



REPORT TO LAW & LEGISLATION COMMITTEE City of Sacramento

915 I Street, Sacramento, CA 95814-2671

STAFF REPORT
October 3, 2006

Honorable Members of the
Law and Legislation Committee

Subject: City Positions on November 2006 State Ballot Measures

Location/Council District: Citywide

Recommendation:

This report recommends that the Law and Legislation Committee approve staff recommendations or provide direction regarding a City position on the 13 propositions on the November State ballot and forward to the Mayor/Council for adoption.

Contact: Patti Bisharat, Director of Government Affairs, 808-8197
Mark Prestwich, Special Projects Manager, 808-5380

Presenters: Patti Bisharat, Director of Government Affairs, 808-8197

Department: City Manager's Office

Organization No: 0310

Summary:

There are 13 propositions on the November 7, 2006 State ballot. This report provides a short description of each ballot measure, the recommendation by the League of California Cities, and the recommendation of staff on a City position for each proposition.

Committee/Commission Action: None.

Background Information:

Staff reviewed the 13 measures on the November 2006 State ballot. In developing recommendations on whether to support, oppose, remain neutral or take no position on the various ballot measures, staff considered whether the measures would directly

affect the City or its operations. If the measure would have no direct effect on the City, staff recommends taking no position.

The 13 state ballot measures and the recommended positions are:

Measure	Title	League of CA Cities Position	Recommended City Position
Proposition 1A	Transportation Investment Fund	Support	Support
Proposition 1B	Highway Safety, Traffic Reduction, Air Quality, Port Security	Support	Support
Proposition 1C	Housing and Emergency Shelter Trust Fund	Support	Support
Proposition 1D	Education Facilities	Support	Support
Proposition 1E	Disaster Preparedness and Flood Prevention	Support	Support
Proposition 83	Sex Offenders. Punishment, Residence Restrictions and Monitoring	Support	Support
Proposition 84	Water Quality Safety and Supply, Flood Control, Park Improvements.	Support	Support
Proposition 85*	Waiting Period and Parental Notification Before Termination of Minor's Pregnancy	No Position	No Position*
Proposition 86	Tax on Cigarettes	Support	Support
Proposition 87	Alternative Energy. Research, Production, Incentives. Tax on California Oil.	No Position	Support
Proposition 88	Education Funding. Real Property Parcel Tax.	No Position	No Position
Proposition 89	Political Campaigns. Public Financing. Corporate Tax Increase. Contribution and Expenditure Limits.	No Position	No Position
Proposition 90	Government Acquisition, Regulation of Private Property.	Oppose	Oppose

* The City Council adopted an "Oppose" position on a similar measure in 2005

A copy of the analysis of each proposition by the Legislative Analyst is provided as "Attachment I" of this report.

The following is a brief summary and analysis of notable local impacts of each of the propositions:

PROPOSITION 1A - TRANSPORTATION FUNDING PROTECTIONStaff Recommendation: **SUPPORT**

This measure amends the state Constitution to further limit the conditions under which the Proposition 42 transfer of gasoline sales tax revenues for transportation uses can be suspended. The measure requires Proposition 42 suspensions to be treated as loans to the general fund that must be repaid in full, including interest, within three years of suspension. The measure only allows suspension to occur twice in ten consecutive fiscal years. No suspension could occur unless prior suspensions (excluding those made prior to 2007-08) have been repaid in full.

Local Impacts: This measure would provide constitutional protection similar to the Proposition 1A approved by voters in November 2004. The measure limits the frequency and conditions under which Proposition 42 transfers may be suspended in a ten-year period, the measure would make it more difficult to use Proposition 42 gasoline tax revenues for non-transportation purposes when the state experiences fiscal difficulties. The City of Sacramento received Proposition 42 revenues totaling \$2.025 million in Fiscal Year 2005-06.

PROPOSITION 1B - HIGHWAY SAFETY, TRAFFIC REDUCTION, AIR QUALITY, AND PORT SECURITY ACT OF 2006Staff Recommendation: **SUPPORT**

This measure authorizes the state to sell about \$20 billion of general obligation bonds to fund transportation projects to relieve congestion, improve the movement of goods, improve air quality, and enhance the safety and security of the transportation system.

Local Impacts: Passage of this measure is estimated to provide approximately \$14.5 million in transportation funding to the City of Sacramento.

PROPOSITION 1C - HOUSING AND EMERGENCY SHELTER TRUST FUND ACT OF 2006Staff Recommendation: **SUPPORT**

This measure authorizes the state to sell \$2.85 billion of general obligation bonds to fund 13 new and existing housing and development programs as summarized below:

- Development Programs (\$1.35 Billion)
- Homeownership Programs (\$625 Million)
- Multifamily Housing Programs (\$590 Million)
- Homeless Shelters/Farmworker Housing (\$285 Million)

Local Impacts: \$300 million of the Development Programs identified above will be allocated to developers and local governments to encourage development near public

transportation. Staff believes the City's planned Sacramento Intermodal Transportation Facility would be a very competitive project for a portion of these funds.

PROPOSITION 1D - KINDERGARTEN-UNIVERSITY PUBLIC EDUCATION FACILITIES BOND ACT OF 2006

Staff Recommendation: **SUPPORT**

This measure allows the state to sell \$10.4 billion of general obligation bonds for K-12 school facilities (\$7.3 billion) and higher education facilities (\$3.1 billion). Proceeds will be used for school modernization, new facilities and other school facilities projects.

Local Impacts: \$29 million of this measure would be allocated to joint-use projects including gymnasiums, libraries, child care facilities and teacher preparation facilities that are located at a school but used for joint school/community or K-12 higher education purposes.

PROPOSITION 1E - DISASTER PREPAREDNESS AND FLOOD PREVENTION BOND ACT OF 2006

Staff Recommendation: **SUPPORT**

This measure authorizes the state to sell about \$4.1 billion in general obligation bonds for various flood management programs including:

- State Central Valley Flood Control System and Delta Levees (\$3 Billion)
- Flood Control Subventions (\$500 Million)
- Stormwater Flood Management (\$300 Million)
- Statewide Flood Protection Corridors and Bypasses (\$290 Million)

Local Impacts: Passage of this measure would result in significant state obligation to shore up levees in the Sacramento Valley and beyond.

PROPOSITION 83 - SEX OFFENDERS. SEXUALLY VIOLENT PREDATORS. PUNISHMENT, RESIDENCE RESTRICTIONS AND MONITORING. INITIATIVE STATUTE.

Recommendation: **SUPPORT**

This proposal would increase penalties for violent and habitual sex offenders, require Global Position System (GPS) devices for registered sex offenders, limit where registered sex offenders may live, and generally make more sex offenders eligible for commitment as sexually violent predators.

Local Impacts: The measure bars any person required to register as a sex offender from living within 2,000 feet of any school or park. The measure also authorizes local governments to further expand these residency restrictions. The City's Police Department recommends a support position.

PROPOSITION 84 - WATER QUALITY, SAFETY AND SUPPLY. FLOOD CONTROL. NATURAL RESOURCE PROTECTION. PARK IMPROVEMENTS. BONDS. INITIATIVE STATUTE.

Staff Recommendation: **SUPPORT**

This initiative allows the state to sell \$5.4 billion in general obligation bonds for safe drinking water, water quality, and water supply; flood control; natural resource protection; and park improvements.

Local Impacts: Passage of this measure will enable the City to compete for funding to facilitate the development of the City's Docks Area project and integrated water resource planning.

PROPOSITION 85 - WAITING PERIOD AND PARENTAL NOTIFICATION BEFORE TERMINATION OF MINOR'S PREGNANCY. INITIATIVE CONSTITUTIONAL AMENDMENT.

Staff Recommendation: **NO POSITION** (Note that the City Council adopted a SUPPORT position on a similar measure last year)

This proposition amends the California Constitution to require, with certain exceptions, a physician (or his or her representative) to notify the parent or legal guardian of a pregnant minor at least 48 hours before performing an abortion involving that minor. (This measure does not require a physician or a minor to obtain the consent of a parent or guardian.) This measure applies only to cases involving an "unemancipated" minor. The proposition identifies an unemancipated minor as being a female under the age of 18 who has not entered into a valid marriage, is not on active duty in the armed services of the United States, and has not been declared free from her parents' or guardians' custody and control under state law.

