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Chief Executive Officer

October 15, 2010

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To: Supervisor Gloria Molina, Chair
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Supervisor Don Knabe
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From: William T Fujioka
Chief Executive Officer

NOVEMBER 2, 2010 STATEWIDE GENERAL ELECTION BALLOT MEASURES

This is to provide you with information about the nine propositions on the November 2, 2010 Statewide General Election Ballot. This document includes a brief background on each proposition, a Legislative Analyst Office (LAO) overview, statements from affected County of Los Angeles departments and available information on supporters and opponents. No County position has been taken on any of these measures.

The official titles of the measures are:

Proposition 19: Legalizes Marijuana Under California but not Federal Law. Permits Local Governments to Regulate and Tax Commercial Production, Distribution, and Sale of Marijuana. Initiative Statute. - **No Position**

Proposition 20: Redistricting of Congressional Districts. Initiative Constitutional Amendment. - **No Position**

Proposition 21: Establishes an \$18 Annual Vehicle License Surcharge to Help Fund State Parks and Wildlife Programs. Grants Surcharged Vehicles Free Admission to All State Parks. Initiative Statute. - **No Position**

Proposition 22: Prohibits the State from Borrowing or Taking Funds Used for Transportation, Redevelopment, or Local Government Projects and Services. Initiative Constitutional Amendment. - **No Position**

"To Enrich Lives Through Effective And Caring Service"

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Each Supervisor
October 15, 2010
Page 2

Proposition 23: Suspends Implementation of Air Pollution Control Law (AB 32) Requiring Major Sources of Emissions to Report and Reduce Greenhouse Gas Emissions that Cause Global Warming, Until Unemployment Drops to 5.5 Percent or Less for a Full Year. Initiative Statute. - **No Position**

Proposition 24: Repeals Recent Legislation that Would Allow Businesses to Lower Their Tax Liability. Initiative Statute. - **No Position**

Proposition 25: Changes Legislative Vote Requirement to Pass Budget and Budget - Related Legislation from Two-Thirds to a Simple Majority. Retains Two-Thirds Vote Requirement for Taxes. Initiative Constitutional Amendment. - **No Position**

Proposition 26: Requires that Certain State and Local Fees Be Approved by Two-Thirds Vote. Fees Include Those that Address Adverse Impacts on Society or the Environment Caused by the Fee-Payer's Business. Initiative Constitutional Amendment. - **No Position**

Proposition 27: Eliminates State Commission on Redistricting. Consolidates Authority for Redistricting with Elected Representatives. Initiative Constitutional Amendment and Statute. - **No Position**

Information on these nine propositions is contained in Attachment I.

Please contact me or your staff may contact Manuel Rivas at (213) 974-1464 if you have any questions.

WTF:RA
MR:RM:sb

Attachment

c: Executive Office, Board of Supervisors
County Counsel

PROPOSITION 19: LEGALIZES MARIJUANA UNDER CALIFORNIA LAW BUT NOT FEDERAL LAW. PERMITS LOCAL GOVERNMENTS TO REGULATE AND TAX COMMERCIAL PRODUCTION, DISTRIBUTION, AND SALE OF MARIJUANA. Initiative Statute. – COUNTY POSITION: NONE

Proposition 19 would: 1) allow people 21 years old or older to possess, cultivate, or transport marijuana for personal use; 2) permit local governments to regulate and tax commercial production, distribution, and the sale of marijuana to people 21 years old or older; 3) prohibit people from possessing marijuana on school grounds, using in public, or smoking marijuana while minors are present; 4) maintain prohibitions against driving while impaired; and 5) limit employers' ability to address marijuana use to situations where job performance is impaired.

Legislative Analyst's Office Report. The Legislative Analyst's Office (LAO) indicates that existing Federal laws classify marijuana as an illegal substance and provide criminal penalties for various activities relating to its use. These laws are enforced by Federal agencies that may act independently or in cooperation with state and local law enforcement agencies

Background

Under current California law, the possession, cultivation, or distribution of marijuana generally is illegal and penalties for marijuana-related activities vary depending on the offense. In November 1996, California voters approved Proposition 215 (Medical Use of Marijuana), which legalized the cultivation and possession of marijuana in the State, for medical purposes. The U.S. Supreme Court ruled in 2005, however, that Federal authorities could continue to prosecute California patients and providers engaged in the cultivation and use of marijuana for medical purposes. In March 2009, the U.S. Department of Justice announced that the current administration would not prosecute marijuana patients and providers whose actions are consistent with State medical marijuana laws.

According to the LAO, despite the proposed changes to State law, marijuana-related activities authorized under Proposition 19 would continue to be prohibited under Federal law, which could still be enforced by Federal authorities. It is unknown to what extent the Federal government would enforce existing prohibitions. Currently, no other state permits commercial marijuana-related activities for non-medical purposes.

State Legalization of Marijuana Possession and Cultivation for Personal Use. Under the measure, persons age 21 years old or older may in general: 1) possess, process, share or transport up to one ounce of marijuana; 2) cultivate marijuana on private property in an area up to 25 square feet per private residence or parcel; 3) possess harvested and living marijuana plants cultivated in such an area; and 4) possess any items or equipment associated with the above activities.

Authorization of Commercial Activities. Proposition 19 would allow local governments to authorize, regulate, and tax various commercial marijuana-related activities. Local governments could adopt ordinances and regulations regarding marijuana cultivation, processing, distribution, transportation, and retail sales. The measure would not permit the transportation of marijuana between California and another state or country. Local governments also could impose additional penalties or civil fines on certain marijuana-related activities. Regardless of whether or not local governments engaged in this regulation, the State could, on a statewide basis, regulate the commercial production of marijuana. The LAO also indicates that the State could authorize the production of hemp, a type of marijuana plant that can be used to make products such as fabric and paper.

Proposition 19 would require that licensed marijuana establishments pay all applicable Federal, State, and local taxes and fees currently imposed on other similar businesses. In addition, the measure would permit local governments to impose new general, excise, or transfer taxes, as well as benefit assessments and fees, on authorized marijuana-related activities in order to raise revenue or to offset any costs associated with marijuana regulation. The LAO also indicates that the State could impose similar charges.

Fiscal Effects. According to the LAO, the fiscal effects of this measure could vary substantially depending on: 1) the extent to which the Federal government continues to enforce existing Federal marijuana laws; and 2) whether the State and local governments choose to authorize, regulate, and tax various marijuana-related activities.

Proposition 19 could result in savings to the State and local governments by reducing the number of marijuana offenders incarcerated in State prisons and county jails, as well as the number of individuals placed under county probation or State parole supervision. These savings could reach several tens of millions of dollars annually. The LAO also indicates that the measure also could result in a reduction in State and local costs for enforcement of marijuana-related offenses and the handling of related criminal cases in the court system.

Proposition 19 also could impact various State and local programs as a result of a unknown increase in the consumption of marijuana, potentially increasing the number of individuals seeking publicly funded substance abuse treatment services and other medical services. State and locally funded drug treatment programs for criminal offenders, such as drug courts could also be impacted. The LAO also indicates that the measure could potentially reduce the costs of the State's Medical Marijuana Program, a patient registry that identifies those individuals eligible under State law to legally purchase and consume marijuana for medical purposes.

Additionally, the LAO indicates that State and local governments could generate additional revenues from taxes, assessments, and fees from marijuana-related activities allowed under this measure. According to the LAO, both the enforcement decisions of the Federal government and whether the State and local governments choose to

regulate and tax marijuana would affect the impact of this measure. Therefore, the revenue and expenditure impacts of this measure are subject to significant uncertainty.

Affected Departments

The Department of Public Health

The Department of Public Health (DPH) indicates that although there are some beneficial uses of marijuana, it has far greater harmful health impacts on the population and contributes to lost productivity. The negative health effects of marijuana consumption include: 1) damage to the respiratory tract and the bronchial passages from smoking marijuana; 2) impaired brain functioning and adverse cognitive effects particularly for youth; 3) psychosis in susceptible individuals and the development of lifelong psychotic disorders; and 4) dependency upon its use.

