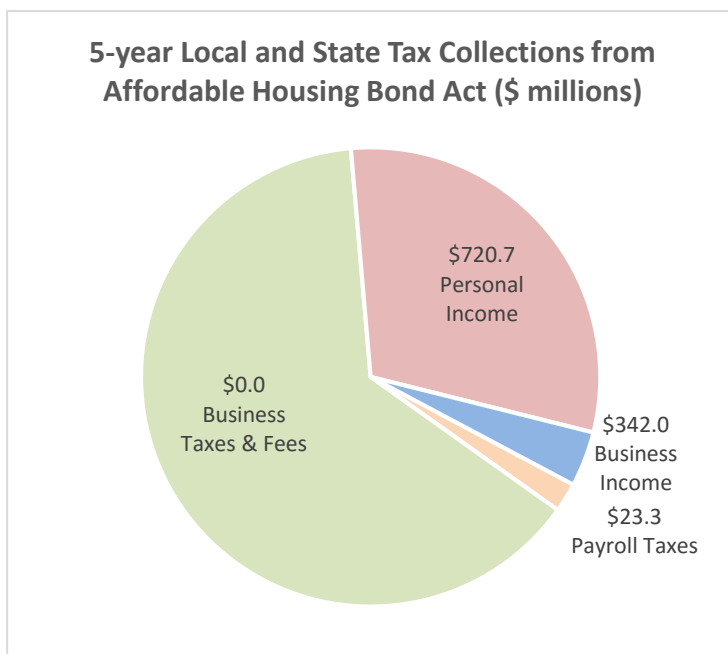
<sup>1</sup> Regional allocations estimates are based on historic allocations of the state's allocation of prior investments in Proposition 1C. Leverage estimates are based on program-level historical levels of the Multi-Family Housing Program and the other programs funded through Proposition 1C and Proposition 46. Cost allocations for affordable housing construction impacts are derived from the 2014 California Affordable Housing Cost Study prepared for the California Department of Housing and Community Development ("HCD"), the California Tax Credit Allocation Committee ("TCAC"), the California Housing Finance Agency ("CalHFA"), and the California Debt Limit Allocation Committee ("CDLAC"). Land purchases, comprising 9% of affordable project costs according to the TCAC report, are excluded from the impact analysis since the purchase of land does not have intrinsic economic value.

<sup>2</sup> According to the 2012 Economic Census Construction 73% of workers employed in NAICS Sectors 236 Construction of Buildings & 238 Specialty Subcontractors were in construction occupations.

broader economy as a result of household spending from the directly created jobs rippling through the state's economy.



Economic and job growth will also result in increases tax and fee collections for local governments and the state. The estimated state and local tax impact from the Affordable Housing Bond Act and the estimated leveraged dollars is \$1.1 billion over the 5-year program window. Business contributes the bulk of those tax revenues, with nearly \$720 million in property, sales, and use taxes. Corporate profits and dividends contribute another \$44 million and payroll taxes add more than \$23 million. Personal income, property, and sales taxes and fees make up the remaining \$342 million.



This analysis was performed using the IMPLAN input-output model, the industry standard for economic impact analysis. Input-output analysis measures the inter-industry relationships within an economy. Specifically, input-output analysis is a means of measuring the market transactions between businesses and between businesses and consumers. The IMPLAN model allows for the examination of how a change in one sector affects the entire economy. In this way, input-output analysis is able to analyze the economic effects of additional affordable housing investments by measuring the multiplier, or ripple effect, as an initial change in one industry stimulates further changes in transactions between other businesses and households. The results are reported in 2016 dollars.



August 4, 2016

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To: Members, CSAC Executive Committee

From: Graham Knaus, Deputy Executive Director of Operations and Member Services  
David Liebler, Director of Public Affairs & Member Services  
Cara Watson, Meeting Planner and Event Coordinator

RE: **2018 Annual Meeting Site Selection**

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**Recommendation.**

Designate that the 2018 Annual Meeting be held in San Diego County at the Marriott Marquis San Diego Marina.

**Background.**

The policy for CSAC Annual Meeting site selection requires the following:

- The CSAC Annual Meeting will alternate between Northern and Southern California. Whenever feasible, CSAC will utilize as many counties as possible over a period of time to celebrate our members' diversity and uniqueness.
- Nearby hotel facility or facilities must have approximately 500 sleeping rooms available for up to four nights.
- The conference facility must be within short walking distance of hotels.
- The conference facility must be able to house the vast majority of CSAC and affiliate meetings (eg. 50,000 sf of meeting space). Overflow meeting space must be available at a close-by facility.
- The conference facility must have the ability to house an Exhibit Hall of approximately 120 booth spaces.
- Meeting facility costs (including conference space, meals and hotels) must fit within CSAC budget requirements in order to ensure that registration fees are kept reasonable.

The 2018 site selection process included requests for proposals from numerous venues in Southern California. Proposals from venues in the following counties met the parameters set out above: Los Angeles, San Bernardino and San Diego.

Details of the proposals:

County	Location	Conference Facility	Sleeping Rooms	Room Rate	Comment
Los Angeles	Pasadena	Pasadena Convention Center	Sheraton Pasadena	\$214	Long distance between convention center and hotels
			Hilton Pasadena	\$199	
			Westin Pasadena	\$189	
			Dusit D2	\$180	
San Bernardino	Ontario	Ontario Convention Center	Doubletree Ontario Airport	\$164	
			Radisson	\$124	
			Sheraton	\$154	
San Diego	San Diego	Marriott Marquis San Diego Marina	Marriott Marquis San Diego Marina	\$239	All meetings and sleeping rooms at same location
San Diego	San Diego	Hilton San Diego Bayfront Hotel	Hilton San Diego Bayfront Hotel	\$259	All meetings and sleeping rooms at same location

The Pasadena Convention Center, in Los Angeles County, was the site of the 2002 Annual Meeting. The Pasadena location is complicated by the number of hotel properties needed to accommodate participants. This challenge is compounded by the distance of some of these properties from the convention center.

San Bernardino County hosted the Annual Meeting in 2000, held at the Ontario Convention Center. All hotel properties utilized are close to the Ontario Convention Center but would result in meeting participants housed at various hotel properties.

The Annual Meeting was last held in San Diego County in 2008. Both the Marriott Marquis San Diego Marina and the Hilton San Diego Bayfront Hotels have substantial meeting space and sleeping rooms to accommodate the Annual Meeting program independently. They are both bayside properties situated either side of the San Diego Convention Center.

Due to its exceptional location, the ability to accommodate all meeting and sleeping room needs, and its lower room rate than the Hilton San Diego Bayfront Hotel (a very similar property) it is recommended that the Marriott Marquis San Diego Marina be considered as the 2018 Annual Meeting location.

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As demand for convention center and hotel space increases staff will begin to research locations for subsequent Annual Meetings. Staff anticipates presenting recommendations for the 2019 and 2020 Annual Meeting locations in the near future.



**Attachments:** Annual Meeting Location History

**Staff Contacts:**

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327-7500 Ext. 512

## California Annual Meeting Location History

Year	Region	County	City	Venue
2016	South	Riverside	Palm Springs	Convention Center & Renaissance
2014	South	Orange County	Anaheim	Disneyland Hotel
2012	South	Los Angeles	Long Beach	Convention Center & Hyatt Regency
2010	South	Riverside	Riverside	Convention Center & Marriott
2008	South	San Diego	San Diego	Grand Hyatt
2006	South	Orange County	Anaheim	Disneyland Hotel
2004	South	San Diego	San Diego	San Diego Concourse, Westin & US Grant
2002	South	Los Angeles	Pasadena	Pasadena Center & Hilton
2000	South	San Bernardino	Ontario	Convention Center, Marriott & Doubletree

Year	Region	County	City	Venue
2017	North	Sacramento	Sacramento	Convention Center & Hyatt Regency
2015	North	Monterey	Monterey	Marriott and Portola
2013	North	Santa Clara	San Jose	Convention Center & Marriott
2011	North	San Francisco	San Francisco	Hilton San Francisco Union Square
2009	North	Monterey	Monterey	Convention Center & Marriott
2007	North	Alameda	Oakland	Marriott Oakland City Center
2005	North	Santa Clara	San Jose	Convention Center & Marriott
2003	North	Monterey	Monterey	Convention Center, Doubletree & Marriott
2001	North	Sacramento	Sacramento	Convention Center, Sheraton & Hyatt Regency



August 4, 2016

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**To:** CSAC Officers  
CSAC Executive Committee

**From:** Graham Knaus, Deputy Executive Director of Operations and Member Services  
David Liebler, Director of Public Affairs & Member Services  
Jim Manker, Director of Corporate Relations  
Kelli Oropeza, Chief of Financial Operations

**Re: CSAC Operations and Member Services Update**

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This memorandum highlights key activities and initiatives occurring within CSAC operations and member services.