Local Impacts: N/A

PROPOSITION 86 - TAX ON CIGARETTES. INITIATIVE CONSTITUTIONAL AMENDMENT AND STATUTE.

Staff Recommendation: **SUPPORT**

This measure imposes an additional 13 cent tax on each cigarette distributed (\$2.60 per pack) and indirectly on other tobacco products to provide funding for hospitals for emergency services as well as programs to increase access to health insurance for children, expand nursing education, support various new and existing health and education activities, curb tobacco use and regulate tobacco sales.

Local Impacts: Passage of this measure would allow children now receiving health coverage in the local Children's Health Initiative ("Cover the Kids"), a program administered by the City, to instead be enrolled in an expanded Healthy Families Program that would provide medical coverage to additional low-and middle-income

children ages 0-18 in Sacramento County. These changes would likely result in unknown, but potentially significant savings on a statewide basis to local governments. Additionally, the Legislative Analyst notes that the measure would achieve "Unknown, but potentially significant savings in state and local government public health care costs over time due to expected reduction in consumption of tobacco products and...other factors."

PROPOSITION 87 - ALTERNATIVE ENERGY. RESEARCH, PRODUCTION, INCENTIVES. TAX ON CALIFORNIA OIL.

Staff recommendation: **SUPPORT**

Establishes \$4 billion program to reduce oil and gasoline usage by 25%, with research and production incentives for alternative energy, alternative energy vehicles, energy efficient technologies, and for education and training. Funded by a "severance tax" of 1.5% to 6%, depending on oil price per barrel, on producers of oil extracted in California. The term "severance tax" is commonly used to describe a tax on the production of any mineral or product taken from the ground, including oil.

Local Impacts: The measure provides that 57.5% of the revenues be allocated to a Gasoline and Diesel Use Reduction Account that would provide grants and subsidies for the purchase of alternative fuel vehicles, in addition to other incentives for producers to supply alternative fuels and various research activities to alternative fuels and vehicles. The measure is also consistent with the City's state and federal sustainability platform to support programs that address energy and fuel efficiency. The General Services Department recommends a support position on this measure.

PROPOSITION 88 - EDUCATION FUNDING. REAL PROPERTY PARCEL TAX. INITIATIVE CONSTITUTIONAL AMENDMENT AND STATUTE.

Staff Recommendation: **NO POSITION**

This measure creates a statewide \$50 parcel tax effective July 1, 2007 and uses the resulting revenue to fund specific K-12 education programs including class size reduction, textbooks and school safety. The measure exempts certain elderly and disabled homeowners.

Local Impacts: N/A

PROPOSITION 89 - POLITICAL CAMPAIGNS. PUBLIC FINANCING. CORPORATE TAX INCREASE. CONTRIBUTION AND EXPENDITURE LIMITS. INITIATIVE STATUTE.

Staff Recommendation: **NO POSITION**

Provides that candidates for state elective office meeting certain eligibility requirements, including collection of a specified number of \$5.00 contributions from voters, may voluntarily receive public campaign funding from the Fair Political Practices

Commission, in amounts varying by elective office and type of election. Increases income tax rate on corporations and financial institutions by 0.2 percent to fund program. Imposes new limits on campaign contributions to state-office candidates and campaign committees, and new restrictions on contributions and expenditures by lobbyists and corporations.

Local Impacts: N/A

PROPOSITION 90 - GOVERNMENT ACQUISITION, REGULATION OF PRIVATE PROPERTY. INITIATIVE CONSTITUTIONAL AMENDMENT.

Staff Recommendation: **OPPOSE**

The measure narrows the definition of public use in a way that generally would prevent government from taking a property:

- As part of a plan to change the type of businesses in an area or increase tax revenues
- To transfer it to private use
- To address a public nuisance, unless the public nuisance existed on that particular property

Redefines "just compensation." Under the new definition, property taken for a proprietary government purpose would be valued not at the current standard of "fair market value," but at the increased value of the property as the government intends to use it. Requires government to pay property owners if it or action by voters results in certain new laws or rules that result in substantial economic losses to their property such as downzoning property, limitations on use of private air space, and eliminating any access to private property. Changes requirements for property valuation.

Local Impacts: Unknown, but potentially significant major future costs to local governments to pay compensable damages and/or modify regulatory or other policies to conform to the measure's provisions such as changing zoning heights. Unknown, potentially major changes in governmental costs to acquire property for public purposes.

Financial Considerations:

None.

Environmental Considerations:

None.

Policy Considerations:

The recommended positions are consistent with the Council adopted legislative principles related to retaining local control over issues impacting the City and supporting opportunities for partnerships and additional revenues, as well the Council adopted legislative platform establishing legislative priorities for the City.

Emerging Small Business Development (ESBD):

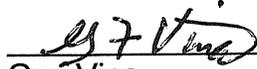
None.

Respectfully Submitted by:



Patti Bisharat, Government Affairs

Recommendation Approved:



Gus Vina
Assistant City Manager

Table of Contents

Pg 1 Report
Pg 9 Legislative Analyst Office (LAO) Analysis of Propositions
Pg 9 Proposition 1A
Pg 11 Proposition 1B
Pg 15 Proposition 1C
Pg 19 Proposition 1D
Pg 23 Proposition 1E
Pg 27 Proposition 83
Pg 31 Proposition 84
Pg 35 Proposition 85
Pg 39 Proposition 86
Pg 47 Proposition 87
Pg 51 Proposition 88
Pg 55 Proposition 89
Pg 61 Proposition 90

OFFICIAL TITLE AND SUMMARY ★ ★ ★

Prepared by the Attorney General

**TRANSPORTATION FUNDING PROTECTION.
LEGISLATIVE CONSTITUTIONAL AMENDMENT.**

- Protects transportation funding for traffic congestion relief projects, safety improvements, and local streets and roads.
- Prohibits the state sales tax on motor vehicle fuels from being used for any purpose other than transportation improvements.
- Authorizes loans of these funds only in the case of severe state fiscal hardship. Requires loans of revenues from states sales tax on motor vehicle fuels to be fully repaid within the three years. Restricts loans to no more than twice in any 10-year period.

Summary of Legislative Analyst’s Estimate of Net State and Local Government Fiscal Impact:

- No direct revenue or cost effects. Increases stability of funding for state and local transportation uses in 2007 and thereafter; reduces somewhat the state’s authority to use these funds for other, nontransportation priorities.

FINAL VOTES CAST BY THE LEGISLATURE ON SCA 7 (PROPOSITION 1A)

Senate:	Ayes 38	Noes 0
Assembly:	Ayes 58	Noes 11

ANALYSIS BY THE LEGISLATIVE ANALYST

BACKGROUND

California spends about \$20 billion a year to maintain, operate, and improve its highways, streets and roads, passenger rail, and transit systems. About one-half of the funding comes from various local sources, including local sales and property taxes, as well as transit fares. The remainder comes from the state and federal levels, largely from gasoline and diesel fuel taxes, and truck weight fees.

Currently, the state levies two types of taxes on motor fuels:

- An excise tax of 18 cents per gallon on gasoline and diesel fuel. (This is generally referred to as the gas tax.)
- A statewide 6 percent tax on the sale of gasoline and diesel fuel (“sales tax”).

Gas Tax. Revenues from the state excise tax on gasoline and diesel fuel used on public roads total about \$3.4 billion per year. The State Constitution

★ ★ ★ ANALYSIS BY THE LEGISLATIVE ANALYST (CONTINUED)

restricts the use of these revenues to specific transportation purposes. These include constructing, maintaining, and operating public streets and highways, acquiring right of way and constructing public transit systems, as well as mitigating the environmental effects of these facilities.

Sales Tax. The state’s sales tax on gasoline and diesel fuel currently provides about \$2 billion a year. Until 2002, most of the revenues from the state sales tax on gasoline were not used for transportation purposes. Instead, these revenues were used for various general purposes including education, health, social services, and corrections. Proposition 42, which was approved by voters in 2002, amended the State Constitution to dedicate most of the revenue from the sales tax on gasoline to transportation uses. Specifically, Proposition 42 requires those revenues that previously went to the General Fund be transferred to the Transportation Investment Fund to provide for improvements to highways, streets and roads, and transit systems. Proposition 42, however, allows the transfer to be suspended when the state faces fiscal difficulties. Proposition 42 is silent as to whether suspended transfer amounts are to be repaid to transportation.

