



County of Los Angeles CHIEF EXECUTIVE OFFICE

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WILLIAM T FUJIOKA
Chief Executive Officer

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Second District

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Third District

DON KNABE
Fourth District

MICHAEL D. ANTONOVICH
Fifth District

February 1, 2013

To: Supervisor Mark Ridley-Thomas, Chairman
Supervisor Gloria Molina
Supervisor Zev Yaroslavsky
Supervisor Don Knabe
Supervisor Michael D. Antonovich

From: William T Fujioka
Chief Executive Officer

USE OF PROPOSITION 172 (ITEM NO. 2, AGENDA OF JANUARY 29, 2013)

On January 29, 2013, the Board instructed the Chief Executive Officer (CEO) to report back in one week on whether or not Proposition 172 revenues can be re-allocated from the County budget to a Community Services District, or would a State legislative change be required before the Board could allocate these funds for public safety services to a Community Services District.

The CEO and County Counsel concur that no new legislation on Proposition 172 would be required. These funds can be distributed within the County for its eligible public safety services. A Community Services District formed to provide law enforcement services could also be an eligible local agency recipient of County Proposition 172 funds.

Proposition 172 Background

"Proposition 172" refers to a half cent statewide sales tax approved in 1993 by a constitutional amendment with revenue to eligible counties and cities restricted for "public safety services" defined as including "sheriffs, police, fire protection, county district attorneys, county corrections, and ocean lifeguards" (and specifically excluding courts). Proposition 172 funds are distributed from the state Local Public Safety Fund to county Public Safety Augmentation Funds. See California Constitution Article XIII, § 35; Gov't Code § 30051 *et seq.*

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Proposition 172's constitutional provisions and the implementing statutes do not limit the discretion of the County Board of Supervisors (Board) to distribute these funds to another local agency, such as a special district, provided that recipient has the authority to provide public safety services. There is also no limitation in these provisions on the Board's discretion to allocate these funds for permissible purposes among the county departments. These options must be implemented in the overall context of the Board's express statutory authority to supervise County officers and determine the Sheriff's budget and the limitation that the Sheriff independently performs law enforcement functions, including an investigative function, an issue which will be discussed further in the report to follow. See e.g. Gov't Code § 25303.

State Attorney General Opinions

The State's Attorney General has written two opinions which support these conclusions. In 2003, the Attorney General determined that a county board has the discretion each fiscal year to change the allocation of its Proposition 172 funds among otherwise eligible public services agencies, even to an eligible local agency which had not received these funds before. The opinion notes that there is a maintenance of effort requirement because a county must continue to match its non-Proposition 172 base funding, but that the counties have discretion to allocate the supplemental Proposition 172 funds among eligible recipients for public safety services, and to change those allotments. 86 Ops.Cal.Atty.Gen 38 (2003). This would appear to include permitting allocations amongst County departments performing the County's eligible public safety functions.

The following year, the Attorney General further concluded that a county could transfer Proposition 172 funds to an independent fire district because it is an eligible "local agency", and a county may allocate these funds to any eligible local agency. 87 Ops.Cal.Atty.Gen 1 (2004).

If you have any questions, please feel free to contact me, or your staff may contact Rita Robinson at (213) 893-2477, or via e-mail at rrobinson@ceo.lacounty.gov.

WTF:RLR:DSP
JO:acn

c: Sheriff
Executive Office, Board of Supervisors
County Counsel
Auditor-Controller