**California Counties Foundation/CSAC Institute**

The California Counties Foundation (Foundation), the non-profit foundation of CSAC, has been restructured to include the CSAC Institute and better serve counties. The Foundation Board and CSAC Institute Governing Council held a joint meeting July 15 and adopted new bylaws that do the following:

- Broaden the purpose and responsibilities of the Foundation to include the CSAC Institute, Realignment Training Program including the Results First partnership with PEW Charitable Trusts, Inc., manage charitable contributions, grants, and fundraising to improve information resources and education opportunities for county elected and appointed officials.
- Increase the composition of the Foundation Board from 6 to 15 members to include:
  - CSAC Elected Officer
  - CSAC Treasurer
  - CSAC Executive Director
  - 3 County Supervisors
  - 3 County Administrators
  - CAOAC Executive Director
  - Human Resources Director
  - County Counsel
  - CSAC Finance Corporation Executive Vice President
  - CSAC Corporate Partner
  - CSAC Institute Faculty Member
- Maintain the operations of the Institute under the strong leadership of Dean Bill Chiat.

These changes strengthen the structure of the Foundation, move the Institute from the CSAC General Fund to the non-profit Foundation, and position the Foundation for new opportunities for partnerships, grant-seeking, and services to members. As

a result of the change, the Foundation will also be included in our annual external audit.

In other actions, the Institute fees have been adjusted for the first time in four years to keep pace with facility and other operating costs. New fees will go into effect July 1, 2017, and include \$149 per class for individual classes and \$129 per class for those that purchase a credential package. The Institute currently offers classes at the main campus in Sacramento, and satellites located in Merced County, Contra Costa County, and Riverside County. Many thanks to the leadership in San Diego County for paving the way for satellites over the past two years!

### **Member Services and Communications**

During the past two months, the CSAC Communications Unit has continued to utilize both social and traditional media, as well as work to tell the CSAC and county stories through video. Other significant work surrounds the 2016 CSAC Challenge Awards program.

Work that has been undertaken includes:

**Challenge Awards** – Entries in this year’s Challenge Awards program reached record number in terms of number of entries (279) and counties entered (40). The entries have been sent off to the judges for initial review. The 14-member judging panel will meet in Sacramento in early September to choose the 2016 Challenge and Merit Award recipients.

**Video** – Three videos have been produced including a piece on Yuba County’s collaborative 14Forward Homeless Shelter Program; and two promotional CSAC videos on the Challenge Awards and our social media platforms. We also have begun working closely with the CSAC Finance Corporation to plan a series spotlighting public-benefit programs/projects through the California Statewide Communities Development Authority.

The video CSAC produced on tree mortality that was unveiled at the Legislative Conference in late May continues to go viral, with more than 120,000 views. On Facebook alone the video reached nearly a quarter million people and was shared 2,700 times. It is one of the first forays into producing videos primarily focused on impacting CSAC advocacy efforts and is indicative of the changing communications and advocacy opportunities.

**Social Media** – CSAC followers and reach continues to climb, especially on Twitter. Between June 1 and July 15, our tweets were viewed more than 360,000 times. CSAC is closing in on 6,000 followers. Facebook played a significant role in the viewing of our tree mortality video (see figures above). Our numbers on other social media tools, including Instagram and Periscope, continue to grow.

**The County Voice** – CSAC continues to use “The County Voice” blog as an effective to discuss a variety of issues important to California Counties. Between June 1 and July 15, CSAC published seven blogs, focusing on a wide variety of topics, including domestic violence, the opioid epidemic, wildfires, infrastructure and

gender equity. Authors included county supervisors, CSAC staff and guest submissions from Calfire Chief Ken Pimlott and Will Kempton.

### **Corporate Partnership Program**

The Corporate Partnership Program (Program) has now fully implemented its transition from operating on a calendar year basis to operating on a fiscal year basis. 2016-17 begins with 56 partners, including 24 Premier, 6 Executive, and 26 Associate. Since the last report, the Program has brought on Novartis (Premier), PhRMA (Executive), GreenbergTraurig (Associate), and SAIC (Associate).

**Year-end highlights** – The Program provided an estimated \$350,000 in net revenue supporting CSAC advocacy, operations, and member services. That includes \$30,000 in net revenue for the CSAC Annual Meeting Exhibit Hall. The program also added a “mini-expo” at the CSAC Legislative Conference and had 15 companies participate.

**Regional Meetings** – These one day regional events are designed to bring together members and leaders from counties, our CSAC Executive and Advocacy Team members and our Premier and Executive level partners. The meetings are designed around a policy issue of interest in each region; panels and round table discussions help foster the sharing of information and creative solutions critical to excellent county governance.

CSAC President Richard Forster hosted the motherlode and surrounding counties regional meeting on June 16, which included over 40 participants representing 15 counties, 8 partners and other special guests. The meeting focused on history and changes in the criminal justice system, national evidence-based approaches to criminal justice for adults and juveniles, and discussion of the Governor’s proposed public safety initiative slated for the November ballot. Highlights included presentations by California Department of Corrections and Rehabilitation Secretary Scott Kernan as well as the Governor’s Special Advisor on Realignment Diane Cummins.

**Looking Ahead** – Here are the items we are currently working on: A new Corporate Partners Guide has been completed to help counties understand our partner’s areas of expertise. The guide includes the CSAC Finance Corporation revenue sharing programs as well as CSAC Corporate Partners. It has been sent to Supervisors, CAO/CEO’s, and to every General Services Director and Procurement Officer in the state.

The Program continues to work closely with the CSAC Finance Corporation to leverage and strengthen the marketing strategy and elevate understanding of the available Finance Corporation revenue programs as well as CSAC corporate partners. As the relationship between CSAC and the CSAC Finance Corporation grows, it may further open strategic opportunities to leverage the networks and revenue growth opportunities to benefit counties.

CSAC Corporate Program twitter page, please follow us! [www.twitter.com/CsacCorp](http://www.twitter.com/CsacCorp)

### **Fiscal Operations**

CSAC had a strong fiscal year in 2015-16. The year was highlighted by the payoff of the CSAC building loan, leaving CSAC debt free while also maintaining Operating Reserves above the 6-month target. This is a reflection of the leadership of the CSAC Officers, Executive Committee, and Board, and the commitment of staff to align association expenses with anticipated revenues.

Staff is currently in the process of completing 2016-16 fiscal year end and preparing for the annual external audit that will be taking place in early August. Under the direction of CSAC Treasurer Judy Morris and the Procurement Policy, CSAC sent out an RFP for an external auditing firm for the first time in many years. Moss Adams, a very reputable firm in Sacramento, was selected to process our annual audit for the next three years. The final audit findings will be presented to the Board of Directors at their September 1 meeting. This will be followed by a more extensive fiscal discussion and strategy at the October 5-7 Executive Committee Retreat.

**Staff Contacts:** Please contact Graham Knaus (gknaus@counties.org or (916) 327-7500 x545), David Liebler (dliebler@counties.org or (916) 327-7500 x530), Jim Manker (jmanker@counties.org or (916) 327-7500 x528), or Kelli Oropeza (koropeza@counties.org or (916) 327-7500 x544) for additional information.



# County Counsels' Association of California

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## BOARD OF DIRECTORS

### *Officers*

President  
*Bruce S. Alpert*  
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*Nevada County*  
2014-2016

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*Ventura County*  
2014-2016

*John C. Beiers*  
*San Mateo County*  
2015-2017

*Rita L. Neal*  
*San Luis Obispo County*  
2015-2017

## EXECUTIVE DIRECTOR

*Jennifer B. Henning*

## MEMORANDUM

**To:** Supervisor Richard Forster, President, and  
Members of the CSAC Executive Committee

**From:** Jennifer Henning, Litigation Coordinator

**Date:** August 4, 2016

**Re:** Litigation Coordination Program Update

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This memorandum will provide you with information on the Litigation Coordination Program's new case activity since your last regular meeting in April 2016. Recent CSAC court filings are available on CSAC's website at: <http://www.csac.counties.org/csac-litigation-coordination-program>.

### ***Alana M. v. State of California***

245 Cal.App.4th 1482 (1st Dist. Feb. 29, 2016)(A142240), *ordered published* (Mar. 29, 2016)

Plaintiff was injured while in a campsite at a State park, when a tree on unimproved property adjacent to the campsite fell and struck her. The First District affirmed summary judgment in favor of the State, finding that the State was immune under Government Code section 831.2 because the injury was caused by a natural condition of unimproved property. The court concluded that "the location of the occurrence [injury] is not material to the statute," and the fact that the injury occurred on an improved portion of the property "does not take this case outside the ambit of immunity." CSAC's publication request was granted.