Since 2002, the state has suspended the Proposition 42 transfer twice because of the state’s fiscal condition. In 2003–04, the transfer was suspended partially, and in 2004–05, the full amount of the transfer was suspended. Existing law requires that these suspended amounts, with interest, be repaid to transportation by 2008–09 and 2007–08, respectively.

PROPOSAL

This measure amends the State Constitution to further limit the conditions under which the Proposition 42 transfer of gasoline sales tax revenues for transportation uses can be suspended. Specifically, the measure requires Proposition 42 suspensions to be treated as loans to the General Fund that must be repaid in full, including interest, within three years of suspension. Furthermore, the measure only allows suspension to occur twice in ten consecutive fiscal years. No suspension could occur unless prior suspensions (excluding those made prior to 2007–08) have been repaid in full.

In addition, the measure lays out a new schedule to repay the Proposition 42 suspensions that occurred in 2003–04 and 2004–05. Specifically, the suspended amounts must be repaid and dedicated to transportation uses no later than June 30, 2016, at a specified minimum annual rate of repayment.

FISCAL EFFECTS

This measure would have no direct revenue or cost effect. By limiting the frequency and the conditions under which Proposition 42 transfers may be suspended in a ten-year period, the measure would make it more difficult to use Proposition 42 gasoline sales tax revenues for nontransportation purposes when the state experiences fiscal difficulties. As a result, the measure would increase the stability of funding to state and local transportation in 2007 and thereafter. However, the state’s authority to direct available funds to meet other nontransportation priorities in the event the state faces fiscal difficulties would be somewhat reduced.



**HIGHWAY SAFETY, TRAFFIC REDUCTION,
AIR QUALITY, AND PORT SECURITY BOND ACT OF 2006.**

- Makes safety improvements and repairs to state highways; upgrades freeways to reduce congestion; repairs local streets and roads; upgrades highways along major transportation corridors.
- Improves seismic safety of local bridges.
- Expands public transit.
- Helps complete the state’s network of car pool lanes.
- Reduces air pollution.
- Improves anti-terrorism security at shipping ports.
- Provides for a bond issue not to exceed nineteen billion nine hundred twenty-five million dollars (\$19,925,000,000).
- Appropriates money from the General Fund to pay off bonds.

Summary of Legislative Analyst’s Estimate of Net State and Local Government Fiscal Impact:

- State costs of about \$38.9 billion over 30 years to pay off both the principal (\$19.9 billion) and interest (\$19.0 billion) costs of the bonds. Payments of about \$1.3 billion per year.
- Additional unknown state and local government costs to operate and maintain transportation infrastructure (such as roads, bridges, and buses and railcars) funded with bonds. A portion of these costs would be offset by revenues generated by the improvements, such as fares and tolls.

FINAL VOTES CAST BY THE LEGISLATURE ON SB 1266 (PROPOSITION 1B)

Senate:	Ayes 37	Noes 1
Assembly:	Ayes 61	Noes 10

ANALYSIS BY THE LEGISLATIVE ANALYST

BACKGROUND

California spends about \$20 billion a year from a combination of state, federal, and local funds to maintain, operate, and improve its highways, streets and roads, passenger rail, and transit systems. These expenditures are primarily funded on a pay-as-you-go basis from taxes and user fees.

There are two primary state tax sources that fund state transportation programs. First, the state’s 18 cent per gallon excise tax on gasoline and diesel fuel (generally referred to as the gas tax) generates about \$3.4 billion annually. Second, revenues from the state sales tax on gasoline and diesel fuel currently provide about \$2 billion a year. Additionally, the state imposes weight fees on commercial vehicles

★ ★ ★ ANALYSIS BY THE LEGISLATIVE ANALYST (CONTINUED)

(trucks), which generate roughly \$900 million a year. Generally, these revenues must be used for specific transportation purposes, including improvements to highways, streets and roads, passenger rail, and transit systems. These funds may also be used to mitigate the environmental impacts of various transportation projects. Under specified conditions, these revenues may be loaned or used for nontransportation uses.

Since 1990, voters have approved roughly \$5 billion in state general obligation bonds to fund transportation. These bond proceeds have been dedicated primarily to passenger rail and transit improvements, as well as to retrofit highways and bridges for earthquake safety. As of June 2006, all but about \$355 million of the authorized bonds have been spent on projects.

In addition to state funds, California's transportation system receives federal and local money. The state receives about \$4.5 billion a year in federal gasoline and diesel fuel tax revenues for various transportation purposes. Collectively, local governments invest roughly \$9.5 billion annually into California's highways, streets and roads, passenger rail, and transit systems. This funding comes mainly from a mix of local sales and property taxes, as well as transit fares. Local governments have also issued bonds backed mainly by local sales tax revenues to fund transportation projects.

PROPOSAL

This measure authorizes the state to sell about \$20 billion of general obligation bonds to fund transportation projects to relieve congestion, improve the movement of goods, improve air quality, and enhance the safety and security of the transportation system. (See "An Overview of State Bond Debt" on page 96 for basic information on state general obligation bonds.)

Figure 1 (see next page) summarizes the purposes for which the bond money would be used. The bond money would be available for expenditure by various state agencies and for grants to local agencies and transit operators upon appropriation by the Legislature:

- ***Congestion Reduction, Highway and Local Road Improvements***—\$11.3 billion—for capital improvements to reduce congestion and increase capacity on state highways, local roads, and public transit for grants available to locally funded transportation projects, as well as for projects to rehabilitate state highways and local roads.
- ***Public Transportation***—\$4 billion—to make capital improvements to local transit services and the state's intercity rail service. These improvements would include purchasing buses and railcars, as well as making safety enhancements to existing transit facilities.
- ***Goods Movement and Air Quality***—\$3.2 billion—for projects to improve the movement of goods—through the ports, on the state highway and rail systems, and between California and Mexico—and for projects to improve air quality by reducing emissions related to goods movement and replacing or retrofitting school buses.
- ***Safety and Security***—\$1.5 billion—for projects to increase protection against a security threat or improve disaster response capabilities on transit systems; as well as for grants to improve the safety of rail crossings to seismically retrofit local bridges, ramps, and overpasses; and to improve security and disaster planning in publicly owned ports, harbors, and ferry terminals.

FISCAL EFFECTS

Bond Costs. The costs of these bonds would depend on interest rates in effect at the time they are sold and the time period over which they are repaid. The state would likely make principal and

PROP HIGHWAY SAFETY, TRAFFIC REDUCTION,
1B AIR QUALITY, AND PORT SECURITY BOND ACT OF 2006.

ANALYSIS BY THE LEGISLATIVE ANALYST (CONTINUED)

1B

FIGURE 1	
Proposition 1B: Uses of Bond Funds	
	Amount (In Millions)
Congestion Reduction, Highway and Local Road Improvements	\$11,250
Reduce congestion on state highways and major access routes	\$4,500
Increase highways, roads, and transit capacity	2,000
Improve local roads	2,000
Enhance State Route 99 capacity, safety, and operations	1,000
Provide grants for locally funded transportation projects	1,000
Rehabilitate and improve operation of state highways and local roads	750
Public Transportation	\$4,000
Improve local rail and transit services, including purchasing vehicles and right of way	\$3,600
Improve intercity rail, including purchasing railcars and locomotives	400
Goods Movement and Air Quality	\$3,200
Improve movement of goods on state highways and rail system, and in ports	\$2,000
Reduce emissions from goods movement activities	1,000
Retrofit and replace school buses	200
Safety and Security	\$1,475
Improve security and facilitate disaster response of transit systems	\$1,000
Provide grants to improve railroad crossing safety	250
Provide grants to seismically retrofit local bridges and overpasses	125
Provide grants to improve security and disaster planning in publicly owned ports, harbors, and ferry facilities	100
Total	\$19,925

HIGHWAY SAFETY, TRAFFIC REDUCTION, PROP
AIR QUALITY, AND PORT SECURITY BOND ACT OF 2006. 1B

★ ★ ★ ANALYSIS BY THE LEGISLATIVE ANALYST (CONTINUED)

interest payments from the state's General Fund over a period of about 30 years. If the bonds are sold at an average interest rate of 5 percent, the cost would be about \$38.9 billion to pay off both the principal (\$19.9 billion) and interest (\$19.0 billion). The average repayment for principal and interest would be about \$1.3 billion per year.