The Department of Public Health has identified a number of concerns regarding Proposition 19 that include:

- Inadequate provisions to limit access to youth. Although Proposition 19 specifies penalties for the sale of marijuana to youth under 21 years of age, the measure has the potential to increase the overall supply of marijuana in the community which, in turn, would likely increase the availability to and usage by youth. Increased youth access to marijuana would likely increase the negative health effects already experienced by teens in Los Angeles County. A national survey of high school students indicates that in Los Angeles County marijuana use begins early among a small proportion of teens with increasing numbers of youth trying marijuana through the high school years.
- Inadequate provisions to expand drug treatment. Proposition 19 allows local entities that authorize marijuana production to levy taxes, but does not specify that increased revenues be allocated to substance abuse prevention and treatment. Data from publicly funded drug treatment programs in Los Angeles County indicate that increasing numbers of marijuana users 18 years of age and younger are entering drug treatment. Laws legalizing marijuana should provide a funding mechanism to expand treatment for adolescent marijuana users.
- Inadequate provisions to prevent driving under the influence. Because Proposition 19 would allow the legal use of marijuana it is possible that it could increase the use of marijuana before or while driving, increasing the rate of motor vehicle injuries, despite prohibitions in the law. Unlike alcohol, threshold blood marijuana levels that would legally define impairment have not been established. Consequently, although the State law would make it illegal to operate vehicles when under the influence, there would be no standard to determine when a person is considered legally impaired. Further, there is no simple non-invasive accurate test to determine blood marijuana levels.

- Inadequate provisions for warning labels on smoked marijuana products. Marijuana smoke can damage the respiratory tract and bronchial passages. Proposition 19 does not include a provision to require warning labels on marijuana and instead leaves this issue to individual jurisdictions that authorize marijuana-related commercial activities.
- Inadequate regulations regarding advertising and marketing. The marketing, distribution and sales of marijuana products should be regulated similar to alcohol and tobacco products. Proposition 19 would allow individual jurisdictions that authorize marijuana-related commercial activities to establish local regulations regarding advertising and marketing.

In addition, DPH is concerned about the omission of a process to ensure documentation of the impact of the measure on the population, especially marijuana consumption among minors and on public health, such as motor vehicle accidents.

The potential impact on DPH programs from the authorization of marijuana-related commercial activities would include: 1) increase in the number of persons with substance abuse addiction seeking treatment, adding to the already over-burdened local substance abuse treatment system; 2) need for enhanced and expanded youth specific marijuana-related prevention efforts; 3) additional cautions regarding perinatal marijuana use by Maternal, Child and Adolescent Health and Substance Abuse Prevention and Control Programs; 4) assessment of local ordinances and regulations to determine impact of legalization on DPH's current activities; and 5) assessment of impact of current regulatory activities and development and implementation of County regulations regarding edible marijuana products in food facilities to the extent such regulations are not in conflict with State or Federal laws dealing with food safety. DPH indicates that the amount of tax revenue generated by the legal sale of marijuana in the County or how much revenue would be allocated to offset DPH's costs related to the passage of the measure is difficult to assess.

The Office of the District Attorney

The Office of the District Attorney (DA) indicates that Proposition 19 fails to establish a statewide system to regulate, control and tax marijuana and instead would allow each of the State's 478 cities and 58 counties unfettered authority to adopt their own marijuana regulations, which would result in complete dysfunction. According to the DA, the measure would place an undue burden on local governments by requiring each local entity to set up a framework similar to the State laws governing alcohol and to employ a department that could effectively ensure that marijuana regulations are observed. The result would be an unworkable patchwork of different ordinances, regulations and other acts having the force of law to control, license, regulate, or permit the consumption, cultivation, processing, distribution, and sale of marijuana.

The DA indicates that the cultivation provisions of Proposition 19 are ambiguous and would unfairly limit the rights of property owners because the measure would permit cultivation of marijuana on private property by either the lawful occupant or resident of the property for personal consumption only; however, it would define a residence as a dwelling or structure on private or public property. Under Proposition 19, the cultivation of marijuana is restricted from unlawful or unlicensed cultivation on any public lands. In addition, the cultivation of marijuana on leased or rented property may be subject to the approval from the owner of the property. The DA indicates that this raises the question as to who determines if the property owner approval is required. If it is the local government, the measure would have the effect of limiting the rights of property owners to determine if their tenants are allowed to violate Federal laws criminalizing marijuana possession and cultivation.

The DA indicates the discrimination provisions in the measure would prevent employers from maintaining a safe and drug-free workplace, and would violate Federal law and Federal mandates. Under Proposition 19, a California employer may no longer screen job applicants for marijuana use; regulate employee conduct related to the use, transportation, or cultivation of marijuana; or choose to maintain a drug-free workplace, unless the employer can prove job performance impairment as a result of the consumption of marijuana.

The measure also conflicts with the Federal Drug-Free Workplace Act of 1988 (DFWA), which requires that employees who receive government grants and contract greater than \$100,000 maintain a drug-free workplace. Since the measure would require grantees and specified contract recipients to violate the DFWA, it would preclude certain businesses, research institutions, and State and local government from obtaining billions of Federal dollars. This would have devastating implications for California businesses and governments and would cause the loss of billions of dollars in jobs and income.

The Sheriff's Department

The Sheriff's Department (LASD) indicates that if Proposition 19 were approved by the voters, drug cartels would vastly expand their operations in California similar to the way they have done with the medical marijuana program. LASD is also concerned that Proposition 19 would lead to more violence. According to LASD, marijuana collectives have been found buying from cartel sources and selling it in large amounts, often to people with no medical need for it. LASD indicates that the chemical analyses of marijuana confiscated during drug raids against street dealers showed similar pesticide content, among other characteristics, as the marijuana sold in dispensaries. According to LASD, 97 percent of California medical marijuana dispensaries operate as criminal enterprises.

The Sheriff's Department disagrees with the LAO's argument that the State would tax and collect revenue under Proposition 19 because many of the provisions in the measure permit, but do not require the State and local governments to regulate and tax

marijuana, therefore it is unknown to what extent the State would undertake such actions. LASD also disagrees that the measure would result in savings to local governments by reducing the number of offenders in the county jails because individuals who are in county jail are not in custody for a simple possession of marijuana alone, but have been detained for other reasons that would not be excused under Proposition 19. Additionally, LASD indicates that marijuana possession would still be a Federal offense and future enforcement decisions by the Federal government could cost the State millions in legal costs to defend cases in Federal court.

The Probation Department

The Probation Department indicates that the passage of Proposition 19 would place State law in conflict with Federal law, which is of particular concern because most adult probationers have a condition of probation requiring them to comply with all laws. In addition, approximately 15,000 adult felony probationers in the County have conditions of probation which require the probationer to cooperate in a plan for drug treatment and submit to drug testing as directed by the probation officer. The use of marijuana is not consistent with successful drug treatment. The Probation Department also is concerned with perceived drafting errors in the measure, which would have significant unintended consequences, such as leading more people to drive under the influence. While the measure maintains criminal penalties for driving under the influence, it provides drivers the right to use marijuana before operating a vehicle. However, unlike drunk driving, Proposition 19 fails to provide any tests or standards for determining what constitutes driving under the influence of marijuana.

The Probation Department cautions that while Proposition 19 could result in a reduction in marijuana offenders incarcerated in State prison and county jails, as well as offenders placed under county probation and State parole, the LAO's conclusion that this could save tens of millions of dollars annually is erroneous. It is more likely that the measure would have a limited financial impact on corrections, courts and law enforcement. The various legal questions and conflicts associated with the measure would result in an increase in the number of court hearings and related probation supervision reports that would offset any reduction of court hearings for marijuana offenses and could potentially result in a net increase in costs.

In addition, the Probation Department indicates that there is a potential for an increase in criminal offenses related to the use of drugs. While the total number of reported crimes in California have been consistently dropping for the past two decades, since the elimination of the California Substance Abuse and Crime Prevention Act of 2000 (Proposition 36) in FY 2009-10, the number of drug related crimes such as petty theft have increased.

The Department of the Agricultural Commissioner/Weights and Measures

The Department of the Agricultural Commissioner/Weights and Measures (ACWM) indicates that the majority of Proposition 19 provisions would create minimal or no direct impacts to the department. However, the provisions to permit limited production and cultivation of marijuana for retail sale and to restrict seizures or destruction of plants could pose potential issues to the Department. Commodity standards for marijuana as an agricultural crop could be developed, requiring periodic examination and inspection of marijuana by ACWM, which could present unknown complications and costs for the Department. ACWM also anticipates that commercial producers, faced with pest infestations or plant diseases, may utilize pesticides in attempts to control infestations and protect their crops. This may result in the need for ACWM to conduct investigations and take enforcement actions to address unlawful applications of pesticides, as well as address complaints alleging presence of pesticide residues upon marijuana intended for ingestion.

Additionally, ACWM indicates that should commercial cultivation be implemented, such planting plots could become harbors for pests of concern to traditional crops, and be subject to enforcement of declared quarantines (by State regulation or local ordinance) and eradication programs to control and eradicate the pests. The provisions prohibiting seizure and destruction of marijuana would be in direct conflict with the ACWM's authority to enforce and implement quarantine restrictions and eradication activities. This prohibition against seizures and destruction, acts commonly employed in quarantine actions for Mediterranean Fruit Fly, Oriental Fruit Fly, Mexican Fruit Fly, and many other pests, could put California crops at risk and place ACWM at odds with existing laws and regulations regarding seizures and destruction of infested plant materials.