### ***American Bankers Management Co. v. Heryford***

Pending in the Eastern District of California (filed Feb. 16, 2016)(2:16-cv-00312)

The Trinity County District Attorney brought suit on behalf of the People against American Bankers and other banks alleging that they engaged in unfair business practices in violation of Business & Professions Code section 17200 by improperly marketing and selling various fee-based products and services to California credit card holders. To assist in the prosecution of this civil action, the DA hired outside counsel on contingency with the experience, resources, and expertise necessary to litigate this case against large and well-resourced corporations. The DA maintained the control over outside contingency counsel required by the Supreme Court in the lead paint case (*County of Santa Clara v. Atlantic Richfield*). But the bank then filed this separate lawsuit against the DA in federal court alleging that his hiring of outside counsel on a contingency fee basis violated its due process rights under the federal constitution. The case is pending

August 4, 2016

in federal district court. CSAC will file a brief in support of the Trinity County District Attorney.

***Armato v. City of Manhattan Beach***

Pending in the Second District Court of Appeal (filed Oct. 23, 2015)(B267734)

This case raises the question of whether a local agency issuing a development permit has discretion to delegate authority to the planning department to determine whether a modification of the approved permit is minor (i.e., in substantial compliance with the approved permit) or requires an amendment to the permit with public notice and hearing. In the case, the city approved a project to demolish an existing building and erect a new one in its place. Opposing neighbors appealed, but the city council upheld the decision. The neighbors then filed this action, and thereafter the city planning director approved a modification to the project (adding square footage to the basement). The modification was made under the terms of the permit, which allowed minor changes to be approved by the planning director without public notice or a hearing. The complaint was then amended to challenge this practice. The trial court upheld the city's decision to issue the initial permit, but found that there was no authority to delegate permit modification, even for insubstantial project changes, to the planning director without notice and hearing. CSAC will file a brief in support of the city.

***City of Los Angeles v. Superior Court (Anderson-Barker)***

Pending in the Second District Court of Appeal (filed Jan. 13, 2016)(B269525)

Anderson-Barker challenged a decision by the City of Los Angeles to withhold certain records in response to a Public Records Act request. Anderson-Barker filed a writ, and immediately after the city filed its answer, Anderson-Barker served special interrogatories, requests for production of documents, form interrogatories, and requests for admissions. The city objected to discovery, arguing that the Public Records Act itself (Gov. Code §§ 6258, 6259) provides the exclusive procedure for reviewing denied records, and therefore the Civil Discovery Act does not apply. The trial court disagreed and granted the motion to compel compliance with discovery. The city has filed a writ with the Second Appellate District asking the court to resolve the question of whether the Civil Discovery Act applies to Public Records Act challenges, or whether the exclusive remedy is found in sections 6258 and 6259. The Second District has issued an order to show cause. CSAC has filed a brief in support of the city.

***County of Kern v. T.C.E.F., Inc.***

246 Cal.App.4th 301 (5th Dist. Apr. 5, 2016)(F070813), *petition for review denied* (June 29, 2016)(S234542)

In 2009, the county adopted an ordinance that allowed marijuana dispensaries in commercially zoned areas. In 2011, the county adopted a new ordinance banning dispensaries. The county received a protest under Elections Code section 9144. In response, the county placed a measure on the ballot (Measure G) that would: (1) allow dispensaries in industrial zones subject, and (2) repealed the section of the county code where both the 2009 and 2011 ordinances were placed. Measure G was adopted by the voters, but was struck down on CEQA grounds. This current case, an abatement action brought by the county against a dispensary in the commercial zone, thus poses an



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interesting question: Which dispensary law governs? The Court of Appeal concluded that under Elections Code section 9145, “a board of supervisors must (1) revoke the protested ordinance in all its parts and (2) not take additional action that has the practical effect of implementing the essential feature of the protested ordinance.” However, in this case, when the county repealed both the 2011 ban and the 2009 ordinance allowing dispensaries in commercial zones, it had the effect of prohibiting dispensaries, which was essentially the same as the dispensary ban protested by voters. As a remedy, the court therefore reinstated the 2009 ordinance, and concluded that defendant was actually operating lawfully in the commercial zone under the 2009 ordinance. CSAC supported Kern County’s petition for Supreme Court review, but review was denied.

***County of San Bernardino v. PERB (SBCPAA)***

Order of the Fourth Appellate District (Mar. 23, 2016)(E063736), *petition for review denied* (May 11, 2016)(S233494)

San Bernardino County challenged the County Public Attorneys Association's practice of compelling Deputy Public Defenders to be represented by Deputy District Attorneys in performance-related investigations by the Public Defender. Both the District Attorney and the Public Defender objected to this practice and adopted a policy prohibiting it. The Association filed an unfair practice charge with PERB, alleging the county was violating the right to representation of union members. PERB agreed with the prohibition on a District Attorney representing a Public Defender in misconduct reviews. But rather than concluding that the Deputy Public Defender would be obligated to find a valid representative, PERB concluded that the Public Defender was obligated to exercise the option of foregoing the interview. Thus, the Public Defender is essentially prohibited from interviewing her deputies in disciplinary investigations. The county filed a writ petition. CSAC filed a brief in support. The writ petition was denied, with only a brief statement of the court’s rationale. The court concluded that PERB’s decision “was in essence correct.” CSAC supported the county’s petition for review, but the petition was denied.

***County of San Diego v. Commission on State Mandates***

Pending in the Fourth District Court of Appeal, Division One (filed Aug. 19, 2015)(D068657)

San Diego, Los Angeles, Sacramento, Orange and San Bernardino counties filed a petition for writ of mandate seeking to overturn the Commission on State Mandates decision on redetermination concluding that after “Jessica’s Law” activities related to civil commitment procedures for the civil detention and treatment of sexually violent predators following completion of the individual’s criminal sentence for certain sex-related crimes are no longer reimbursable. The counties argued that the redetermination process itself (Gov. Code, § 17570) is unconstitutional, and that the Commission’s decision violates article XIII B, section 6 of the California Constitution. The counties also argued that Jessica’s Law did not amount to a “subsequent change in law” that would permit the redetermination or support a finding that reimbursement is no longer required. The court denied the petition, rejecting the counties’ constitutional challenges to section 17570. Specifically, the court found that the law does not (1) conflict with the intent and purposes of article XIII B, section 6 of the California Constitution, nor (2) interfere with quasi-judicial function of the commission or violate separation of powers principles, and (3) the

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phrase “subsequent change in law” is not constitutionally vague or overbroad. CSAC has filed a brief in support of the counties on appeal. The matter is fully briefed and pending.

***Flores v. City of San Gabriel***

--- F.3d ---, 2016 U.S.App.LEXIS 10018 (9th Cir. June 2, 2016)(14-56421,14-56514), *petition for rehearing pending* (June 27, 2016)

The Ninth Circuit has issued a first-of-its-kind opinion under the Fair Labor Standards Act (FLSA). The case addresses flexible benefits plan under which a public employer offers a designated monetary amount to each employee for the purchase of medical, vision, and dental benefits. In the case, the City of San Gabriel allowed employees, if they provided proof of alternate medical coverage, to forgo medical benefits and receive the unused portion of the designated monetary amount as a cash payment (e.g., cash in lieu). The city treated the cash in lieu payments as benefits, not compensation, and thus excluded the payments from employees’ regular rate of pay for overtime purposes. The Ninth Circuit held that cash payments made to employees in lieu of health benefits must be included in the hourly “regular rate” used to compensate employees for overtime hours worked. The court also found that the city’s exclusion of the cash in lieu payments in calculating overtime was “willful” under the FLSA, entitling plaintiffs to three years of back overtime pay (rather than the standard two-year period). The city is seeking rehearing, and CSAC has filed a brief in support.

***Paradise Irrigation Dist. v. Commission on State Mandates***

Pending in the Third Appellate District (filed Apr. 25, 2016)(C081929)

Several irrigation and water districts filed test claims before the Commission on State Mandates seeking reimbursement for mandates related to the Water Conservation Act and its implementing regulations. The Commission denied the claim. The Sacramento Superior Court affirmed for two reasons. First, the court determined that those claimants that do not collect or expend property taxes are not eligible to claim reimbursement. Second, the court concluded that because the claimant agencies have fee authority, Government Code section 17556 precludes finding costs to be mandated by the State. The court acknowledged that the ability to impose fees to implement the Water Conservation Act is subject to the majority protest process of Proposition 218. “However, the mere specter of a majority protest should not, by itself, negate a local agency’s fee authority. While it is possible that a majority of the owners will protest a proposed fee, it is also possible that they will not.” Thus, the court concluded that “in the absence of a showing that Petitioners have ‘tried and failed’ to impose or increase the necessary fees, the Commission properly concluded that Petitioners have sufficient fee authority to cover the costs of any mandated programs.” The districts have appealed, and CSAC will file a brief in support.