Operational Costs. The state and local governments that construct or improve transportation infrastructure with these bond funds (by, for example, building roads and bridges or purchasing buses or railcars) will incur unknown additional costs to operate and maintain them. A portion of these costs would be offset by revenues generated by the improvements, such as transit fares and tolls.

1B

HOUSING AND EMERGENCY SHELTER TRUST FUND ACT OF 2006.

1C

- Funds may be used for the purpose of providing shelters for battered women and their children, clean and safe housing for low-income senior citizens; homeownership assistance for the disabled, military veterans, and working families; and repairs and accessibility improvements to apartment for families and disabled citizens.
- The state shall issue bonds totaling two billion eight hundred fifty million dollars (\$2,850,000,000) paid from existing state funds at an average annual cost of two hundred and four million dollars (\$204,000,000) per year over the 30 year life of the bonds.
- Requires reporting and publication of annual independent audited reports showing use of funds, and limits administration and overhead costs.
- Appropriates money from the General Fund to pay off bonds.

Summary of Legislative Analyst’s Estimate of Net State and Local Government Fiscal Impact:

- State cost of about \$6.1 billion over 30 years to pay off both the principal (\$2.85 billion) and interest costs (\$3.3 billion) on the bonds. Payments of about \$204 million per year.

FINAL VOTES CAST BY THE LEGISLATURE ON SB 1689 (PROPOSITION 1C)

Senate:	Ayes 27	Noes 11
Assembly:	Ayes 54	Noes 16

ANALYSIS BY THE LEGISLATIVE ANALYST

BACKGROUND

About 200,000 houses and apartments are built in California each year. Most of these housing units are built entirely with private dollars. Some units, however, receive subsidies from federal, state, and local governments. For instance, the state provides low-interest loans or grants to developers (private, nonprofit, and governmental) to subsidize housing construction costs. Typically, the housing must be sold or rented to Californians with low incomes. Other state programs provide homebuyers with direct financial assistance to help with the costs of a downpayment.

While the state provides financial assistance through these programs, cities and counties are responsible for the zoning and approval of new housing. In addition, cities, counties, and other local governments are responsible for providing infrastructure-related services to new housing—such as water, sewer, roads, and parks.

In 2002, voters approved Proposition 46, which provided a total of \$2.1 billion of general obligation bonds to fund state housing programs. We estimate that about \$350 million of the Proposition 46 funds will be unspent as of November 1, 2006.

★ ★ ★ ANALYSIS BY THE LEGISLATIVE ANALYST (CONTINUED)

PROPOSAL

This measure authorizes the state to sell \$2.85 billion of general obligation bonds to fund 13 new and existing housing and development programs. (See “An Overview of State Bond Debt” on page 96 for basic information on state general obligation bonds.) Figure 1 (see next page) describes the programs and the amount of funding that each would receive under the measure. About one-half of the funds would go to existing state housing programs. The development programs, however, are new—with details to be established by the Legislature. The major allocations of the bond proceeds are as follows:

- **Development Programs (\$1.35 Billion).** The measure would fund three new programs aimed at increasing development. Most of the funds would be targeted for development projects in existing urban areas and near public transportation. The programs would provide loans and grants for a wide variety of projects, such as parks, water, sewage, transportation, and housing.
- **Homeownership Programs (\$625 Million).** A number of the programs funded by this measure would encourage homeownership for low- and moderate-income homebuyers. The funds would be used to provide downpayment assistance to homebuyers through low-interest loans or grants. Typically, eligibility for this assistance would be based on the household’s income, the cost of the home being purchased, and whether it is the household’s first home purchase.
- **Multifamily Housing Programs (\$590 Million).** The measure also would fund programs aimed at the construction or renovation of rental housing projects, such as apartment buildings. These programs generally provide local governments, nonprofit organizations, and private developers with low-interest (3 percent) loans to fund part of the construction cost. In exchange, a project

must reserve a portion of its units for low-income households for a period of 55 years. This measure gives funding priority to projects in already developed areas and near existing public services (such as public transportation).

- **Other Housing Programs (\$285 Million).** These funds would be used to provide loans and grants to the developers of homeless shelters and housing for farmworkers. In addition, funds would be allocated to pilot projects aimed at reducing the costs of affordable housing.

The funds would be allocated over a number of years. The measure provides the Legislature broad authority to make future changes to these programs to ensure their effectiveness.

FISCAL EFFECT

Bond Costs. The cost to pay off these bonds would depend primarily on the following two factors:

- **Payment Period.** The state would likely make principal and interest payments on the bonds from the state’s General Fund over a period of about 30 years.
- **Interest Rate.** Usually, the interest on bonds issued is exempt from both state and federal taxes because the bonds are for public purposes. This results in lower debt service payments for the state. Some programs proposed by this measure, however, would not be eligible for the federal tax exemption—resulting in a higher interest rate. This is because the housing programs provide funds for private purposes. (We estimate this would be the case for about 60 percent of the bonds.)

If the federally taxable bonds were sold at an average rate of 6.5 percent and the remaining bonds at an average rate of 5 percent, the cost to the state would be about \$6.1 billion to pay off both the principal (\$2.85 billion) and the interest



PROP HOUSING AND EMERGENCY SHELTER
1C TRUST FUND ACT OF 2006.

ANALYSIS BY THE LEGISLATIVE ANALYST (CONTINUED)

FIGURE 1

Proposition 1C: Uses of Bond Funds

		Amount (In Millions)
Development Programs		
Development in urban areas ^a	Grants for various projects—including parks, water, sewer, transportation, and environmental cleanup—to facilitate urban “infill” development.	\$850
Development near public transportation ^a	Grants and loans to local governments and developers to encourage more dense development near public transportation.	300
Parks ^a	Grant funding for parks throughout the state.	200
		\$1,350
Homeownership Programs		
Low-income households	Variety of homeownership programs for low-income households.	\$290
Downpayment assistance	Deferred low-interest loans up to 6 percent of home purchase price for first-time low- or moderate-income homebuyers.	200
Local governments	Grants to local governments which reduce barriers to affordable housing. Funds would be used for homebuyer assistance.	125
Self-help construction	Grants to organizations which assist low- or moderate-income households in building or renovating their own homes.	10
		\$625
Multifamily Housing Programs		
Multifamily housing	Low-interest loans for housing developments for low-income renters.	\$345
Supportive housing	Low-interest loans for housing projects which also provide health and social services to low-income renters.	195
Homeless youth	Low-interest loans for housing projects which provide housing for homeless young people.	50
		\$590
Other Housing Programs		
Farmworker housing	Low-interest loans and grants for developing housing for farmworkers.	\$135
Pilot programs ^a	Grants and loans for pilot projects to develop housing at reduced costs.	100
Homeless shelters	Grants for developing homeless shelters.	50
		\$285
Total		\$2,850

^aNew program.

1C

★ ★ ★ ANALYSIS BY THE LEGISLATIVE ANALYST (CONTINUED)

(\$3.3 billion). The average payment would be about \$204 million each year.

Administrative Costs. The Department of Housing and Community Development and the California Housing Finance Agency would experience increased costs to administer the

various housing and urban development programs. A portion of the programs' allocations—probably between \$100 million and \$150 million of the total bond funds—would be used to pay these administrative costs over time.

1C

KINDERGARTEN-UNIVERSITY PUBLIC EDUCATION FACILITIES BOND ACT OF 2006.

- This ten billion four hundred sixteen million dollar (\$10,416,000,000) bond issue will provide needed funding to relieve public school overcrowding and to repair older schools.
- It will improve earthquake safety and fund vocational educational facilities in public schools. Bond funds must be spent according to strict accountability measures.
- Funds will also be used to repair and upgrade existing public college and university buildings and to build new classrooms to accommodate the growing student enrollment in the California Community Colleges, the University of California, and the California State University.
- Appropriates money from the General Fund to pay off bonds.

Summary of Legislative Analyst’s Estimate of Net State and Local Government Fiscal Impact:

- State costs of about \$20.3 billion to pay off both the principal (\$10.4 billion) and interest (\$9.9 billion) on the bonds. Payments of about \$680 million per year.