The Department of Regional Planning

The Department of Regional Planning (DRP) indicates that Proposition 19 does not include a specific framework for implementation and regulation rather; it would place the regulatory burden of legalizing marijuana on local governments. Cities and counties would be authorized to adopt ordinances to control, license, and permit the sale of marijuana within their respective jurisdictions. The collection of taxes would be permitted specifically to allow local governments to raise revenue or to offset any costs associated with marijuana regulation. A local government may prohibit the sale of marijuana within its jurisdiction; however, personal consumption and cultivation would still be permissible by law. The measure also would create a personal right to cultivate marijuana on private property in an area up to 25 square feet.

According to DRP, the development of a regulatory framework to control the legal use and production of marijuana would consume a tremendous amount of time and resources. Given the uncertainty of Federal involvement, it is unclear whether the potential benefits of new tax revenues would compensate for resources expended by the State and local governments. Additionally, DRP is concerned whether local

governments would be able to regulate the cultivation of marijuana on private property under its existing zoning and land use authority. This could result in marijuana cultivation next to sensitive use areas, such as schools and playgrounds.

The Treasurer Tax Collector

The Treasurer Tax Collector (TTC) indicates that the County Code, Chapter 7.55 Medical Marijuana Dispensaries, regulates the licensing of medical marijuana dispensaries only. Proposition 19 would authorize various commercial marijuana-related activities, not activities solely limited to medicinal purposes as under the current County Code. Under Proposition 19, the County can adopt ordinances and regulations related to these commercial marijuana-related activities, and those ordinances and regulations would be a matter of Board policy. TTC, in conjunction with the DRP, would continue to be responsible for the licensing of commercial marijuana-related activities, should the Board policy require such licensing.

Support and Opposition. Proposition 19 is supported by several groups, labor organizations, associations and individual political leaders, including Senate President pro Tempore Don Perata (Ret.); Senator Mark Leno; Assembly Members Tom Ammiano and Hector De La Torre; Alameda County Supervisor Nate Miley; Mendocino County Supervisor John Pinches; San Francisco County Supervisors David Campos and Ross Mirkarimi; U.S. Surgeon General Dr. Joycelyn Elders (Ret.); San Jose Police Chief Joseph D. McNamara, (Ret.); Los Angeles Police Department Deputy Chief Stephen Downing (Ret.); Orange County Superior Court Judge James P. Gray, (Ret.); Oakland City Attorney John Russo; National Black Police Association; the California National Association for the Advancement of Colored People (NAACP); California Libertarian Party; California Green Party; California Young Democrats; Republican Liberty Caucus; ACLU of Southern California; Service Employees International Union of California; United Food and Commercial Workers; Western States Council; International Longshore & Warehouse Union; Western States Council; Central Labor Council of Butte-Glenn Counties and Instituto Laboral De La Raza.

Proposition 19 is opposed by several governmental agencies, organizations, newspapers and individual political leaders, including U.S. Senators Dianne Feinstein and Barbara Boxer; Governor Arnold Schwarzenegger; Attorney General Edmund G. Brown Jr.; San Francisco Mayor Gavin Newsom; Los Angeles County District Attorney Steve Cooley; San Francisco District Attorney Kamala Harris; Santa Barbara County District Attorney Joyce Dudley; San Bernardino County District Attorney Michael Ramos; Ventura County District Attorney Gregory Totten; Los Angeles County Sheriff Lee Baca; Ventura County Sheriff Bob Brooks; Santa Barbara County Sheriff Bill Brown; San Diego County Sheriff Bill Gore; Riverside County Sheriff Stan Sniff; Glendale Police Chief Ronald DePompa; Downey Police Chief Rick Esteves; San Gabriel Police Chief David Lawton; Garden Grove Police Chief Joe Polisar; Arcadia Police Chief Robert Sanderson; San Marino Police Chief John Schaefer; Inglewood Police Chief Jacqueline Seabrooks; City of Pacific Grove Mayor Carmelita Garcia; City

of Santa Barbara Councilmember Das Williams; City of South San Francisco Councilmember Pedro Gonzalez; Cities of Covina; Palmdale and San Gabriel; Sacramento County Board of Supervisors; San Diego County Board of Supervisors; San Luis Obispo County Board of Supervisors; Sonoma County Board of Supervisors; California State Association of Counties; League of California Cities; California Chamber of Commerce; California District Attorneys Association; California State Sheriffs' Association; Chief Probations Officers Associations; D.A.R.E America, Mothers Against Drunk Driving; National Association of Drug Court Professionals; Los Angeles Times; Sacramento Bee; San Francisco Chronicle and Ventura County Star.

PROPOSITION 20: REDISTRICTING OF CONGRESSIONAL DISTRICTS. Initiative Constitutional Amendment. – COUNTY POSITION: **NONE**

PROPOSITION 20, would amend the California Constitution by changing the redistricting process. The measure aims to remove the authority for congressional redistricting from the Legislature and give that authority to the Citizen's Redistricting Commission. The Citizen's Redistricting Commission would draw congressional districts as mandated by Proposition 11 of 2008, which created the Commission and charged it with establishing new district boundaries for State Assembly, State Senate and Board of Equalization (BOE) starting after the 2010 census.

Legislative Analyst's Office Report. The LAO reports that in the past, district boundaries were determined by bills that became law after they were approved by the Legislature and signed by the Governor. On some occasions, when the Legislature and the Governor were unable to agree on redistricting plans, the California Supreme Court conducted the redistricting activities.

Background

On November 2008, California voters approved Proposition 11, which created the Citizen's Redistricting Commission. The Commission, to be established once every ten years, would consist of 14 registered voters; 5 Democrats, 5 Republicans, and 4 others, who apply for the position and are chosen according to specified rules. When the Commission sets district boundaries, it must meet the requirements of Federal law and other requirements, such as not favoring or discriminating against political parties, incumbents, or political candidates. In addition, the commission is required, to the extent possible, to adopt district boundaries that:

- Maintain the geographic integrity of any city, county, neighborhood, and community of interest in a single district. The Commission is responsible for defining communities of interest for its redistricting activities;
- Develop geographically compact districts; and
- Place two Assembly districts together within one Senate district and place ten Senate districts together within one BOE district.

Current Congressional Redistricting Process. Currently, California is entitled to 53 of the 435 seats in the U.S. House of Representatives. Proposition 11 did not change the redistricting process for these congressional seats. Therefore, redistricting plans for congressional seats are included in bills which have been previously approved by the Legislature.

Proposition 11 made some changes to the requirements that the Legislature must meet in drawing congressional districts. The Legislature, like the Commission, must now attempt to draw geographically compact districts and maintain geographic integrity of localities, neighborhoods, and communities of interest, as defined by the Legislature.

Community of Interest. In addition to adding similar criteria for congressional redistricting as those established by Proposition 11, this measure would define a community of interest for both congressional redistricting and redistricting of State Assembly, State Senate, and BOE seats. A community of interest is defined as a contiguous population which shares common social and economic interests that should be included within a single district for purposes of its effective and fair representation.

Related Redistricting Measure. In addition to Proposition 20, another measure on the ballot, Proposition 27 relates to redistricting issues. If both of these measures were approved by voters, the proposition receiving the greater number of yes votes would be the only one to go into effect.

Fiscal Effect. The LAO indicates that in 2009, under the Proposition 11 of 2008 process, the Legislature approved \$3.0 million from the State's General Fund for redistricting activities related to the 2010 census. In addition, about \$3.0 million has been spent from another State fund to support the application and selection process for Commission members. For future redistricting efforts, Proposition 11 requires the Commission process to be funded at least at the prior decade's level adjusted for inflation. The Legislature currently funds congressional redistricting activities within its budget. The LAO also indicates that the commission would experience increased costs from handling congressional redistricting activities.

Affected Departments

The Registrar Recorder/County Clerk indicates that there would be no impact on the Department's operations if Proposition 20 is approved.

Support and Opposition. According to the Yes on 20/No on 27 organization, the following groups are in support of the measure: the Association of American Retired Persons (AARP); the National Federation of Independent Business/California; California Common Cause; the California Chamber of Commerce; the California Hispanic Chambers of Commerce; the California NAACP; Latin Business Association; American GI Forum; the Professional Peace Officers Association; Western Electrical Contractors

Association; Chambers of Commerce Alliance of Ventura and Santa Barbara Counties and others.