***People for Proper Planning v. City of Palm Springs***

247 Cal.App.4th 640 (4th Dist. Div. 2 Apr. 22, 2016)(E062725), *ordered published* (May 20, 2016), *request for depublication pending* (filed June 27, 2016)(S234996)

Plaintiff challenged a General Plan (GP) amendment that was added by the city to clarify that the GP does not mandate minimum residential densities. The city argued, and the trial court agreed. On appeal, the court did not view the amendment as a mere

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clarification, but found that it had the substantive effect of eliminating existing density minimums. The court therefore held that the GP amendment was not eligible for a categorical exemption from CEQA. The court further held that even if the exemption did apply, plaintiff adequately proved an exception to the exemption, because the amendment would create an “across-the-board change in land use regulation that affects every residential area identified by the General Plan.” In so ruling, the court found that the proper baseline was not the existing conditions on the ground (which remain unchanged given the city's interpretation that the GP did not mandate minimum densities), but rather the GP itself. CSAC’s request for depublication is pending.

***Protecting Our Water & Environmental Resources v. Stanislaus County***

Pending in the Fifth District Court of Appeal (filed May 2, 2016)(F073634)

Stanislaus County has a well permitting ordinance, enacted in 1973, that adopted the State Department of Water Resources standards for the construction, repair, reconstruction or abandonment of wells. Following the State’s adoption of the Sustainable Groundwater Management Act, the county adopted a groundwater ordinance that requires non-exempt applicants for well-construction permits to demonstrate that proposed wells will not cause or substantially contribute to the unsustainable extraction of groundwater. Plaintiff filed this action alleging that the issuance of permits for wells under the ordinances is discretionary and therefore requires CEQA review. The County contends that such permits are ministerial— if the well meets the standards in the adopted ordinances, the permit is issued. The trial court agreed with the County. Plaintiff has appealed. CSAC will file a brief in support of Stanislaus County.

***Rubenstein v. Doe No. 1***

Previously published at: 245 Cal.App.4th 1037 (4th Dist. Div. 1 Mar. 22, 2016)(D066722), *petition for review granted* (June 16, 2016)(S234269)

In 2007, the California Supreme Court concluded that a provision added to the Code of Civil Procedure that extended the statutory period to file sexual abuse claims (a “delayed discovery” statute adopted in the wake of the priest abuse scandals) did not impact the timeframe for filing a claim with a public agency under the Government Claims Act. (*Shirk v. Vista Unified School District.*) So in 2008, the Legislature adopted a bill to address that opinion. The bill amended the Government Claims Act to include an exemption to the claim filing requirement for delayed discovery sexual abuse claims, but specifically states that it applies only prospectively (i.e., to incidents occurring after January 1, 2009). Fast forward to the present case. Here, sexual abuse occurred in 1993 (obviously well before January 1, 2009) and a claim was filed with the public entity in 2012 under the delayed discovery theory. The Court of Appeal, with nearly no analysis of the issue, allowed the case against the public entity to move forward. CSAC supported the petition for California Supreme Court review, which was granted.

***San Diego Housing Commission v. PERB***

246 Cal.App.4th 1 (4th Dist. Div. 1 Mar. 30, 2016)(D066237), *petition for review denied* (July 13, 2016)(S234414)

This case, along with a companion case out of Riverside County, are the local government challenge to AB 646 (2011), the bill that requires cities and counties to

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participate in mandatory factfinding after a declaration of impasse in labor negotiations. Though the factfinding is not binding, it does significantly slow the process and delays the ability of the local agency to impose its last, best and final offer. The question raised in the case is how broadly AB 646 applies. PERB concluded that mandatory factfinding applies to impasse over any bargainable issue. The San Diego County Superior Court found PERB's view "clearly erroneous," and adopted the local agency view that AB 646 only applies to impasse over the terms of an actual MOU. But the Fourth District has reversed, concluding that the factfinding provisions apply to impasses arising during the negotiation of *any* bargainable matter. In large part, the court relied on PERB's own interpretation of AB 646, rejecting our argument that the ordinary deference afforded to an agency interpreting its governing statute do not apply here since the interpretation was adopted for the purpose of assisting PERB in this litigation. CSAC filed a brief on the merits in the Court of Appeal, and support the petition for Supreme Court review, which was denied.

***Wallace v. County of Stanislaus***

245 Cal.App.4th 109 (5th Dist. Feb. 28, 2016)(F068068), *petition for review denied* (May 18, 2016)(S233495)

Plaintiff brought this disability discrimination case against the County. He alleged the County unlawfully removed him from his job as bailiff and placed him on an unpaid leave of absence because of its incorrect assessment that he could not safely perform his duties as a bailiff even with reasonable accommodation. The trial court issued a jury instruction that the County intended to discriminate against him based on his disability. Plaintiff challenged this instruction on appeal, and the Fifth District reversed. The court concluded that plaintiff is not required to prove that the employer's adverse employment action was motivated by animosity or ill will against the employee. CSAC support Stanislaus County's petition for Supreme Court review, but review was denied.

# Summer – Fall 2016 Course Guide

*You must be the change you wish to see in the world. – Mahatma Gandhi*

## Professional development classes for county officials, executives and managers

### Schedule at a Glance

DATE		LOCATION	PAGE
<b>JULY</b>			
7 (TH)	A Primer on County-Tribal Relationships	SAC	6
14 (TH)	20 Things to Know About Medi-Cal 2020	SAC	7
21 (TH)	Communicating and Presenting Complex Information	SAC	1
21 (TH)	Labor Relations and Negotiations in Local Government	MARTINEZ	4
28 (TH)	Intergenerational Leadership	SAC	3
29 (F)	The Maturity Factor + Emotional Intelligence	SAC	6
<b>AUGUST</b>			
4 (TH)	IT Risk and Portfolio Management	SAC	4
5 (F)	Polishing the Presentations: Advanced Practices	SAC	6
11 (TH)	Effective Use of Social Media and Electronic Communications	SAC	2
18 (TH)	County 101: Duties, Authorities, Responsibilities	MARTINEZ	2
25 (TH)	Preparing for the Single Audit	SAC	5
<b>SEPTEMBER</b>			
1 (TH)	Local Governance in California: All Those Local Agencies!	SAC	5
8 (TH)	<i>Emerging Issues</i> : Shared Economies	SAC	3
9 (F)	Art & Practice of Organizational Leadership	SAC	1
9 (F)	Thinking Strategically in Trying Times	RIVERSIDE	7
15 (TH)	Crafting and Implementing Effective Strategic Plans	MARTINEZ	1
16 (F)	Thinking Strategically in Trying Times	MERCED	7
22 (TH)	Strategy: Clarifying, Building, Implementing and Aligning	SAC	6
<b>OCTOBER</b>			
6 (TH)	IT Enterprise Governance	SAC	4
7 (F)	Engaging Employees for Success	RIVERSIDE	3
14 (F)	County Budgeting and Financial Planning	SAC	2
20 (TH)	Thinking Strategically in Trying Times	MARTINEZ	7
21 (F)	Engaging Employees for Success	SAC	1
21 (F)	Financing California Counties	MERCED	7
27 - 28	<i>Special Workshop</i> : Realignment 101 – 2-Day Workshop	SAC	6
<b>NOVEMBER</b>			
3 (TH)	Managing Conflict (even hostility) in Comfort	SAC	5
4 (F)	Leadership & Change: Practices to Move Organizations	RIVERSIDE	4
10 (TH)	Drama in the Boardroom: Acting Techniques	SAC	2
17 (TH)	<i>Emerging Issues</i> : Evidence-Based Practices	SAC	3
18 (F)	Leading with Emotional Intelligence	MERCED	4
28 - 29	New Supervisors Institute	PALM SPRINGS	5
<b>DECEMBER</b>			
2 (F)	Intergenerational Leadership	RIVERSIDE	3
8 (TH)	IT Budgeting and Service Economics	SAC	3
9 (F)	Leadership & Change: Practices to Move Organizations	SAC	4
15 - 16	<i>Special Workshop</i> : Leading with Emotional Intelligence	SAC	7
16 (F)	Effective Use of Social Media and Electronic Communications	MERCED	2

*Nature and dimensions of leadership in effective organizations*

### The Art & Practice of Organizational Leadership

120

This interactive course designed for both experienced and new senior county managers explores the practical applications of leadership in creating a high performing county organization – especially in the difficult environments counties operate. Participants engage in discussions of key practices in formal and informal leadership, particularly in achieving sustainable change; employee engagement and team-building strategies; leadership when you're not in charge; and techniques for developing a vital workplace culture which supports organizational members.



Instructor: Dr. Frank Benet is former city manager of Palo Alto and a noted expert in organizational leadership and management.

**Friday, September 9, 2016**

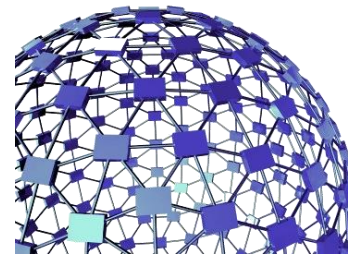
10:00 a.m.–3:30 p.m.