FINAL VOTES CAST BY THE LEGISLATURE ON AB 127 (PROPOSITION 1D)

Senate:	Ayes 29	Noes 8
Assembly:	Ayes 58	Noes 12

ANALYSIS BY THE LEGISLATIVE ANALYST

BACKGROUND

Public education in California consists of two systems. One system includes about 1,000 local school districts that provide education from kindergarten through grade 12 (“K-12”) to about 6.3 million students. The other system (commonly referred to as “higher education”) includes the California Community Colleges (CCC), the California State University (CSU), and the University of California (UC). These three higher education segments provide education beyond grade 12 to a total of about 2.1 million students.

K-12 School Facilities

Through the School Facility Program (SFP), K-12 school districts apply for funding to buy land, construct new buildings, and modernize (that

is, renovate) existing buildings. A school district’s allocation is based on a formula. The formula considers the number of students a district expects to enroll that cannot be served in existing facility space. The SFP requires the state and school districts to share the cost of facilities. For new construction projects, the cost is shared equally by the state and school districts. For modernization projects, the state pays 60 percent and school districts pay 40 percent of the cost. If a school district faces unusual circumstances, however, it may apply for “hardship” funding from the state to offset its local share of costs.

Major Funding Sources. As described below, funding for school facilities comes mostly from state and local general obligation bonds. (See “An Overview of State Bond Debt” on page 96 for more information on these bonds.)

★ ★ ★ ANALYSIS BY THE LEGISLATIVE ANALYST (CONTINUED)

- **State General Obligation Bonds.** The state has funded the SFP by issuing general obligation bonds. Over the past decade, voters have approved a total of \$28.1 billion in state bonds for K–12 school facilities. Approximately \$3 billion of these funds remain available for new construction projects.
- **Local General Obligation Bonds.** At the local level, school districts typically meet most of their matching requirement and other construction needs by issuing local general obligation bonds. These local bonds can be authorized with the approval of 55 percent of the voters in the district. The bonds are repaid using local property tax revenue. Over the past ten years, school districts have received voter approval to issue more than \$41 billion in local facility bonds.

Although school facilities currently are funded mostly from state and local general obligation bonds, school districts also receive funds from:

- **Developer Fees.** State law allows school districts to impose developer fees on new construction. These fees are levied on new residential, commercial, and industrial developments. Although they contribute a moderate amount statewide compared to general obligation bond proceeds, developer fees vary significantly by community depending on the amount of local development. In fast-growing areas, they can make notable contributions to K–12 school construction.
- **Special Local Bonds (Known as “Mello-Roos” Bonds).** School districts also may form special districts to sell bonds for school construction projects. (A special district generally does not encompass the entire school district.) The bonds, which require two-thirds voter approval, are paid off by property owners located within the special district. Over the past decade, Mello-Roos bonds have provided school districts with a total of \$3.7 billion in facility funding.

Higher Education Facilities

California’s system of public higher education includes 142 campuses in the three segments listed below:

- The CCCs provide instruction to about 1.5 million students at 109 campuses operated by 72 locally governed districts throughout the state. The community colleges grant associate degrees, offer a variety of technical career courses, and provide general education coursework that is transferable to four-year universities.
- The CSU has 23 campuses, with an enrollment of about 420,000 students. The system grants bachelor degrees, master degrees, and a small number of specified doctoral degrees.
- The UC has nine general campuses, one health sciences campus, and various affiliated institutions, with total enrollment of about 210,000 students. This system offers bachelor, master, and doctoral degrees, and is the primary state-supported agency for conducting research.

Over the past decade, the voters have approved \$6.5 billion in state general obligation bonds for capital improvements at public higher education campuses. Virtually all of these funds have been committed to specific projects. The state also has provided about \$1.6 billion in lease-revenue bonds (authorized by the Legislature) for this same purpose.

In addition to these state bonds, the higher education segments have three other sources of funding for capital projects.

- **Local General Obligation Bonds.** Like K–12 school districts, community college districts are authorized to sell general obligation bonds to finance construction projects with the approval of 55 percent of the voters in the district. Over the past decade, community college districts have received voter approval to issue more than \$15 billion in local facility bonds.

PROP KINDERGARTEN–UNIVERSITY PUBLIC EDUCATION
1D FACILITIES BOND ACT OF 2006.

ANALYSIS BY THE LEGISLATIVE ANALYST (CONTINUED)

- **Gifts and Grants.** In recent years, CSU and UC together have received more than \$100 million annually in gifts and grants for construction of facilities.
- **UC Research Revenue.** The UC finances the construction of some new research facilities by selling bonds and pledging future research revenue for their repayment. Currently, UC uses about \$130 million a year of research revenue to pay off these bonds.

PROPOSAL

This measure allows the state to sell \$10.4 billion of general obligation bonds for K–12 school facilities (\$7.3 billion) and higher education facilities (\$3.1 billion).

K–12 School Facilities

As shown in Figure 1, the \$7.3 billion for K–12 school facilities is designated for seven types of projects. The underlying requirements and funding formulas for four of these project types (modernization, new construction, charter school facilities, and joint-use projects) would be based on the existing SFP. The other three types of projects (overcrowded schools, career technical facilities, and environment-friendly projects) would be new components of the SFP.

Modernization (\$3.3 Billion). These monies would be for the modernization of existing school facilities. School districts would be required to pay 40 percent of project costs (unless they qualify for state hardship funding).

New Construction (\$1.9 Billion). These monies would cover various costs associated with building new facilities, including site acquisition, project design, engineering, construction, and inspection. Up to \$200 million of the \$1.9 billion would be

FIGURE 1	
Proposition 1D: Uses of Bond Funds	
	Amount (In Millions)
K–12	
Modernization projects	\$3,300 ^a
New construction projects	1,900 ^{a,b}
Severely overcrowded schools	1,000
Charter schools facilities	500
Career technical facilities	500
Environment-friendly projects	100
Joint-use projects	29
Subtotal, K–12	(\$7,329)
Higher Education	
Community Colleges	\$1,507
University of California	890 ^c
California State University	690
Subtotal, Higher Education	(\$3,087)
Total	\$10,416

^a A total of up to \$200 million is available from these two amounts combined as incentive funding to promote the creation of small high schools.
^b Up to \$200 million is available for earthquake-related retrofitting.
^c \$200 million is available for medical education programs.

available to retrofit facilities likely to be unsafe during an earthquake. Districts would be required to pay 50 percent of new construction and earthquake-safety projects (unless they qualify for state hardship funding).



★ ★ ★ ANALYSIS BY THE LEGISLATIVE ANALYST (CONTINUED)

Relief Grants for Overcrowded Schools (\$1 Billion). As a condition of receiving one of these grants, school districts would be required to replace portable classrooms with newly constructed permanent classrooms, remove portable classrooms from overcrowded school sites, and reduce the total number of portable classrooms within the district. As with other new construction projects, districts would be required to pay 50 percent of project costs. Under the program definition of overcrowded, roughly 1,800 schools (or 20 percent of all schools) would be eligible for funding.

Career Technical Education Facilities (\$500 Million). The measure also funds a new facility program designed to enhance educational opportunities for students interested in technical careers. Grants would be provided to high schools and local agencies that have career technical programs. The grants would be allocated on a per square foot basis, with a maximum of \$3 million for each new construction project and \$1.5 million for each modernization project. For both types of grants, the required local contribution would be 50 percent of project costs. Given the program's requirements, approximately 500 school districts (or one-half of all districts) would be eligible for new construction and modernization grants. In addition, about 25 local agencies would be eligible for modernization grants.

Charter School Facilities (\$500 Million). These monies would be for new construction and modernization of charter school facilities. (Charter schools are public schools that are exempt from certain state requirements in exchange for adhering to a local- or state-approved charter.) A 50 percent local contribution would be required.

Environment-Friendly Projects (\$100 Million). These monies would be provided as special incentive grants to promote certain types of environment-friendly facilities. For example, districts could

receive grant funding if their facilities included designs and materials that promoted the efficient use of energy and water, the maximum use of natural lighting, the use of recycled materials, or the use of acoustics conducive to teaching and learning. The same local contributions would be required as for other new construction and modernization projects.