The measure is opposed by Daniel H. Lowenstein, funding chairman California Fair Political Practices Commission; Aubry L. Stone, President of the California Black Chamber of Commerce; and Carl Pope, Chairman, Sierra Club.

PROPOSITION 21: ESTABLISHES AN \$18 ANNUAL VEHICLE LICENSE SURCHARGE TO HELP FUND STATE PARKS AND WILDLIFE PROGRAMS. GRANTS SURCHARGED VEHICLES FREE ADMISSION TO ALL STATE PARKS. Initiative Statute. – COUNTY POSITION: **NONE**

Proposition 21 would: 1) establish the State Parks and Wildlife Conservation Trust Fund; 2) impose an \$18 State Park Access Pass annual surcharge on most vehicle registrations on or after January 1, 2011; 3) make trust funds available for appropriation to specified State agencies; and 4) provide grants to public agencies for urban river parkways and to assist in the operation and maintenance of units of the State Parks System. The measure prohibits trust funds from being used for purposes other than for state parks and wildlife conservation.

Proposition 21 would eliminate state parks day-use fees for Californians who pay the surcharge. All registered California vehicles subject to the fee, would receive free vehicle admission, parking and day use at units of the State Parks System. Vehicles not registered in California and commercial vehicles would continue to be subject to day-use entry or parking fees. Rebates of the surcharge would be provided to qualifying veterans. Free admission would not include camping, tour fees, swimming pool fees, the use of boating facilities, museum and special event fees, any supplemental fees or special event parking fees.

Allocation of State Parks and Wildlife Conservation Trust Fund Revenues. Up to 1 percent of revenues deposited in the trust fund would be available for administration and oversight. The remaining trust fund revenues would be annually allocated, upon appropriation by the Legislature, to State agencies, as follows:

- 85 percent to the California Department of Parks and Recreation;
- 7 percent to the California Department of Fish and Game;
- 4 percent to the Ocean Protection Council;
- 2 percent to State Conservancies; and
- 2 percent to the Wildlife Conservation Board.

Grants to Public Agencies. A portion of funding allocated to the California Department of Parks and Recreation (CDPR) would be available for grants to public agencies as follows:

- 5 percent would be available to assist in the operation and maintenance of State facilities managed by local agencies.

- 4 percent would be available for urban river parkways and access to open space and wildlife areas.

Grants for local agencies managing units of the State Parks System would first be available to those that prior to this measure, charged entry or parking fees on vehicles, to offset the loss of these day-use revenues. Any remaining funds would be allocated on a pro-rated basis to local agencies to assist in the operation and maintenance of state parks units, based on average annual operating expenses certified for those units over the three previous years. Guidelines to administer these funds would be developed by CDPR.

Legislative Analyst's Office Report. The LAO indicates the State Parks System has 278 state parks, of which 246 are operated and maintained by CDPR and 32 by local entities. Over the last five years, the LAO indicates that State funding for the operation of state parks has been approximately \$300.0 million annually. Of this amount, about \$150.0 million has come from the State General Fund, with the balance coming largely from park user fees, such as admission, camping and other use fees, and gasoline tax revenues. The development of new state parks and capital improvements to existing parks are largely funded from bond funds that have been approved in the past by voters. The LAO also indicates there is a significant backlog of maintenance projects in state parks, which have no dedicated annual funding source. According to the LAO, wildlife conservation programs in various State departments are funded through a combination of the State General Fund, regulatory fees, and bond funds. State funding for wildlife conservation program operations is approximately \$100.0 million per year.

Fiscal Effect. The LAO estimates that the \$18 surcharge on vehicle license fees established by Proposition 21 would generate \$500.0 million in revenues annually, which would grow in line with any increases in the number of annual vehicle registration. According to the LAO, the estimated \$500.0 million in annual revenues would provide \$420.0 million in annual funding for the operations, maintenance and development of state parks; \$75.0 million for wildlife conservation activities; and \$5.0 million for administration and oversight activities. Of the amount allocated to CDPR, the LAO estimates \$375.0 million would be available for state park funding; \$25.0 million would be available annually in grants to local agencies for lost revenue and \$20.0 million in grants for urban river parkways.

The LAO indicates that part of the \$500.0 million could be allocated in place of existing State General Fund currently used for the support of parks and wildlife conservation activities. This could result in a potential State General Fund savings of approximately \$200.0 million annually. Additionally, since all California vehicles subject to the surcharge would receive free day-use entry to State parks, the LAO indicates revenues from day-use fees at state parks, including those operated by local agencies would decline by an estimated \$50.0 million annually. Accounting for all of these factors, the LAO estimates a net increase in funding of approximately \$250.0 million annually for state parks and wildlife conservation programs. The LAO also indicates state parks

may receive additional revenues from other types of park fees, such as from tours, camping, and park concessions because the elimination of free day-use fees would result in a larger number of visits to State park facilities.

Affected Departments

The Department of Beaches and Harbors

The Department of Beaches and Harbors (DBH) indicates if Proposition 21 is approved by the voters, there will be the loss of parking related revenue at the state park facilities it operates, which are Dockweiler and Will Rogers State Beaches. In addition, the County will lose the ability to increase these parking fees in the future to cover increased costs and service expansion. However, the initiative would make \$375.0 specifically available for state park funding, to include \$25.0 million in annual funding, earmarked for locally operated units of the State Park System, such as Dockweiler and Will Rogers State Beaches, to backfill lost parking related revenue.

The Department of Parks and Recreation

The Department of Parks and Recreation (DPR) indicates that similar to DBH the passage of Proposition 19 would result in the loss of parking related revenue at the state park facilities it operates, which are Castaic Lake and Kenneth Hahn State Recreation Areas, and Placerita Canyon State Park. DPR also indicates that the County will lose the ability to increase parking fees in the future, to commensurate with increased costs and service expansion. However, the initiative would make \$375.0 specifically available for state park funding, to include \$25.0 million in annual funding, earmarked for locally operated units of the State Park System.

The Fire Department

The Fire Department indicates that lifeguard operation costs should be eligible for funding under Proposition 21. These costs would increase because the facilities would likely reach capacity with the provision of free admission parking that the measure would authorize. In addition, Proposition 21 would provide an opportunity to seek grant funding for lifeguard operation costs of urban river parkways, such as the Swiftwater Rescue Teams that are deployed throughout the County along urban rivers parkways and for lifeguard operations maintained at Zuma Creek, Malibu Creek, Ballona Creek and Topanga Creek. The Fire Department also indicates that lifeguard and fire protection services provided on State Conservancy property located on Catalina Island may be eligible for grant funding under this measure.

Support and Opposition. Proposition 21 is supported by a large number of governmental agencies, associations, environmental groups and individual political leaders, including U.S. Representative Brad Sherman; Assembly Members Julia Brownley, Hector De La Torre, Felipe Fuentes, Mike Feuer; Senator President pro Tem Darrell Steinberg; Senators Denise Moreno Ducheny, Fran Pavley,

Jenny Oropeza; City of Los Angeles Councilmember Richard Alarcon; City of Los Angeles Councilmember Jan Perry; City of Los Angeles Councilmember Ed Reyes; City of Long Beach Councilmember Gary DeLong; California Democratic Party; California Green Party; Los Angeles County Young Democrats; Counties of Humboldt, Mendocino, Santa Clara, Santa Cruz, and Sonoma; Cities of Berkeley, Modesto, Riverside, Santa Cruz, Saratoga and Sonoma; Audubon California Baldwin Hills Conservancy; Ballona Institute; California League of Conservation Voters; California Park and Recreation Society; Nature Conservancy; Natural Resources Defense Council (NRDC); North East Trees; Pasadena Audubon Society; Los Angeles Audubon Society; Los Angeles Conservancy; Los Angeles Neighborhood Land Trust; Santa Monica Mountains Conservancy; Sierra Club California; Trust for Public Land; California State Parks Foundation; Heal the Bay; Surfrider Foundation; Dolores Huerta Foundation; Todos Unidos; California State Firefighters' Association; Los Angeles County Lifeguard Association; California Labor Federation; SEIU Local 521; California Association of Museums; California Travel Industry Association and Patagonia.

Proposition 21 is opposed by a number of anti-tax groups, business organizations, and newspapers including the Howard Jarvis Taxpayers Association; California Taxpayers Association; Americans for Prosperity California; Pasadena Chamber of Commerce; Orange County Business Council; Garden Grove Chamber of Commerce; Huntington Beach Chamber of Commerce; Los Angeles Times; San Francisco Chronicle; Orange County Register; Riverside Press Enterprise; Pasadena Star News; Oakland Tribune; Malibu Times; and Long Beach Press Telegram.