*Sacramento* ♦ \$129/person for counties ♦ 3 credits ♦ Managers/executives

*Effective visual display of complex information*

### Communicating and Presenting Complex Issues and Data

389



Counties present complex and detailed information to decision-makers and the public, and may fall into the trap of overwhelming the audience with too much content or complexity. This course provides strategies and techniques for presenting data, complex issues and analytical information in a way an audience can

understand and apply. Participants explore balancing content with clarity, effective use of tools such as PowerPoint, and determining what evidence to present. Using their own examples, participants examine how to present statistical data, key elements of visual design, and creation of presentations which communicate multifaceted ideas in a clear manner.

Instructor: Dr. Mary Kirilin is associate professor of Public Policy and Administration at CSU-Sacramento.

**Thursday, July 21, 2016**

10:00 a.m.–3:30 p.m.

*Sacramento* ♦ \$129/person for counties ♦ 3 credits ♦ Managers/Executives

Exactly what are California counties responsible to do?

## County 101: Duties, Authorities and Responsibilities of Counties 157

Counties have very broad authorities and responsibilities. Federal and state laws along with county-adopted policies and ordinances frame how each of the 58 counties implement those duties. With such broad responsibilities it is difficult for county officials and staff to be aware of all the duties and mandates across all departments. This class examines each county responsibility area and, at a policy level, highlights what is mandated, required and/or discretionary, and the roles and authority counties have for that service. It would also look at the history of counties in California.

Instructor: Bill Chiat is CSAC Institute Dean and former executive director of the California Association of Local Agency Formation Commissions and CEO of Napa County.

**Thursday, August 18, 2016** 10:00 a.m.–3:30 p.m.  
Martinez • \$129/person for counties • 3 credits • Staff/Elected Officials

Overview of county budgeting and financial management

## County Budgeting and Financial Planning 116



Counties have complex systems for budgeting and financial management. Budgets are the annual planning documents for county operations. This course provides a comprehensive overview of the ins and outs of county budgeting and the budget process. Discussion includes a review of the County Budget Act,

a year in the county budget cycle, key elements of a budget, and integration of strategic plans into the annual budget. Participants will also examine county revenue sources, sales and property tax allocation, General Fund and special funds, creating and integrating department-recommended budget components, and public involvement in the budget process. The class will also explore key elements in longer-term county financial planning and management. Class is a must for everyone involved in the budget process.

Instructors: Patrick Blacklock is County Administrator of Yolo County, and Robert Bendorf is County Administrator of Yuba County.

**Friday, October 14, 2016** 10:00 a.m.–3:30 p.m.  
Sacramento • \$129/person for counties • 3 credits • Managers/Executives

Make strategic planning mean something

## Crafting and Implementing Effective Strategic Plans 123

Most counties and county departments create strategic plans. Sometimes they provide clear guidance to decision makers and staff; sometimes they don't. This course examines how to make the plan a living document ... and have it mean something to those affected. Participants examine: 1) how to craft a strategic plan with the Board of Supervisors or other governing board; 2) engagement of the community and staff in the process; 3) tips to prepare an actionable plan; 4) communication of the plan; and 5) putting a plan into action. Best practices and case examples are used to explore integration of the plan into the operations and decision-making of the organization. Discussion highlights tips for structuring an effective strategic workshop, including selection of a facilitator, participants and preparation.

Instructor: Angela Antenore, M.Ed. is an experienced strategic facilitator, agency board member and university instructor.

**Thursday, September 15, 2016** 10:00 a.m.–3:30 p.m.  
Martinez • \$129/person for counties • 3 credits • Staff/Elected Officials

"All the world's a stage" – including California counties

## Drama in the Board Room: Acting techniques to improve your county performance 350

Leadership and acting have a lot in common. Both crafts require practitioners to be aware of and manage their emotions and those of people around them. They evoke different emotions — leaders generally don't try to get people to cry and actors generally don't get people to work through difficult workplace changes — but their crafts overlap nonetheless. In this lively, interactive class, participants learn and practice classic theatrical training concepts and techniques that they can apply to their work as county leaders. Learn how to add passion and meaning to your communication.



Instructors: Stacy Corless is a Mono County Supervisor and founding member of Sierra Classic Theatre in Mammoth Lakes; John Gioia is a Contra Costa Supervisor and Chair of CSAC Institute Governing Board.

**Thursday, November 10, 2016** 10:00 a.m.–3:30 p.m.  
Sacramento • \$129/person for counties • 3 credits • Staff/Elected Officials

The 211 on Social Media 101 to Avoid a Communications 911

## Effective Use of Social Media and Electronic Communications 353

Confused about social media, which platforms are right for your county, how to find time to manage it, what to post? In this high-energy, fast-moving workshop, former Sacramento County communicator-turned-social-media-specialist Kerry Shearer will help you understand what to focus on, how to implement it, and ways to quickly create compelling content using the latest photo, audio and video techniques! He'll give you updates on current popular social media sites and upcoming platforms to watch, while giving you concrete tips, tools, apps, and hands-on interaction in an engaging way that will help you become a social media Ninja (or at least have a lot more confidence!). Kerry's background as a public information officer, broadcaster, and social media guru means he can help even those who don't consider themselves to be social media- or tech-savvy to come away from the class with newly developed knowledge, skills and techniques to begin implementing immediately. This will be valuable whether you're a social media newbie or a seasoned practitioner.



Instructor: Kerry Shearer is former Sacramento County Public Information Officer and a consultant and teacher specializing in social media.

**Thursday, August 11, 2016** 10:00 a.m.–3:30 p.m.  
Sacramento • \$129/person for counties • 3 credits • Staff/Elected Officials

**Friday, December 16, 2016** 10:00 a.m.–3:30 p.m.  
Merced • \$129/person for counties • 3 credits • Staff/Elected Officials

## EMERGING ISSUES

*A series of courses exploring trends in long-term policy issues*



These unique seminars provide county decision-makers an opportunity to explore emerging trends and issues with colleagues and experts in the field. Brief presentations examine facets of the issue and allow ample opportunity for discussions. The conversations look at interrelationships along with resources, capacity and authority available for counties to work toward solutions. Options are examined for counties to consider in working towards sustainable solutions in their communities.

*Policy and governance in the emerging era of shared economies*

### Emerging Issues: Shared Economies 405

The shared economy is breaking the mold for the way goods and services are provided by private companies in our state. In doing so, it's challenging existing models for county business licenses, tax collection, land use designation, and other county ordinances seeking to protect public health and safety. This session will review how vehicle, residential units, office space, and other shared economy services are helping or hurting the bottom line. Case studies will be offered to illustrate how counties are tackling the problems and finding ways to make the shared economy work for their benefit in county service delivery.

**Thursday, September 8, 2016** 10:00 a.m.–3:30 p.m.  
*Sacramento* ♦ \$129/person for counties ♦ 3 credits ♦ Staff/Elected Officials

*Getting results from proven practices in criminal justice*

### Emerging Issues: Evidence-Based Results 404

California's paradigm shift with 2011 realignment in the criminal justice system has encouraged different agencies to communicate and work together to provide efficient and effective solutions to the criminal justice population. The shift not only brought more offenders, but it brought the need for counties to provide more services in and out of custody. How does a county know which programs to fund? How does a county determine if its investment was effective? This conversation will look at how counties can invest in programs that will produce the best outcomes for residents and the highest rate of return on the investments. It will help bridge the gap between research, data collection and county concerns.

**Thursday, November 17, 2016** 10:00 a.m.–3:30 p.m.  
*Sacramento* ♦ \$129/person for counties ♦ 3 credits ♦ Staff/Elected Officials

*Leadership can't be done alone*

### Engaging Employees for Success 126

In times of disruptive change and scarce resources, it is critical that employees from all levels of the organization are fully productive and engaged in adapting to change and addressing new challenges. This interactive workshop discusses the business case for employee engagement, the conditions fostering active engagement, and simple steps for supervisors, managers and co-workers to promote engagement.



Instructor: Dr. Frank Benest is former city manager of Palo Alto and a noted expert in organizational leadership and management.

**Friday, October 7, 2016** 10:00 a.m.–3:30 p.m.  
*Riverside* ♦ \$129/person for counties ♦ 3 credits ♦ Managers/Executives

**Friday, October 21, 2016** 10:00 a.m.–3:30 p.m.  
*Sacramento* ♦ \$129/person for counties ♦ 3 credits ♦ Managers/Executives

*Today's county workforce has people in their 70's, in their teens and everywhere in between*

### Intergenerational Leadership 129

For the first time in history we find ourselves working with people from five distinct generations. In today's workplace we have to understand, communicate and interact with people from different eras, different values and habits, and fundamentally different ideas about life! This class focuses on understanding and practicing how to integrate deeper generational insights into practice. Participants do self-assessments of their eras and their own values. They profile their work environments to discern the complexity of the generational mix. Most importantly they learn a unique set of skills and processes to employ when encountering people whose values, habits and business practices may be at odds with their own. This workshop provides participants skills to blend generations to get the best from everyone.