Joint-Use Projects (\$29 Million). These monies would be available for both constructing new facilities and reconfiguring existing facilities for a joint-use purpose. Joint-use projects include gymnasiums, libraries, child care facilities, and teacher preparation facilities that are located at a school but used for joint school/community or K-12/higher education purposes. Under such arrangements, the school district and joint-use partner share the 50 percent local matching requirement.

Higher Education Facilities

The measure includes \$3.1 billion to construct new buildings and related infrastructure, alter existing buildings, and purchase equipment for use in these buildings for the state higher education segments. As Figure 1 shows, the measure allocates \$1.5 billion to CCC, \$890 million to UC, and \$690 million to CSU. The Governor and Legislature would select the specific projects to be funded by the bond monies.

FISCAL EFFECTS

The costs of these bonds would depend on interest rates in effect at the time they are sold and the time period over which they are repaid. The state would likely make principal and interest payments from the state's General Fund over a period of about 30 years. If the bonds were sold at an average interest rate of 5 percent, the cost would be about \$20.3 billion to pay off both principal (\$10.4 billion) and interest (\$9.9 billion). The average payment would be about \$680 million per year.

1E

OFFICIAL TITLE AND SUMMARY ★ ★ ★

Prepared by the Attorney General

DISASTER PREPAREDNESS AND FLOOD PREVENTION BOND ACT OF 2006.

- This act rebuilds and repairs California’s most vulnerable flood control structures to protect homes and prevent loss of life from flood-related disasters, including levee failures, flash floods, and mudslides.
- Protects California’s drinking water supply system by rebuilding delta levees that are vulnerable to earthquakes and storms.
- Authorizes a \$4.09 billion dollar bond act.
- Appropriates money from the General Fund to pay off bonds.

Summary of Legislative Analyst’s Estimate of Net State and Local Government Fiscal Impact:

- State cost of about \$8 billion over 30 years to pay off both the principal (\$4.1 billion) and interest (\$3.9 billion) costs on the bonds. Payments of about \$266 million per year.
- Reduction in local property tax revenues of potentially up to several million dollars annually.
- Additional unknown state and local government costs to operate or maintain properties or projects acquired or developed with these bond funds.

FINAL VOTES CAST BY THE LEGISLATURE ON AB 140 (PROPOSITION 1E)

Senate:	Ayes 36	Noes 1
Assembly:	Ayes 62	Noes 9

ANALYSIS BY THE LEGISLATIVE ANALYST

BACKGROUND

State Role. Multiple agencies at each level of government (state, federal, and local) have some responsibilities for flood management. In addition, private entities own and operate some flood control facilities. The state carries out a number of programs designed to provide flood management. Some of these programs are operated directly by the state, while others provide grants to local agencies for similar purposes.

The state is primarily responsible for flood control in the Central Valley. As shown in Figure 1, the state Central Valley flood control system includes about 1,600 miles of levees, as well as

other flood control infrastructure such as overflow weirs and channels. The state directly funds the construction and repair of flood management structures such as levees, typically with a federal and local cost share. For approximately 80 percent of the levees in the Central Valley flood control system, the state has turned over the operations and maintenance to local governments (primarily local flood control districts), although the state retains ultimate responsibility for these levees and the system as a whole.

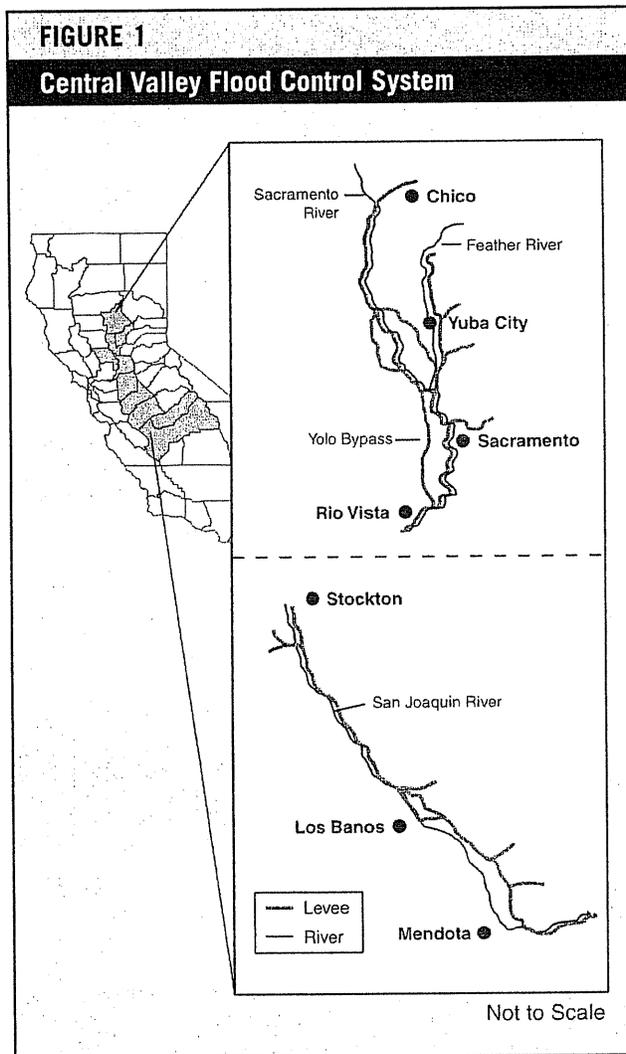
Outside the Central Valley system, the state’s role in flood management generally consists of providing financial assistance to local governments

★ ★ ★ ANALYSIS BY THE LEGISLATIVE ANALYST (CONTINUED)

for flood control projects located throughout the state. For example, the state has provided funding for the Santa Ana River Mainstem flood control project that spans Orange, Riverside, and San Bernardino Counties. In the Sacramento-San Joaquin River Delta region (Delta), as another example, the state has no oversight role with respect to local levee construction or maintenance (a majority of Delta levees—about 700 miles—are located outside the state system). Because a significant portion of the state’s population depends on water supplies that come through the Delta, there is a state interest in the continued operation of the Delta levee system. Given this, the state has provided financial assistance over many years to local flood control districts in the Delta region to rehabilitate and maintain levees.

Funding. In general, state flood management programs have been funded from the General Fund, with some use of bond funds. Since 1996, the voters have authorized a number of state general obligation bonds, of which about \$400 million has been allocated specifically for flood management purposes. Most of these bond funds for flood management have already been spent.

State funding levels for flood management have varied substantially on a year-to-year basis, largely depending on the availability of General Fund and bond monies for this purpose. For example, since 2000–01, annual state funding for flood management has varied from a low of about \$60 million (2002–03) to a high of about \$270 million (2000–01). In addition to state flood management programs, local governments, including flood control districts and other public water agencies, operate their own flood management programs and projects. Funding for these local programs comes from various sources, including property assessments



1E

and, in some cases, financial assistance from the state.

A law passed earlier this year provides \$500 million from the General Fund for emergency levee repairs and other flood management-related costs.

The Department of Water Resources (DWR) has made rough estimates of the cost to repair and upgrade the Central Valley flood control system and levees in the Delta of between \$7 billion and \$12 billion.

ANALYSIS BY THE LEGISLATIVE ANALYST (CONTINUED)

PROPOSAL

This measure authorizes the state to sell about \$4.1 billion in general obligation bonds for various flood management programs. (See “An Overview of State Bond Debt” on page 96 for basic information on state general obligation bonds.) Figure 2 summarizes the purposes for which the bond money would be available to be spent by DWR and for grants to local agencies. In order to spend these bond funds, the measure requires the Legislature to appropriate them in the annual budget act or another law.

Specifically, the bond includes about \$4.1 billion for various flood management activities, allocated as follows:

- **State Central Valley Flood Control System and Delta Levees—\$3 Billion.** To evaluate, repair, and restore existing levees in the state’s Central Valley flood control system; to improve or add facilities in order to increase flood protection for urban areas in the state’s Central Valley flood control system; and to reduce the risk of levee failure in the Delta region through grants to local agencies and direct spending by the state.
- **Flood Control Subventions—\$500 Million.** To provide funds to local governments for the state’s share of costs for locally sponsored, federally authorized flood control projects outside the Central Valley system.
- **Stormwater Flood Management—\$300 Million.** For grants to local agencies outside of the Central Valley system for projects to manage stormwater.
- **Statewide Flood Protection Corridors and Bypasses—\$290 Million.** To protect, create, and enhance flood protection corridors, including flood control bypasses and setback levees; as well as for floodplain mapping.