PROPOSITION 22: PROHIBITS THE STATE FROM BORROWING OR TAKING FUNDS USED FOR TRANSPORTATION, REDEVELOPMENT, OR LOCAL GOVERNMENT PROJECTS AND SERVICES. Initiative Constitutional Amendment. COUNTY POSITION: NONE

PROPOSITION 22, known as the Local Taxpayer, Public Safety, and Transportation Protection Act of 2010, would prohibit the State from: 1) shifting, taking, borrowing or restricting the use of tax revenues dedicated by law to fund local government services, community redevelopment projects, or transportation projects and services; and 2) delaying the distribution of tax revenues for these purposes even when the Governor deems it necessary due to a severe State fiscal hardship.

Background

In recent years, California voters have approved ballot measures to limit the State's authority to redirect or borrow local revenues to address State Budget shortfalls. In November 2004, voters approved Proposition 1A, the Protection of Local Government Revenues Act which allows the State to borrow no more than 8 percent of the total amount of property tax revenues allocated among all local agencies within a county upon the declaration of a severe fiscal hardship. Borrowing of these funds can only take place twice in a ten-year period and only if the State has fully repaid any prior loans.

In November 2006, voters approved Proposition 1A, the Transportation Funding Protection Act, which limits a shift of transportation funds. This measure requires the Governor to declare that a suspension of the Transportation Congestion Improvement Act of 2002 (Proposition 42), is necessary due to a severe State fiscal hardship. The suspension requires approval by a two-thirds vote of the Legislature and enactment of legislation to repay the funds, with interest, within three years. Proposition 1A of 2006 limits Proposition 42 suspensions to two fiscal years over a ten-year period and prohibits any future suspensions unless prior suspensions are fully repaid.

The FY 2009-10 State Budget enacted the provisions allowed under Proposition 1A of 2004 to borrow \$1.935 billion from local governments. The impact of the Proposition 1A suspension on counties was mitigated by the enactment of a budget trailer bill which provided a securitization mechanism to allow local governments to issue bonds backed by the State's Proposition 1A repayment obligation. The FY 2009-10 State Budget Act also transferred \$2.0 billion from redevelopment agencies to counties for allocation to K-12 schools and shifted an equivalent amount of existing property tax revenue from schools into the Supplemental Revenue Augmentation Fund to offset State General Fund costs. This action was opposed by redevelopment agencies and gave rise seeking restrictions on future shifts and borrowing of local redevelopment and transportation funds.

With the ongoing State fiscal deficit, the Governor convened the Eighth Extraordinary Legislative Session in January 2010. Two measures, ABX8 6 and ABX8 9 (Chapters 11 and 12, Statutes of 2010) enacted as part of the special session, eliminated the sales tax on gasoline, which funds Proposition 42, and replaced it with a 17.3 cent excise tax increase on gasoline. The increase in the excise tax was estimated to generate \$2.52 billion to be distributed to the State General Fund transportation bond debt service, the State Transportation Improvement Program, local streets and roads, and transportation revenues for future appropriation services. Further, these measures eliminated protections provided under Proposition 42 and thereby allow the Legislature to borrow the excise tax from local governments with no guarantee that the funds be repaid.

The measures described above do not eliminate the State's authority to temporarily borrow or redirect some city, county and special district funds or to redirect local redevelopment agency revenues to address a State Budget shortfall.

Legislative Analyst's Office Report. The LAO indicates that Proposition 22 would reduce or eliminate the State's authority to:

- Use State fuel tax revenues to pay debt services on transportation bonds;
- Borrow or change the distribution of State fuel tax revenues;
- Redirect redevelopment agency property taxes to any other local government;
- Temporarily shift property taxes from cities, counties and special districts to schools; and

- Use vehicle license fee revenues to reimburse local governments for State mandated costs.

Proposition 22 would also repeal any law enacted between October 20, 2009 and November 2, 2010 that is in conflict with the provisions in the ballot initiative. Therefore, ABX8 6 and ABX8 9 (Chapters 11 and 12, Statutes of 2010) would be repealed. In addition, if a court ruled that the State violated a provision of Proposition 22, the State Controller would be required to reimburse the affected local governments or accounts within 30 days. Funds for any reimbursements, including interest, would be taken from the State General Fund and would not require Legislative approval.

The State General Fund is the main funding source for schools, universities, prisons, health, and social services programs. Transportation funds are placed in separate accounts and used to pay for State and local transportation programs. According to the LAO, Proposition 22 would shift some debt service costs to the State General Fund and prohibit the State from borrowing fuel tax revenues. The LAO indicates that this would reduce the amount of resources for programs funded through the State General Fund by approximately \$1.0 billion in FY 2010-11. The measure also would limit the options currently available to the Legislature to address a State Budget shortfall. This could require the Legislature to raise taxes or reduce spending to balance the Budget. The LAO further indicates that Proposition 22 could result in increase costs or reduced revenues to the State General Fund ranging from about \$1.0 billion in most years to several billion dollars in some years.

The Legislative Analyst's Office notes that Proposition 22 would require the State to use State General Fund revenues, instead of fuel tax revenues, to pay for transportation bonds. This would leave more fuel tax revenues available for State and local transportation programs. The LAO concludes that limiting the State's authority to redirect fuel tax revenues would result in increased resources for redevelopment and State and local transportation programs. The LAO is unable to determine the fiscal impact of this measure, but notes that revenues could be in the range of approximately \$1.0 billion in most years to several billions of dollars in some years. This is directly opposite to the impact of Proposition 22 on the State General Fund revenues.

Affected Departments

The Department of Public Works (DPW) indicates that due to the State's ongoing budget deficit, there has been consistent uncertainty in transportation revenues. Recent budget actions included borrowing and deferring payments for both the local Highway User Tax Account and Proposition 42 funds from counties. DPW notes that while Proposition 22 would decrease State General Fund revenue for some programs, the measure would provide significant protection for transportation funding and ensure a consistent and reliable revenue stream for the continued maintenance and operation of the County's roadway infrastructure.

The Chief Executive Officer notes that over the last two fiscal years, the County has lost \$426.5 million as a result of reductions in the State General Fund to address the ongoing budget deficit. These reductions primarily impacted the County's health, human services and public safety programs and include payment deferrals and suspension of SB 90 mandate claims. As noted by the LAO, this measure would reduce the amount of revenues available for programs funded by the State General Fund. In the event of a State Budget Shortfall, this could result in additional funding reductions to the County's health, human services and public safety programs and could result in additional funding reductions to the County's safety net.

Support and Opposition. Proposition 22 is supported by the League of California Cities; California Contract Cities Association; Sheriff Lee Baca; numerous public safety organizations including, the California Fire Chiefs Association; California Police Chiefs Association; Los Angeles Area Fire Chiefs Association; Los Angeles County Police Chiefs Association; Southern California Transit Advocates; over 275 cities including, the Cities of Artesia, Avalon, Azusa, Baldwin Park, Beverly Hills, Bradbury, Calabasas, Carson, Cerritos, Commerce, Culver City, Gardena, Glendale, Hermosa Beach, Huntington Park, Inglewood, Lakewood, La Canada Flintridge, La Habra Heights, La Mirada, La Verne, Lawndale, Lomita, Long Beach, Los Angeles, Lynwood, Malibu, Maywood, Monrovia, Montclair, Paramount, Pasadena, Rolling Hills, Rosemead, San Dimas, San Gabriel, Santa Monica, Santa Fe Springs, Signal Hill, South El Monte, Torrance, Walnut, Whittier and West Hollywood; as well as taxpayer groups, State and local elected officials, and the California Chamber of Commerce and local Chambers of Commerce.

Proposition 22 is opposed by the Urban Counties Caucus; Senate President pro Tempore Darrell Steinberg; State Assembly Speaker John Perez; State Senator Loni Hancock; State Assembly Members Chuck DeVore, Chris Norby, Jim Nielsen and Nancy Skinner; Republican Nominee for U.S. Senate Carly Fiorina; the California Democratic Party; California Nurses Association; California Professional Firefighters Association, California School Employees Association; California Teachers Association; Congress for California Seniors; Health Access; Los Angeles County Young Democrats; and others.

PROPOSITION 23: SUSPENDS IMPLEMENTATION OF AIR POLLUTION CONTROL LAW (AB 32) REQUIRING MAJOR SOURCES OF EMISSIONS TO REPORT AND REDUCE GREENHOUSE GAS EMISSIONS THAT CAUSE GLOBAL WARMING, UNTIL UNEMPLOYMENT DROPS 5.5 PERCENT OR LESS FOR FULL YEAR. Initiative Statute. – COUNTY POSITION: NONE

Proposition 23, would suspend the implementation of AB 32 of 2006, the Global Warming Act, until the State's unemployment rate drops to 5.5 percent or below for four consecutive quarters.