Instructor: Larry Liberty, Ph.D. works with Fortune 500 companies and taught in international MBA programs across the globe. He is author of *The Maturity Factor – Solving the Mystery of Great Leadership*.

**Thursday, July 28, 2016** 10:00 a.m.–3:30 p.m.  
*Sacramento* ♦ \$129/person for counties ♦ 3 credits ♦ Managers/Executives

**Friday, December 2, 2016** 10:00 a.m.–3:30 p.m.  
*Riverside* ♦ \$129/person for counties ♦ 3 credits ♦ Managers/Executives



### Information Technology Courses for IT Managers and Directors

CSAC Institute and the California County Information Services Directors Association have partnered together to offer a series of professional development courses for managers and executives in county technology. The courses are part of the requirements for the *California County Technology Executive Credential*. For more information on the IT Credential, please visit: [www.ccisda.org](http://www.ccisda.org).

*Devise budgets that demonstrate IT's value to the organization*

### IT Budgeting and Service Economics 345

While IT's mission is to enable the delivery of government services, paradoxically IT is often viewed as a cost center rather than a value creator. Good IT leaders focus on reframing budget conversations

from the perspective of the value their departments create. Great IT leaders go a step further by instituting programs which share the cost of IT service delivery across the organization, and build processes that keep costs down so IT can remain competitive in the face of proliferating cloud service options. In this course, county IT leaders will explore the methods, tools, and templates required to devise budgets that demonstrate IT's value to the organization, establish a service-based costing model which ensures costs are understood and can be charged back to the organization.

**Thursday, December 8, 2016** 10:00 a.m.–3:30 p.m.  
 Sacramento ♦ \$129/person for counties ♦ 3 credits ♦ IT Managers/Executives

*Leverage complex enterprise architecture practices to enable informed, optimized decision-making*

## IT Enterprise Governance 344

The various parts of county government are united by a simple, powerful goal: improving community welfare. However, aligning to a unified vision becomes an increasingly complicated management exercise as organizations grow and decision-making power decentralizes. The most unified organizations leverage complex enterprise architecture practices to act as systems which provide unprecedented levels of



organizational resource awareness, and enable informed, optimized decision-making. Getting to this point is a daunting undertaking and requires involvement of a wide variety of organizational stakeholders – and more often than not IT leaders do not know where to begin. With this course, county IT leaders will be guided through the variety of options for achieving enterprise architecture with the goal of identifying an approach that makes sense for their organization. Participants will also learn about universally accepted enterprise architecture principles, and how to institute a program that overcomes organizational resistance, and bridges the gap between organizational needs and IT capabilities.

**Thursday, October 6, 2016** 10:00 a.m.–3:30 p.m.  
 Sacramento ♦ \$129/person for counties ♦ 3 credits ♦ IT Managers/Executives

*Strategies to protect organizational assets and processes*

## IT Risk and Portfolio Management 343

Issues such as privacy, fraud, security, and organizational accountability mean that every organization should already have some process in place to monitor and mitigate organizational risks. Because the organization tasks IT with protecting organizational assets and processes, risk management often falls on its broad shoulders as well. However, the value of risk management is not inherently understood by county leaders, and more often than not IT departments find they must convince the organization to take it up in a formal capacity. This challenge is exacerbated in cases where IT leaders lack a fundamental understanding of what matters most to the organization. In this course, IT leaders will learn the questions to ask of their peers to identify areas of critical importance to organizational risk management, the knowledge required to build a formal risk management process, best practices for mitigating risks identified.

**Thursday, August 4, 2016** 10:00 a.m.–3:30 p.m.  
 Sacramento ♦ \$129/person for counties ♦ 3 credits ♦ IT Managers/Executives

*Employees are the county's largest budget item*

## Labor Relations and Negotiations in Local Government 153

The class examines the basics of labor relations in the county environment. Laws and regulations affecting public-sector employment and labor relations in California are examined along with techniques to build and maintain effective and productive relationships with employee groups. The class explores the various roles in labor relations and labor negotiations along with pitfalls to avoid in working with labor representatives. Techniques are examined for maintaining productive relationships with employee organizations during difficult times.

Instructors: Richard Whitmore and Richard Bolanos are partners with Liebert Cassidy Whitmore and work extensively with local governments on labor relations

**Thursday, July 21, 2016** 10:00 a.m.–3:30 p.m.  
 Martinez ♦ \$129/person for counties ♦ 3 credits ♦ Staff/Elected Officials

*Create customer satisfaction in a county setting*

## Leading with Emotional Intelligence 128

What characteristics and practices distinguish great from good performers? What evidence based practices should be part of your daily routine to be a high performer? We will answer these questions from a 30 year data base and research of top performance as we dive into the four areas of Emotional Intelligence (EI): 1) Understanding Yourself, 2) Managing Yourself, 3) Understanding Others and 4) Managing Others. You will take an assessment to determine your EI strengths. Hands on tools to enhance your EI will be explored. Emotional Intelligence is a prime factor to one's success when compared to Intelligence Quotient (IQ) and technical expertise. Business simulations, practices sessions, videos and group discussions will help participants enjoy, engage and learn more.

**Instructor:** Relly Nadler, Psy.D. is founder of True North Leadership, Inc., and author of *Leading with Emotional intelligence*.

**Friday, April 22, 2016** 10:00 a.m.–3:30 p.m.  
 Sacramento ♦ \$129/person for counties ♦ 3 credits ♦ Staff/Elected Officials

*Why change efforts fail - and how to remove those barriers*

## Leadership & Change: Practices to Move Organizations 124

County officials and managers discuss the need for change in their organizations, yet struggle when change is difficult to accomplish within the depths of the organization. This course helps participants move past technical solutions to the practices for approaching adoptive challenges. Discussion highlights why some changes happen relatively quickly while others are stymied. Participants explore change from the perspective of those whom the change affects. Practical discussions focus on design of a change process; practices to diagnose, interpret and select interventions; barriers; and creating an environment in which people can expand their capacity to address adaptive change.

**Instructor:** Bill Chiat, Dean of CSAC Institute. For the last 35 years he has worked with hundreds of local agencies in crafting change.

**Friday, November 4, 2016** 10:00 a.m.–3:30 p.m.  
 Riverside ♦ \$129/person for counties ♦ 3 credits ♦ Staff/Elected Officials

**Friday, December 9, 2016** 10:00 a.m.–3:30 p.m.  
 Sacramento ♦ \$129/person for counties ♦ 3 credits ♦ Staff/Elected Officials



## Local Governance in California: All those agencies!

150



California has a complex system of providing services through local governments. This course provides an overview of local government structure and responsibilities in California. You'll learn the basics of all the local agencies and how they interrelate with county responsibilities. A brief history of California governance is followed by a review of the roles and responsibilities of the state, cities, counties, special districts and an alphabet soup of other local agencies.

Discussion highlights the authority and responsibilities of the county as it relates to other agencies through a county case study on the interrelationships of all these local agencies.

Instructor: Bill Chiat, CSAC Institute Dean, former executive director of the California Association of Local Agency Formation Commissions and experienced executive in county, district and city governments.

**Thursday, September 1, 2016** 10:00 a.m.–3:30 p.m.  
Sacramento ♦ \$129/person for counties ♦ 3 credits ♦ Staff/Elected Officials

*Facilitate conflict constructively*

## Manage Conflict (Even Hostility) in Comfort

360

Conflicts and disagreements are a fact of life. They can contribute to better outcomes or can lead to an escalating situation. Transform the most difficult circumstances into a satisfying experience for all involved. This course helps County elected officials and executives identify constructive approaches to positively managing conflict whether from the dais, in a meeting, or one-on-one. Participants analyze their own response to conflict and develop tools to quickly assess and respond to difficult situations and create practical, positive outcomes.



Instructor: Dr. Laree Kiely is president of the Kiely Group, organizational effectiveness consultants, and a professor at the USC Marshall School of Business.

**Thursday, November 3, 2016** 10:00 a.m.–3:30 p.m.  
Sacramento ♦ \$129/person for counties ♦ 3 credits ♦ Staff/Elected Officials

*Premier learning experience for every newly elected supervisor –  
Hit the ground running*

## New Supervisors Institute

110

So you've just been elected as County Supervisor. Now what? This series of three sessions is designed to help you hit the ground running. The series examines the basics of county governorship. Hear tips and tricks from other supervisors on establishing your office, roles and responsibilities, ten top questions to ask of staff, legal obligations and much more. The first session of this in-depth

seminar is held just before the beginning of the CSAC Annual Meeting. The first seminar provides the unique opportunity to develop a network amongst new supervisors that will last through your career.