FIGURE 2

Proposition 1E: Uses of Bond Funds

	Amount (In Millions)
State Central Valley flood control system repairs and improvements; Delta levee repairs and maintenance.	\$3,000
Flood control subventions (local projects outside the Central Valley).	500
Stormwater flood management (grants for projects outside the Central Valley).	300
Flood protection corridors and bypasses; floodplain mapping.	290
Total	\$4,090

FISCAL EFFECTS

Bond Costs. The costs of these bonds would depend on interest rates in effect at the time they are sold and the time period over which they are repaid. The state would likely make principal and interest payments from the state’s General Fund over a period of about 30 years. If the bonds were sold at an average interest rate of 5 percent, the cost would be about \$8 billion to pay off both the principal (\$4.1 billion) and interest (\$3.9 billion). The average payment would be about \$266 million per year.

Property Tax-Related Impacts. The measure provides funds for land acquisition by the state for flood management, including the development of bypasses and setback levees. Under state law, property owned by government entities is exempt from property taxation. To the extent that this

1E

★ ★ ★ ANALYSIS BY THE LEGISLATIVE ANALYST (CONTINUED)

measure results in property being exempted from taxation due to acquisitions by governments, local governments would receive reduced property tax revenues. Because the measure does not specify what portion of the bond funds will be used for acquisitions, the impact on local property tax revenues statewide is unknown, but is potentially up to several million dollars annually.

Operational Costs. To the extent that bond funds are used by state and local governments to purchase property or develop a new flood control project, these governments would incur unknown additional costs to operate or maintain the properties or projects.

**SEX OFFENDERS. SEXUALLY VIOLENT PREDATORS.
PUNISHMENT, RESIDENCE RESTRICTIONS AND MONITORING.
INITIATIVE STATUTE.**

- Increases penalties for violent and habitual sex offenders and child molesters.
- Prohibits registered sex offenders from residing within 2,000 feet of any school or park.
- Requires lifetime Global Positioning System monitoring of felony registered sex offenders.
- Expands definition of a sexually violent predator.
- Changes current two-year involuntary civil commitment for a sexually violent predator to an indeterminate commitment, subject to annual review by the Director of Mental Health and subsequent ability of sexually violent predator to petition court for sexually violent predator's conditional release or unconditional discharge.

83

Summary of Legislative Analyst's Estimate of Net State and Local Government Fiscal Impact:

- Net state prison, parole, and mental health program costs of several tens of millions of dollars initially, growing to a couple hundred million dollars annually within ten years.
- Potential one-time state mental hospital and prison capital outlay costs eventually reaching several hundred million dollars.
- Net state and local costs for court and jail operations are unknown.

ANALYSIS BY THE LEGISLATIVE ANALYST**BACKGROUND**

Definition of Sex Offenses. Sex offenses are crimes of a sexual nature. They vary in type and can be misdemeanors or felonies. For example, distribution of obscene material is a misdemeanor and rape is a felony sex offense. Felony offenses are more serious crimes than misdemeanors.

Punishment for Committing Sex Offenses. Current law defines the penalties for conviction of sex-related crimes. The punishment depends primarily on the type and severity of the specific offense. Conviction of a misdemeanor sex offense is punishable by up to a year in county jail, probation, fines, or a combination of the three. Conviction of a felony sex offense can result in the same penalties as a misdemeanor or a sentence to state prison for up to a life term. The penalty assigned by the court for a felony conviction depends on the specific crime committed, as well as other factors such as the specific circumstances of the offense and the criminal

history of the offender. There are about 8,000 persons convicted of a felony sex offense in California each year. Of these, about 39 percent are sent to state prison. Most of the rest are supervised on probation in the community (5 percent), sentenced to county jail (1 percent), or both (53 percent).

Sex Offender Registration, Residency Requirements, and Monitoring. Current law requires offenders convicted of specified felony or misdemeanor sex crimes to register with local law enforcement officials. There are approximately 90,000 registered sex offenders in California.

Current law bars parolees convicted of specified sex offenses against a child from residing within one-quarter or one-half mile (1,320 or 2,640 feet, respectively) of a school. The longer distance is for those parolees identified as high risk to reoffend by the California Department of Corrections and Rehabilitation (CDCR).

SEX OFFENDERS. SEXUALLY VIOLENT PREDATORS. PROP
PUNISHMENT, RESIDENCE RESTRICTIONS AND MONITORING. 83
INITIATIVE STATUTE.

★★★ ANALYSIS BY THE LEGISLATIVE ANALYST (CONTINUED)

The CDCR utilizes Global Positioning System (GPS) monitoring devices to track the location of some sex offenders on parole. Currently, this monitoring is limited to about 1,000 sex offenders who have been identified as high risk to reoffend. Some county probation departments also use GPS to monitor some sex offenders on probation.

Sexually Violent Predators (SVP). Specified sex offenders who are completing their prison sentences are referred by CDCR to the Department of Mental Health (DMH) for screening and evaluation to determine whether they meet the criteria for an SVP. Under current law, an SVP is defined as “a person who has been convicted of a sexually violent offense against two or more victims and who has a diagnosed mental disorder that makes the person a danger to the health and safety of others in that it is likely that he or she will engage in sexually violent criminal behavior.” Those offenders who are found to meet the criteria are referred to district attorneys. District attorneys then determine whether to pursue their commitment by the courts to treatment in a state mental hospital as an SVP.

Offenders subject to SVP proceedings are often represented by public defenders. While these court proceedings are pending, offenders who have not completed their prison sentences continue to be held in prison. However, if an offender’s prison sentence has been completed, he or she may be held either in county custody or in a state mental hospital. Offenders designated as SVPs by the courts are committed to a state mental hospital for up to two years. An offender can be recommitted by the courts in subsequent court proceedings.

As noted above, state mental hospitals hold sex offenders who have been committed as SVPs. State mental hospitals also hold some sex offenders who have completed their prison sentences, but are still undergoing SVP evaluations or commitment proceedings. As of June 2006, 456 sex offenders were being held in state hospitals with a commitment by a court as an SVP. In addition, 188 sex offenders were being held in state mental hospitals, and 81 were in county custody pending the completion of commitment proceedings.

PROPOSAL

Increase Penalties for Sex Offenses. This measure increases the penalties for specified sex offenses. It does this in several ways. In some cases:

- **It broadens the definition** of certain sex offenses. For example, the measure expands the definition of aggravated sexual assault of a child to include offenders who are at least seven years older than the victim, rather than the ten years required under current law.
- **It provides for longer penalties** for specified sex offenses. For example, it expands the list of crimes that qualify for life sentences in prison to include assault to commit rape during the commission of a first degree burglary.
- **It prohibits probation** in lieu of prison for some sex offenses, including spousal rape and lewd or lascivious acts.
- **It eliminates early release credits** for some inmates convicted of certain sex offenses (for example, habitual sex offenders who have multiple convictions for specified felony sex offenses such as rape).
- **It extends parole** for specified sex offenders, including habitual sex offenders.

These changes would result in longer prison and parole terms for the affected offenders.

Finally, this measure increases court-imposed fees currently charged to offenders who are required to register as sex offenders.

Require GPS Devices for Registered Sex Offenders. Generally under this measure, individuals who have been convicted of a felony sex offense that requires registration and have been sent to prison would be monitored by GPS devices while on parole and for the remainder of their lives.

The CDCR would be authorized to collect fees from affected sex offenders to cover the costs of GPS monitoring. The amount of fees collected from individual offenders would vary depending on their ability to pay.

PROP 83 SEX OFFENDERS. SEXUALLY VIOLENT PREDATORS.
PUNISHMENT, RESIDENCE RESTRICTIONS AND MONITORING.
INITIATIVE STATUTE.

ANALYSIS BY THE LEGISLATIVE ANALYST (CONTINUED)

Limit Where Registered Sex Offenders May Live.

This measure bars any person required to register as a sex offender from living within 2,000 feet (about two-fifths of a mile) of any school or park. A violation of this provision would be a misdemeanor offense, as well as a parole violation for parolees. The longer current law restriction of one-half mile (2,640 feet) for specified high-risk sex offenders on parole would remain in effect. In addition, the measure authorizes local governments to further expand these residency restrictions.