Background

AB 32 (Chapter 488, Statutes of 2006) mandates Greenhouse Gas (GHG) emissions reduction to 1990 levels by 2020 (approximately a 15 percent reduction from 2010 levels) and an 80 percent reduction in GHG emissions from 1990 levels by 2050. AB 32 gives primary authority and responsibility for overseeing these GHG reductions to the California Air Resources Board (CARB). CARB is to establish the measures and timelines required to achieve reduction targets under AB 32. The California Air Resources Board is part of the California Environmental Protection Agency (Cal EPA), and is directed to work with other agencies, including the California Energy Commission (CEC), the California Public Utilities Commission (CPUC), the California Water Board, and other State and local agencies to achieve these emission reductions.

AB 32 sets timelines for the completion of specific tasks. CARB must identify and implement various measures by specified dates. For several years, CARB has held numerous workshops and meetings as it developed its measures. In December 2008, CARB adopted its Scoping Plan or its plan for achieving the 2020 GHG reduction targets. By January 2011, CARB must establish GHG emission limits and adopt its Cap and Trade Program. This Cap and Trade program will be effective from January 2012 through December 2020.

Cap and Trade. Under AB 32, a Cap and Trade structure would reduce GHG emissions through a market based program. For example, firms would be given a certain number of emissions credits each year permitting the firms to emit a fixed amount of greenhouse gases. Those firms with more credits than needed in a given year would be able to bank their unused credits and/or sell the extra credits to firms needing more credits than they have been given. Firms investing in energy efficient plants, obtaining energy from renewable sources, and/or firms able to reduce their GHGs cost effectively, could sell these emissions credits. The credits could become a revenue stream and/or could be used to help fund other cost effective projects. Firms unable to reduce their energy usage in the near term, could purchase credits and buy compliance time. Over time, the total number of credits given each year would decrease and the extra credits available would probably become more costly.

GHG Producing Sectors. In California, 38 percent of GHG are produced by the transportation sector such as cars, trucks, off-road equipment, locomotives, etc. California's transportation sector is more than 95 percent dependent on a single fuel source, petroleum, and over 60 percent of the petroleum comes from foreign sources. In 2006, Californians consumed about 20 billion gallons of gas and diesel fuel. California's transportation sector is expected to increase by 25 percent by 2020. AB 1493 of 2002 set tailpipe emission standards for vehicles beginning in 2012 and is the basis for recently revised Federal fuel economy standards. As a result, by 2016, new cars and light trucks will be 30 percent more fuel efficient.

Approximately 32 percent of California's GHGs are produced by the electricity and commercial/residential energy sector. While imported electricity accounts for about a quarter of California's total electricity, these imports contribute more than half of the GHG emissions because the electricity is generated from out of state coal-fired power plants. AB 32 specifically requires CARB to address emissions from electricity sources both inside and outside of the state.

At the direction of the CPUC and the CEC, the three major Investor Owned Utilities (IOUs) are already moving away from coal and toward renewables. By the end of 2010, these IOUs are supposed to get 20 percent of their electricity from renewable energy sources, such as solar and wind. By 2020, renewables are to increase to 33 percent of the IOUs energy mix. Currently, renewables are more costly than their conventional counterparts. Sales of credits could offset some of the IOUs costs for renewables. The IOUs are expected to be net sellers of credits.

The industrial sector produces almost 20 percent of the State's GHG emissions. This sector includes oil refineries, cement plants, oil and gas production, and food processors. Recycling and/or waste management, as well as water treatment plants, are also significant sources of GHGs.

Legislative Analyst's Office Report. According to the LAO, the implementation of the AB 32 Scoping Plan will reduce levels of GHG emissions and related air pollutants by imposing various new requirements and costs on certain businesses and individuals. The reduced emissions and the new costs will both affect the California economy. There is currently a significant ongoing debate about the impacts to the California economy from implementing the AB 32 Scoping Plan.

In addition, the LAO indicates that a number of studies have considered the economic impacts of the Scoping Plan implementation in 2020. Those studies that have looked at the economic impacts from a relatively broad perspective have, for the most part, found that there will be some modest reduction in California's gross product, a comprehensive measure of economic activity for the State. These findings reflect how such factors as more expensive energy, new investment requirements, and costs of regulatory compliance combine to increase the costs of producing materials, goods, and services that consumers and businesses buy. Given all of the uncertainties involved, however, the net economic impact of the Scoping Plan remains a matter of debate.

Furthermore, the LAO states that California's unemployment rate has dropped below 5.5 percent for four consecutive quarters only four times in the past 40 years. According to the Congressional Budget Office (CBO), the depth of this recession is far worse than any of the recessions experienced since World War II. Using figures from the CBO, the Center for Economic and Policy Research estimates that the nation's economy will not recover until August 2015. California's recoveries typically trail the national recovery; therefore, if Proposition 23 is approved by the voters, it is likely that AB 32 will be suspended for many years.

Affected Departments

The Internal Services Department

The Internal Services Department (ISD) indicates that there are no direct impacts to the Utilities budget if Proposition 23 passes. The Utilities budget would not be regulated under AB 32. Utility prices are impacted by a shift to renewable power but the impacts are limited. Currently, Utilities are mandated to achieve 20 percent of their energy from Renewables.

According to ISD, the other operations of the Department including: fleet management, building operations and management, waste management, purchases, water and energy efficiency, would not be impacted by the passage of Proposition 23. Under AB 32, local governments are not mandated to achieve GHG reductions in their internal operations.

The Department of Public Works

The Department of Public Works indicates that under AB 32, Governor Schwarzenegger signed an Executive Order in 2007 requiring fuel providers to produce at least a 10 percent reduction in the carbon content of fuel by 2020. According to DPW, this requirement will most likely result in higher fuel costs for all transportation vehicles. The AB 32 Scoping Plan requires the CARB and other State agencies to adopt regulations and other initiatives to reduce GHGs, which will likely have additional costly impacts to the transportation sector.

The Department of Public Works is responsible for various transit services throughout the County and has been proactively purchasing newer, cleaner vehicles in an effort to reduce emissions from transit vehicles. DPW states that excessive regulations will lead to higher costs for their transit services, which may thereby result in a service reduction. A reduction in transit service will have a reverse effect on reducing emissions, considering public transit helps to reduce the number of automobiles on the road.

The Department could not identify any negative impact to their Operational Services Division if Proposition 23 is approved. However, if approved, Proposition 23 may benefit DPW by allowing the Department more time to implement green solutions. In addition, the suspension of air pollution control laws will reduce the electricity or other utility expenses in DPW's Waterworks and Sewer Funds as the Proposition will lower the energy prices.

Support and Opposition. Proposition 23 is supported by several individuals and organizations, including: Assemblyman Dan Logue; U.S. Congressman Tom McClintock; Steve Poizner, former Gubernatorial candidate; the California Republican Party; Jim Kellogg, Secretary-Treasurer of the State Building & Construction Trades Council; Valero Energy Corporation; Tesoro Companies; Adam Smith Foundation; Occidental Petroleum; National Petrochemical and Refiners Association;

Tower Energy Group; World Oil Corporation; Howard Jarvis Taxpayers Association; Southern Counties Oil (Total Energy Products); California Trucking Association; Murray Energy; Berry Petroleum; Boyett Petroleum; Caminol Management; and Holly Corporation.

Proposition 23 is opposed by numerous individuals and organizations, including: Californians for Clean Energy and Jobs former Secretary of State George Shultz; Governor Arnold Schwarzenegger; TechNet; the Livable Streets Movement; the Livable Streets Movement; CREDO Action; Kamala Harris, candidate for Attorney General; the California Teamsters; Thomas Steyer; NRDC; Green Teen Action Fund; L. John Doerr, venture capitalist; Anne Earhart, Majestic Realty; Environmental Defense Fund; Pacific Gas and Electric.

PROPOSITION 24: REPEALS RECENT LEGISLATION THAT WOULD ALLOW BUSINESSES TO LOWER THEIR TAX LIABILITY. Initiative Statute. - COUNTY POSITION: NONE

Proposition 24 would repeal specific provisions of AB 1452 (Chapter 763, Statutes of 2008), also known as the 2008 Revenue Budget Trailer Bill, and repeal specific provisions of AB 3X 15 (Chapter 10, Statutes of 2009), which enacted the fiscal stimulus revenue provisions of the 2009-10 Special Session Budget Agreement. Proposition 24 would specifically repeal three legislative changes that would: 1) allow businesses to shift operating losses to prior tax years and that would extend the period permitted to shift operating losses to future tax years; 2) allow multi-state businesses to use a sales-based income calculation, rather than a combination property, payroll, and sales-based income calculation; and 3) allow corporations to share tax credits with affiliated corporations. Proposition 24 would return tax policies in these areas to the way they were prior to the changes enacted under AB 1452 and AB 3X 15.