Instructors: Mike McGowan is former long-time Supervisor from Yolo County and former CSAC President; Bill Chiat is Dean of the CSAC Institute and experienced executive in local government service.

**Monday-Tuesday, November 28-19, 2016** 8:00 a.m.  
Palm Springs ♦ 6 credits ♦ Newly Elected Supervisors

*Be ready for this rigorous federal audit of federal grants and funds*

## Preparing for the Single Audit

385



Counties receiving federal grants or subgrant funds are frequently subjected to audits of those funds. The audit could be a Single Audit conducted under the provisions of OMB Circular A

133, a specific program audit or an audit conducted by a government agency. This course is designed to assist the recipients of federal grants to be prepared for any type of grant fund audit. It focuses on designing and implementing internal controls, complying with federal regulations, preparing adequate documentation, and correcting prior audit findings. Participants examine common audit finding areas and how to avoid them, and how to best prepare for the audit. *Eligible for 6 CPE credits for CPAs.*

Instructor: Sefton Boyars, CPA, CGFM, CFS from the California Certified Public Accountants (CalCPA) Education Foundation.

**Thursday, August 25, 2016** 9:30 a.m.–3:30 p.m.  
Sacramento ♦ \$129/person for counties ♦ 3 credits ♦ Staff/Managers/Auditors

*For experienced presenters wanting to up their presentations*

## Polish Your Presentation: Advanced Practices in Communication

125

This intensive course helps senior managers and elected officials better present their ideas with conviction, control, and poise — and without fear. The course covers specific skills and advanced techniques for delivering professional presentations that get results. Participants examine their presentation style, learn to use tools to organize their presentation and communicate their thoughts, and handle difficult situations. A straight-forward presentation model helps participants build their self-confidence and overcome the common mistakes which turn off audiences. Use of graphics and presentation tools are also examined. Through a lab, participants work on improving one of their own presentations.



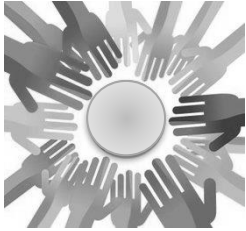
Instructor: Bill Chiat is Dean of the CSAC Institute and an accomplished presenter with city, county and state governments.

**Friday, August 5, 2016** 10:00 a.m.–3:30 p.m.  
Sacramento ♦ \$129/person for counties ♦ 3 credits ♦ Managers/Executives

Build cooperative intergovernmental relationships which benefit all communities

## A Primer on County-Tribal Relations

332



California is home to over 100 federally recognized Indian tribes and numerous other Native American tribes recognized by the State of California, all which reside in California's 58 counties. The United States and California's complex and varied history with Indian tribes provides a difficult to understand and sometimes challenging environment in which counties interface with these sovereign nations. This course

will provide a thorough review of important historical milestones in national tribal law and relationships and discuss how the existing federal and state statutory and regulatory framework is relevant to counties today. Further, the course will explore the ways in which counties interface with tribes outside of federal and state requirements and have been building cooperative intergovernmental relationships for the mutual benefit of tribes and counties.

Instructors: Professor Katherine Florey, UC Davis Law School and an expert on the history of Tribal Law plus experts on building effective intergovernmental relationships with recognized tribes in California.

**Thursday, July 7, 2016**

10:00 a.m.–3:30 p.m.

Sacramento ♦ \$129/person for counties ♦ 3 credits ♦ Staff/Elected Officials

### SPECIAL TWO-DAY INTENSIVE WORKSHOP

*Context, structure and funding of realignment in California*

#### Realignment 101: The Basics of 1991 and 2011 Realignments

307

EVERYTHING YOU NEED TO KNOW

**new**

This two-day course examines the history and rationale for establishing it in 1991, why programs were included, what was learned, and the expansion to realignment in 2011 – all updated with program and funding changes through 2016. Participants first examine the establishment and programs of the 1991 realignment. Discussion details health and human services and mental health programs. Participants explore individual programs, how they work, funding and current status. The course examines the 2011 realignment – including AB 109 – with an emphasis on public safety programs. Details on the realigned programs, changes to 1991 realignment services, implementation, funding and how counties are implementing the 2011 realignment are all discussed. The second day features a detailed examination of fiscal issues: structure and allocation of local funds; flow of funds in human services, public safety, health, behavioral health, and other programs; forecasting and tracking realignment, VLF and Prop 172 funds; fund growth; and other fiscal issues.

Instructors: Diane Cummins, special advisor to the Governor on state and local realignment; Andrew Pease, Finance Director, San Diego County Health and Human Services Agency; and Robert Manchia, San Mateo County Human Services Agency.

**Thursday - Friday, October 27-28, 2016**

10:00 a.m.–3:30 p.m.

Sacramento ♦ \$258/person for counties ♦ 6 credits ♦ Staff/Elected Officials/Analysts

Discover your strategic intent – build your strategic agility

## Strategy: Clarifying, Building, Implementing and Ensuring Alignment

388

A seminal article was published recently called "The Strategic Plan is Dead. Long Live Strategy." It's staggering when we realize how many public entities focus on the time-consuming and often wasteful activity

of creating a strategic plan when indeed they have NO strategy. In this world of unpredictability, high velocity, rapid change, and citizens counting on us to do the right thing, we MUST start by creating and clarifying our strategy. In this session we cover how to construct a solid yet adaptable strategy for your organization, ensuring strategic thinking and alignment to strategy from everyone, understanding how all other organizational elements and processes fit within the context of "strategy," and determining how to take these concepts back to your environment to make a positive difference.



Instructor: Dr. Laree Kiely is president of the Kiely Group; organizational effectiveness consultants, and a professor at the USC Marshall School of Business.

**Thursday, September 22, 2016**

10:00 a.m.–3:30 p.m.

Sacramento ♦ \$129/person for counties ♦ 3 credits ♦ Staff/Elected Officials

*How your emotions impact behavior, relationships and results*

## The Maturity Factor + Emotional Intelligence: How to become emotionally agile for success

393



Behavioral sciences research is less than 50 years old. Yet in that short period we have uncovered many useful ideas and models for contemporary leadership practice. It now seems obvious to any manager or leader that emotional intelligence and psychological maturity are essential elements of success. This workshop reviews the core elements of both EQ and the Maturity Factor. It then explores best practices of effective managers and leaders in using their emotions for the greater good. Emotional agility and flexibility gives rise to opportunities to interact on complex problems and situations in new and unique ways. The class provides participants the information and best practices needed to become more masterful and flexible.



Instructor: Larry Liberty, Ph.D. works with Fortune 500 companies and taught in international MBA programs across the globe. He is author of The Maturity Factor – Solving the Mystery of Great Leadership.

**Friday, July 29, 2016**

10:00 a.m.–3:30 p.m.

Sacramento ♦ \$129/person for counties ♦ 3 credits ♦ Staff/Elected Officials

**Thinking Strategically in Trying Times** 363



This intense seminar discusses the challenges of strategic agility with the critical, enduring problems counties face. The focus is on the art of possibilities. Participants examine separating probabilities (what's likely to happen) from possibilities (what could happen) and applying concepts of creative and strategic thinking to

find different paths to solutions. The conversation provides strategies to question assumptions; identify the environmental issues; distinguish strategies from tactics; use team resources, and structure learning from experience.

Instructor: Dr. Rich Callahan is associate professor of management at the University of San Francisco. He brings practical experience working with elected officials in leadership practices.

**Friday, September 9, 2016** 10:00 a.m.–3:30 p.m.  
Riverside ♦ \$129/person for counties ♦ 3 credits ♦ Staff/Elected Officials

**Friday, September 16, 2016** 10:00 a.m.–3:30 p.m.  
Merced ♦ \$129/person for counties ♦ 3 credits ♦ Staff/Elected Officials

**Thursday, October 20, 2016** 10:00 a.m.–3:30 p.m.  
Martinez ♦ \$129/person for counties ♦ 3 credits ♦ Managers/Executives

*Opportunities for Counties with the new Medicaid Waiver*

**Twenty Things to Know About Medi-Cal 2020** 320



California's recently approved Section 1115 Medicaid Waiver will provide over \$6 billion in federal funds to California through 2020. This class will explore the policy and funding opportunities presented to counties by the Medi-Cal 2020 Waiver. Hear from the

expert faculty on the current issues and opportunities for counties associated with Waiver implementation.

Instructor: Kelly Brooks-Lindsey, is a partner with Hurst Brooks Espinosa LLP and a long-time advocate for counties in the areas of health and human services policy.