Legislative Analyst's Office Report: The LAO indicates that Proposition 24 would increase State General Fund revenues by increasing the taxes paid by businesses. When fully implemented by FY 2012-13, revenues would increase by an estimated \$1.3 billion each year. There would be smaller increases in FY 2010-11 and FY 2011-12. More than one-half of these estimated increased taxes would be paid by multi-state businesses as a result of the elimination of the single sales factor option.

Background

Under Federal and State tax laws, in a year when a business has more deductible expenses than income, this is recognized as the business having a Net Operating Loss (NOL). A business with an NOL in one year generally can use it to reduce its taxes when it makes a profit in later years. This is known as a "carry-forward" of losses. Federal tax law also allows businesses to "carry-back" losses. In other words, Federal law allows a business to use an NOL from one year to reduce its taxes in an earlier year. Existing State law allows carry-backs for State business taxes for the first time, starting in 2011. Specifically, this new law will allow a business to use an NOL from

2011 or later to reduce its State taxes for the two years before the NOL was generated. For example, a business that had profits and paid taxes in 2009 but has a loss in 2011 may deduct its 2011 NOL against its 2009 taxable income. The business would file an amended tax return for 2009 and receive a tax refund. In addition, AB 1452 extends the carry-forward time allowed from 10 years to 20 years.

Determination of Income of Multi-state Businesses' Taxed by California. Businesses that operate in many states are known as multi-state business. To determine how much of the income of a multi-state business is taxed by the state, California law now uses a formula that involves three factors:

- **Property** - The value of the business properties in California compared to the value of its properties throughout the nation.
- **Payroll** - The value of the business compensation to its employees in California compared to the value of its compensation to its employees throughout the nation.
- **Sales** - The value of the business sales in California compared to the value of its sales throughout the United States.

Existing state law, starting in 2011, gives multi-state businesses a new way to determine how much of their income is taxed by California. Under provisions of AB 3X 15, most multi-state businesses will be able to choose each year between two formulas to set the level of income California can tax. Businesses' two options will be: 1) the three-factor formula currently in use as described above; or 2) a new formula based only on the portion of their overall national sales that are in California also known as the single sales factor. A business may select the formula that minimizes its California taxes. A business would be allowed to switch back and forth between the two formulas.

Ability of Affiliated Corporations to Share Tax Credits. California tax law allows tax credits that can reduce a business taxes. These tax credits are given to businesses doing certain things that the state wants to encourage. For example, a business that spends money in California to develop a new technology product may earn a research and development tax credit. These tax credits are used by businesses to reduce their State taxes by the tax credit amount. If a business has credits which exceed the amount of taxes it owes in a given year, it will have unused credits.

Group of business entities operating jointly or operating under the same management that meet certain conditions jointly form a unitary group. For example, one business in a group may develop a product, and another business in the group may sell that product. Under the current law, tax credits are given to individual business entities and not unitary groups.

AB 1452 allows a business with available tax credits to transfer unused tax credits to another business in the unitary group. Shared credits can be used to reduce taxes in 2010 and later years.

Additionally, according to the LAO, Proposition 98 of 1988 determines the minimum amount of State and local funding for K–12 schools and community colleges each year. Under the formulas of Proposition 98, a significant part of Proposition 24's revenue increases would be allocated to schools and community colleges. The remaining revenues would be available to the Legislature and the Governor for any purpose.

Affected Departments

According to the County Treasurer and Tax Collector, Proposition 24 would have no effect on Department operations.

Support and Opposition. Proposition 24 is sponsored by the California Teachers Association and supported by Health Access California; Pay Their Fair Share; Yes on 24, the Tax Fairness Act Committee; David A. Sanchez, President of California Teachers Association; Janis R. Hirohama, President of League of Women Voters of California; Lenny Goldberg, Executive Director of California Tax Reform Association; Rob Kerth, President of the North Sacramento Chamber of Commerce; Martin Hittleman, President of the California Federation of Teachers; and Hank Lacayo, President of the Congress of California Seniors.

Proposition 24 is opposed by Stop the Jobs Tax coalition of taxpayers, employers and biotechnology associations; "No on 24, Stop the Jobs Tax" campaign committees; California Healthcare Institute Issues Committee; CalChamber, California's largest business coalition; Cambridge of California, a Gardena furniture manufacturer; California Association of Independent Business; BayBio; Silicon Valley Leadership Group; California Chamber of Commerce; TechNet; Kenneth A. Macias, Statewide Elected Chair of California Hispanic Chambers of Commerce; William J. Hume, Past Vice-President of the California State Board of Education; Dr. Joseph L. Bridges, President & Chief Executive Officer of The Seniors Coalition; Teresa Casazza, President of the California Taxpayers' Association; Marian Bergeson, Former California Secretary of Education; and Bill La Marr, Executive Director of California Small Business Alliance.

PROPOSITION 25: CHANGES LEGISLATIVE VOTE REQUIREMENT TO PASS BUDGET AND BUDGET-RELATED LEGISLATION FROM TWO-THIRDS TO A SIMPLE MAJORITY. RETAINS TWO-THIRDS VOTE REQUIREMENT FOR TAXES. Initiative Constitutional Amendment. - COUNTY POSITION: NONE

PROPOSITION 25 would amend the State Constitution to lower the vote requirement necessary for each house of the Legislature to pass a State Budget bill and send it to the Governor. Specifically, the measure would: 1) lower the vote requirement to pass a State Budget bill and spending bills related to the budget from two-thirds to a majority

(50 percent plus one) of each house of the Legislature; and 2) prohibit members of the Legislature from collecting any salary or reimbursements for travel or living expenses in any year when the Legislature has not sent a State Budget bill to the Governor by June 15.

Legislative Analyst's Office Report. The LAO reports that, since 1980, the Legislature has met its June 15 Constitutional deadline for sending a budget to the Governor five times. During that same period, a final budget passed by the Legislature and approved by the Governor was in place prior to the

July 1 start of the fiscal year on ten occasions, including three times since 2000. While the Constitution has a date by which the Legislature must pass a State Budget bill, it does not have a specific date by which a final budget must be signed into law.

According to LAO, Proposition 25 could make it easier for the Legislature to send a State Budget bill to the Governor. Given the current composition of each house, the lower vote requirement would allow members of the Legislature's majority political party to approve a State Budget bill without the support of any members of the minority party. Currently, some members of the minority party must support a State Budget bill to reach the two-thirds requirement.

Fiscal Effect. The LAO indicates that this measure could affect the content of the State Budget and bills identified by the Legislature as related to the budget. The extent of these changes would depend on a number of factors, including the State's financial circumstances, the composition of the Legislature and its future actions. The exact changes that would occur in future State Budgets cannot be estimated. However, Proposition 25 would reduce State costs by about \$50,000 per day from Legislator compensation costs in any year the Legislature does not send a State Budget bill to the Governor by the June 15 deadline.

Affected Departments. None.

Support and Opposition. Proposition 25 is supported by California State Treasurer Bill Lockyer; California Federation of Teachers; United Nurses Associations of California; Union of Health Care Professionals; League of Women Voters of California; American Federation of State, County, and Municipal Employees; the California Alliance for Retired Americans; and Consumer Federation of California.

The measure is opposed by the Howard Jarvis Taxpayers Association; California Chamber of Commerce; California Taxpayers' Association; Citizens for California Reform; Small Business Action Committee; National Federation of Independent Business / California; and the Latin Business Association.

PROPOSITION 26: REQUIRES THAT CERTAIN STATE AND LOCAL FEES BE APPROVED BY TWO-THIRDS VOTE. FEES INCLUDE THOSE THAT ADDRESS ADVERSE IMPACTS ON SOCIETY OR THE ENVIRONMENT CAUSED BY THE FEE - PAYER'S BUSINESS. Initiative Constitutional Amendment. COUNTY POSITION: **NONE**

Proposition 26 would amend the State Constitution to expand the definition of a tax and a tax increase so that more proposals would require approval by two-thirds of the Legislature or by local voters. Specifically, the measure would: 1) classify as taxes some fees and charges that government currently may impose with a majority vote resulting in more State revenue proposals requiring approval by two-thirds of each house of the Legislature and more local revenue proposals requiring local voter approval; 2) require a two-thirds vote of each house of the Legislature to approve laws that increase taxes on any taxpayer, even if the law's overall fiscal effect does not increase State revenues; and 3) repeal recent State laws, effective November 2011, that conflict with this measure unless they are approved again by two-thirds of each house of the Legislature.

Legislative Analyst's Office Report. The LAO indicates that most of the fees and charges that Proposition 26 would reclassify as taxes address health, environmental, or other societal or economic concerns. For example, hazardous materials fees imposed on businesses that use such materials are primarily used to clean up toxic waste sites. Local examples that might be reclassified under this measure include business assessments and the fees that some cities impose on stores that sell alcohol.

State Laws in Conflict with Proposition 26. The measure specifies that State laws that result in any taxpayer paying a higher tax must be approved by two-thirds of each house of the Legislature. Any State law adopted between January 1, 2010 and November 2, 2010 that conflicts with Proposition 26 would be repealed one year after the proposition is approved. However, this repeal would not take place if two-thirds of each house of the Legislature passed the law again.

For example, in the spring of 2010, the State increased fuel taxes paid by gasoline suppliers, but decreased other fuel taxes paid by gasoline retailers. Overall, these changes do not raise more tax revenues, but they give the State greater spending flexibility over their use. Using this flexibility, the State shifted about \$1.0 billion of annual transportation bond costs from the State's General Fund to its fuel tax funds, decreasing the amount of money available for transportation programs. Because the Legislature approved this tax change with a majority vote in each house, this law would be repealed in November 2011 if Proposition 26 is approved unless the Legislature approved the tax again with a two-thirds vote in each house.

According to the LAO, the full range of State laws that could be affected or repealed by Proposition 26 cannot be determined, and also parts of the measure would be subject to future interpretation by the courts.

Fiscal Effects. The measure would make it more difficult for State and local governments to pass new laws that raise revenues by expanding the scope of what is considered a tax. This change would affect many environmental, health, and other regulatory fees, as well as some business assessments and other levies. New laws to create or extend these types of fees and charges would be subject to the higher approval requirement for taxes. The fiscal effect of this change would depend on future actions by the Legislature, local governing boards, and local voters. If the increased voting requirements resulted in some proposals not being approved, government revenues would be lower than otherwise would have occurred with comparable decreases in State spending.

The LAO indicates that given the range of fees and charges that would be subject to the higher approval threshold for taxes, the fiscal effect of this change could be major. Additionally, the LAO estimates that, over time, the measure could reduce government revenues and spending statewide by up to billions of dollars annually.

Furthermore, the repeal of conflicting State laws could have a variety of fiscal effects. For instance, LAO estimates that repealing the recent fuel tax laws would increase State General Fund costs by about \$1.0 billion annually for about 20 years and increase funds available for transportation programs by the same amount. Under the Proposition, these fiscal effects could be avoided if the Legislature approves the laws again with a two-thirds vote of each house. The LAO indicates that it cannot estimate the full fiscal effect of the repeal provision under the measure and some of the measure's provisions would be subject to future interpretation by the courts.

Affected Departments

The Department of Public Works indicates that, under Proposition 26, the County would lose its share of the new 17.3 cent excise tax revenue, approximately \$61.0 million annually for the maintenance and operation of streets and roads in the unincorporated areas of the County. Additionally, it would be extremely difficult to secure the necessary two-thirds vote by the Legislature for the fuel tax increase.

Based on DPW's preliminary assessment of the measure, it should not jeopardize many of the current fees DPW collects to provide services that protect public health and safeguard the environment; however, given the vague Proposition language there may be uncertainty and risk of challenges to some new fees and fee increases. For example, the Solid Waste Management Fee collected from landfills, waste-to-energy facilities, and waste haulers/transfer stations that export solid waste for disposal at landfills outside the County, may be impacted if Proposition 26 is approved. This revenue source provides the majority of funding for the County's countywide solid waste management planning activities.

According to DPW, State grant funding would likely be impacted as well since the measure would affect the State's ability to administer certain types of regulatory fees (i.e. Oil Recycling Fee), either individually or as a collective, which could then affect

availability of grant funding for local governments within budgets. The State uses these types of regulatory fees to pay for most of its environmental programs and subsidize grants to local governments. Currently, State grant funding subsidizes various Public Works-operated programs, such as the County Departmental Recycling Program, public education and outreach programs, special waste programs, and waste tire recycling programs.

Furthermore, DPW indicates that there may be a concern with water pricing which could be seen as an enforcement activity that is a type of charge that could be impacted by Proposition 26. The measure contains a provision which states that charges imposed for a specific benefit or government service provided directly to the payor that is not provided to those not charged, must not exceed a reasonable cost of providing the service or benefit.

The California State Association of Counties, which opposes the measure, indicates that Proposition 26 would enact new restrictions on county revenue authority.

Support and Opposition. Proposition 26 is supported by the California Chamber of Commerce; California Taxpayers Association; Small Business Action Committee; Howard Jarvis Taxpayers Association; Americans for Tax Reform; and the Wine Institute.

The measure is opposed by the California State Association of Counties; League of California Cities; League of Women Voters; American Lung Association; Sierra Club; Health Access California; California Tax Reform Association; California Professional Firefighters; and the Consumer Federation of California.

PROPOSITION 27: ELIMINATES STATE COMMISSION ON REDISTRICTING. CONSOLIDATES AUTHORITY FOR REDISTRICTING WITH ELECTED REPRESENTATIVES. Initiative Constitutional Amendment and Statute. - COUNTY POSITION: NONE

Proposition 27 aims to eliminate the Citizen's Redistricting Commission, which was established by Proposition 11 of 2008, and charged with establishing new district boundaries for State Assembly, State Senate and Bureau of Equalization starting after the completion of the 2010 census. This measure would return the responsibility for establishing those district boundaries back to the Legislature.

Legislative Analyst's Office Report. The LAO reports that Proposition 27 would return authority to draw district boundaries for the State Assembly, State Senate, and BOE to the Legislature. The responsibility to determine congressional districts would remain with the Legislature. Under this measure, district boundaries for all congressional offices, State Assembly, State Senate and BOE would be determined by bills passed by the Legislature and signed by the Governor. Since this measure would eliminate the Commission, the process currently underway for appointing members to

that commission would end, and the Legislature would undertake the redistricting resulting from the 2010 and future censuses.

New Requirements for Redistricting Boundaries and Process. Proposition 27 would create certain requirements for district boundaries. Under this measure, the population of each district would be almost equal with other districts for the same office, with a difference in population of no greater than one person. This measure further requires the Legislature to hold hearings before and after district boundary maps are created, as well as provide the public access to certain redistricting data.

Deletes Existing Requirements. Proposition 27 would also delete certain existing rules on what must be considered during the redistricting process, such as requirements related to:

- Not favoring or discriminating against political parties, incumbents, or political candidates.
- Developing geographically compact districts.
- Placing two Assembly districts together within one Senate district and placing ten Senate districts together within one BOE district.

Two Redistricting-Related Measures on This Ballot. In addition to this measure, another measure on the November 2010 ballot, Proposition 20, described above, concerns redistricting issues. If both of these measures were approved by voters, the proposition receiving the greater number of affirmative votes would be the only one to go into effect.

Fiscal Effects. This measure prohibits the Legislature from spending more than \$2.5 million for redistricting activities once every ten years. This spending limit would be adjusted every ten years for inflation. There would be no future costs for the Citizen's Redistricting Commission process. In total, these changes likely would reduce State redistricting costs by millions of dollars for the redistricting process once every ten years beginning in 2020.

The estimated savings would be less for the redistricting process related to the 2010 census because some funds will already have been spent on the Citizen's Redistricting Commission process by the time of the election. Estimated savings from this measure over the next year could be around \$1.0 million.

Affected Departments

The Registrar Recorder/County Clerk (RR/CC) indicates that there would be no impact on the Department's operations, if Proposition 27 is approved.

Support and Opposition. Proposition 27 is supported by Daniel H. Lowenstein, Funding Chairman of the California Fair Political Practices Commission; Aubry L. Stone, President of the California Black Chamber of Commerce; and Hank Lacayo, President, Congress of the California Seniors.

According to the Yes on 20/No on 27 organization, the following groups are in opposition to Proposition 27: AARP; the National Federation of Independent Business/California; California Common Cause; the California Chamber of Commerce; the California Hispanic Chambers of Commerce; NAACP; Latin Business Association, American GI Forum; the Professional Peace Officers Association; Western Electrical Contractors Association; Chambers of Commerce Alliance of Ventura and Santa Barbara Counties; Janis R. Hirohama, President of the League of Women Voters of California; David Pacheco, California State President of AARP; Gary Toebben, President of the Los Angeles Area Chamber of Commerce; the Los Angeles Times; the San Jose Mercury News and several other Newspapers.