**Thursday, July 14, 2016** 10:00 a.m.–3:30 p.m.  
Sacramento ♦ \$129/person for counties ♦ 3 credits ♦ Staff/Elected Officials

**Earn your Institute Credential**

*Demonstrate your commitment to professional development*



Learn how at [www.csacinstitute.org](http://www.csacinstitute.org)

**Financing California Counties: A History** 151

Have you found yourself overwhelmed trying to understand the county revenue sources and funding streams? And how we ended up with this complex system? This course provides an in-depth examination of county revenue sources and how they have evolved. Exploring the context of county funding decisions by Legislative and the Administration over the last 40 years is critical in understanding the current state-county funding and revenue relationships. The class examines the history and consequences of major elements in county revenues including: Proposition 13, 172, 1A, Vehicle License Fees, Realignment, ERAF, property tax allocations, current year State budget and more.

**Instructor:** Diane Cummins is Special Advisor to the Governor on State and Local Realignment.

**Friday, September 16, 2016** 10:00 a.m.–3:30 p.m.  
Merced ♦ \$129/person for counties ♦ 3 credits ♦ Staff/Elected Officials

**SPECIAL TWO-DAY INTENSIVE WORKSHOP**

*Do you have the emotional agility to thrive in today's world?*

**Workshop on Leading with Emotional Intelligence** 128

As the world has changed, so have the requirements for leaders to leverage a new set of operating principles: self awareness, self-management, motivation, collaboration, authenticity, empathy, adaptability, influence and resilience, in other words Emotional Intelligence. In this engaging 2 day workshop you will discover the power of emotional intelligence and how it impacts leadership effectiveness and performance. The workshop utilises the latest research and techniques from neuroscience, emotional Intelligence



and mindfulness to assist participants in building their leadership impact, optimise positive relationships, effectiveness, enhance decision-making, influence, and wellbeing; all primary success factors of a great leader. Participants will be introduced to the fundamentals of EQ, its importance in leadership, and how to apply EQ competencies and techniques to specific workplace situations. Participants will complete a EQ profile to gain insights into leadership behaviours and personal impact and will learn how EQ can be developed through practical tools and techniques: which will be integrated into an Action Plan to continue their personal growth beyond the workshop.

Instructor: Angela Giacomis is a leading trainer, speaker, coach and consultant in Emotional Intelligence, working with individuals and organisations to better understand and leverage EQ capabilities to optimise leadership impact and performance.

**Thursday - Friday, December 15-16, 2016** 10:00 a.m.–3:30 p.m.  
Sacramento ♦ \$258/person for counties ♦ 6 credits ♦ Staff/Elected Officials

## Course Schedule Index

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CSAC Institute for Excellence in County Government is a professional, practical continuing education program for county staff and officials. Its goal is to expand capacity and capability of county elected officials and senior staff to provide extraordinary services to their communities. The Institute is a program of the California State Association of Counties (CSAC) and established in 2008. Over 3,600 county staff and elected officials have taken courses. The Institute is supported by CSAC, the California Counties Foundation (a 501(c)(3) charity), grants from organizations and foundations, and course registration fees.

#### Course Locations

**Sacramento** – Courses are held in downtown Sacramento at the Sacramento Masonic Temple (1123 J Street).

**Riverside** – Courses are hosted by the County of Riverside and held at the County Administrations Center (4080 Lemon Street) in downtown Riverside.

**Merced** – Courses are hosted by the County of Merced and held at the Child Support Services training room (3368 North Highway 59) in Merced.

**Martinez** – Courses are hosted by the County of Contra Costa and held at the Department of Conservation and Development (30 Muir Road) in Martinez.

#### Course Registration and Fees

**Registration** – Course registration is done on-line. *Advance registration is required.* Because of limited class size we cannot accommodate registration at the door. To register for a class please visit [www.csacinstitute.org](http://www.csacinstitute.org). Please contact Institute Registrar with any registration questions or problems.

**Fees** – Course tuition includes instruction, materials, certificate and lunch (for 3-credit classes). All county staff and officials are eligible for the special county rate of \$43/credit. Staff from county-partnered CBOs, CSAC Partners and Primer Members, and CSAC Affiliate Members are also eligible for this special registration rate. On a space-available basis, courses are open for others to attend. Regular registration fee is \$117/credit.

**Discounts** – Reduced tuition is available to county staff and officials when registering for three or more classes at the same time or with the purchase of the Credential Package. Save at least 15% with these options.

The Institute is developing an additional package for counties to save on registration fees. Soon counties can purchase a bulk package of course registrations at a discount to distribute to staff. For more information please contact the Institute Dean.

#### Contact Us

**Institute Dean** - Bill Chiat [bchiat@counties.org](mailto:bchiat@counties.org)

**Institute Training Program Coordinator** – Jenai Wyatt [jwyatt@counties.org](mailto:jwyatt@counties.org)

916/327-7500

**www.csacinstitute.org** Check the Institute website for updated information, course schedules and resource materials, including materials from many of the Institute’s most popular classes.



### COST-EFFECTIVE SOLUTION FOR COUNTY ELECTED OFFICIALS AND SENIOR STAFF PROFESSIONAL DEVELOPMENT

*Registration fees includes professional instruction, course materials, certificate and lunch*

Course schedule and descriptions subject to change.

Visit [www.csacinstitute.org](http://www.csacinstitute.org) for:

- \* Up-to-date schedule and course information
- \* Special class and workshop additions
- \* Institute Credential Programs
- \* Institute Fellows



# 2016 CSAC Executive Committee Calendar of Events

## January

- 6 Urban Counties of California (UCC) Board Conference Call
- 13 CSAC Executive Committee Orientation Dinner, Sacramento  
*6:30pm Reception, 7:15pm Dinner, Esquire Grill, 13<sup>th</sup> & K Streets, Sacramento*
- 14 CSAC Executive Committee Meeting, Sacramento  
*10:00am – 1:30pm, Masonic Hall, 1123 J St, 3<sup>rd</sup> Floor, Sacramento*
- 20 Rural County Representatives of California (RCRC) Board Meeting & Installation of Officers Reception, Sacramento

## February

- 3 Urban Counties of California (UCC) Board Conference Call
- 10-12 CSAC Premier Corporate Partner Forum, San Diego County
- 18 CSAC Board of Directors Meeting, Sacramento  
*10:00am – 1:30pm, Masonic Hall, 1123 J St, 3<sup>rd</sup> Floor, Sacramento*
- 20-24 NACo Legislative Conference, Washington, D.C.

## March

- 2 Urban Counties of California (UCC) Board Conference Call
- 16 Rural County Representatives of California (RCRC) Board Meeting, Sacramento
- 24 CSAC Regional Meeting, Shasta County

## April

- 6 Urban Counties of California (UCC) Board Conference Call
- 7 CSAC Executive Committee Meeting, Los Angeles County  
*10:00am – 1:30pm, Hotel Maya, 700 Queensway Drive, Long Beach*
- 20-21 Rural County Representatives of California (RCRC) Board Meeting, Glenn County
- 27-29 CSAC Finance Corporation Board Meeting, Riverside County

## May

- 18 Urban Counties of California (UCC) Board Meeting, Sacramento
- 18-19 CSAC Legislative Conference, Sacramento Convention Center/ Hyatt Regency
- 19 CSAC Board of Directors Meeting, Sacramento  
*12:30pm – 4:00pm, Hyatt Regency B-C, 1209 L Street, Sacramento*
- 25-27 NACo Western Interstate Region Conference, Jackson Hole, Wyoming

## June

- 16 CSAC Regional Meeting, Amador County
- 22 Rural County Representatives of California (RCRC) Board Meeting, Sacramento

## July

- 6 Urban Counties of California (UCC) Board Conference Call
- 22-25 NACo Annual Meeting, Los Angeles County/Long Beach

## August

- 3 Urban Counties of California (UCC) Board Conference Call
- 4 CSAC Executive Committee Meeting, Sacramento  
*10:00am – 1:30pm, Sutter Club, 1220 9th Street, Sacramento*
- 17 Rural County Representatives of California (RCRC) Board Meeting, Sacramento

## September

- 1 CSAC Board of Directors Meeting, Sacramento  
*10:00am – 1:30pm, Sutter Club, 1220 9th Street, Sacramento*
- 7 Urban Counties of California (UCC) Board Conference Call
- 14-16 CSAC Finance Corporation Board Meeting, Santa Barbara County
- 28-30 Rural County Representatives of California (RCRC) Annual Meeting, Placer County

**October**

- 5 Urban Counties of California (UCC) Board Conference Call
- 5-7 CSAC Executive Committee Retreat, Ventura County  
*Ojai Valley Inn, 905 Country Club Road, Ojai*

**November - December**

- 29-2 CSAC 122nd Annual Meeting, Palm Springs, Riverside County
- 30 Urban Counties of California (UCC) Board Meeting, Palm Springs, Riverside County

**December**

- 1 CSAC Board of Directors Meeting, Palm Springs, Riverside County  
*2:00pm – 4:00pm, Palm Springs Convention Center, 277 N Avenida Caballeros,  
Palm Springs*
- 7 Rural County Representatives of California (RCRC) Board Meeting, Sacramento
- 14-16 CSAC Officers' Retreat, Napa County

As of 4/12/16