Change SVP Law. This measure generally makes more sex offenders eligible for an SVP commitment. It does this by (1) reducing from two to one the number of prior victims of sexually violent offenses that qualify an offender for an SVP commitment and (2) making additional prior offenses—such as certain crimes committed by a person while a juvenile—“countable” for purposes of an SVP commitment. The measure also requires that SVPs be committed by the court to a state mental hospital for an undetermined period of time rather than the renewable two-year commitment provided for under existing law. As under current law, once an offender had received a commitment as an SVP, he or she could later be released from a state hospital by the courts if (1) DMH determined the individual should no longer be held or (2) the offender successfully petitioned a court for release.

The measure also changes the standard for release of SVPs from a state mental hospital. For example, current law generally requires DMH to examine the mental condition of a sex offender each year. This measure specifically requires DMH, as part of this annual review, to examine whether a person being held in a state hospital as an SVP still meets the definition of an SVP, whether release is in the best interest of the person, and whether conditions could be imposed at time of release that would adequately protect the community. The impact of these changes on the number of SVPs is unknown.

FISCAL EFFECTS

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

State Prison Costs. This measure would increase the prison population, resulting in a significant increase in prison operating costs. In particular, increasing sentences for sex offenders would result in some sex offenders being sentenced to and remaining in prison for longer periods, resulting in a larger prison population over time. This would result in costs of unknown magnitude, but likely to be in the tens of millions of dollars annually once fully implemented in less than ten years. It is also possible that this measure could eventually result in significant additional capital outlay costs to accommodate the increase in the inmate population.

The impact on the prison population of requiring sex offenders to wear GPS devices is unclear. On the one hand, GPS monitoring could increase the number of offenders who are identified and returned to prison for violating the conditions of their parole or committing new crimes. On the other hand, GPS monitoring could act as a deterrent for some offenders from committing new violations or crimes, hence reducing the likelihood that they return to prison. Whatever net impact GPS does have on returns to prison will also affect parole, court, and local law enforcement workloads and associated costs.

State Parole and GPS Monitoring Costs. The initiative's provisions requiring specified registered sex offenders to wear GPS devices while on parole and for the remainder of their lives would result in additional costs for GPS equipment, as well as for supervision staff to track offenders in the community. These costs are likely to be in the several tens of millions of dollars annually within a few years. These costs would grow to about \$100 million annually after ten years, with costs continuing to increase significantly in subsequent years.

Because the measure does not specify whether the state or local governments would be responsible for monitoring sex offenders who have been discharged from state parole supervision, it is unclear whether local governments would bear some of these long-term costs. These costs likely would be partially offset by several million dollars annually in court and parolee fees authorized by the measure, though the exact amount would largely depend on offenders' ability to pay.

PROP
83

SEX OFFENDERS. SEXUALLY VIOLENT PREDATORS.
PUNISHMENT, RESIDENCE RESTRICTIONS AND MONITORING.
INITIATIVE STATUTE.

★ ★ ★ ANALYSIS BY THE LEGISLATIVE ANALYST (CONTINUED)

State SVP Program Costs. By making more sex offenders eligible for SVP commitments, this measure would result in increased state costs generally in the following categories:

- **Referral and Commitment Costs.** These costs are mainly associated with screening sex offenders referred by CDCR to DMH to determine if they merit a full evaluation, performing such evaluations, and providing expert testimony at court commitment hearings. This measure would increase these state costs probably by the low tens of millions of dollars annually. These costs would begin to occur in the initial year of implementation.
- **State Hospital Costs.** State costs to staff, maintain, and operate the mental hospitals could reach \$100 million annually within a decade and would continue to grow significantly thereafter. These costs would result from additional SVP commitments to state mental hospitals, as well as holding some sex offenders—who have completed their prison sentences—in state mental hospitals while they are being evaluated to determine whether they should receive an SVP commitment. (Some of the sex offenders undergoing evaluation as SVPs might also be held in county jails.)

Additional SVP commitments could eventually result in one-time capital outlay costs of up to several hundred million dollars for the construction of additional state hospital beds.

The additional operational and capital outlay costs would be partly offset in the long term. This is because the longer prison sentences for certain sex crimes required by this measure would delay SVP referrals and commitments to state mental hospitals. These costs would also be partly offset because the change from two-year commitments to commitments for an undetermined period of time is likely to reduce DMH's costs for SVP evaluations and court testimony. However, our analysis indicates that on balance the operating and capital outlay costs to the

state are likely to be substantially greater than the savings.

Court and Jail Fiscal Impacts. This measure would also affect state and local costs associated with court and jail operations. For example, the additional SVP commitment petitions resulting from this measure would increase court costs for hearing these civil cases. Also, county jail operating costs would increase to the extent that offenders who have court decisions pending on their SVP cases were held in county jail facilities. The provision making it unlawful for sex offenders to reside within 2,000 feet of a school or park could result in additional court and jail costs to prosecute violations of this provision.

Other provisions of this measure could result in savings for court and jail operations. The measure's provisions providing for the indeterminate commitment of SVPs, instead of the current two-year recommitment process, would reduce county costs for SVP commitment proceedings. Provisions of this measure would increase the length of time that some sex offenders spend in prison or mental hospitals. To the extent that this occurs, these offenders would likely commit fewer crimes in the community, resulting in some court and local criminal justice savings.

Given the potential for the factors identified above to offset each other, the net fiscal impact of this measure on state and local costs for the court and jail operations cannot be determined at this time.

Other Impacts on State and Local Governments. There could be other savings to the extent that offenders imprisoned for longer periods require fewer government services, or commit fewer crimes that result in victim-related government costs. Alternatively, there could be an offsetting loss of revenue to the extent that offenders serving longer prison terms would have become taxpaying citizens under current law. The extent and magnitude of these impacts is unknown.

**WATER QUALITY, SAFETY AND SUPPLY.
FLOOD CONTROL. NATURAL RESOURCE PROTECTION.
PARK IMPROVEMENTS. BONDS. INITIATIVE STATUTE.**

OFFICIAL TITLE AND SUMMARY ★ ★ ★

Prepared by the Attorney General

**WATER QUALITY, SAFETY AND SUPPLY.
FLOOD CONTROL. NATURAL RESOURCE PROTECTION.
PARK IMPROVEMENTS. BONDS. INITIATIVE STATUTE.**

- Funds projects relating to safe drinking water, water quality and supply, flood control, waterway and natural resource protection, water pollution and contamination control, state and local park improvements, public access to natural resources, and water conservation efforts.
- Provides funding for emergency drinking water, and exempts such expenditures from public contract and procurement requirements to ensure immediate action for public safety.
- Authorizes \$5,388,000,000 in general obligation bonds to fund projects and expenditures, to be repaid from the state's General Fund.

Summary of Legislative Analyst's Estimate of Net State and Local Government Fiscal Impact:

- State cost of about \$10.5 billion over 30 years to pay off both the principal (\$5.4 billion) and interest (\$5.1 billion) costs on the bonds. Payments of about \$350 million per year.
- Reduction in local property tax revenues of several million dollars annually.
- Unknown costs, potentially tens of millions of dollars per year, to state and local governments to operate or maintain properties or projects acquired or developed with these bond funds.

★ ★ ★ ANALYSIS BY THE LEGISLATIVE ANALYST

BACKGROUND

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

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

- *State and Local Parks.* The state operates the state park system and has provided funds to local governments for the acquisition, maintenance, and operation of local and regional parks.

Funding for Resources Programs. Funding for these various programs has traditionally come from General Fund revenues, federal funds, and general obligation bonds. Since 1996, voters have authorized approximately \$11 billion in general obligation bonds for various resources purposes. Of this amount, approximately \$1.4 billion is projected to remain available for new projects as of June 30, 2006, primarily for water-related purposes. Legislation enacted earlier this year provides \$500 million from the General Fund for emergency levee repairs and other flood control-related expenditures.

PROPOSAL

This initiative allows the state to sell \$5.4 billion in general obligation bonds for safe drinking water, water quality, and water supply; flood control; natural resource protection; and park improvements. (See “An Overview of State Bond Debt” on page 96 for basic information on state general obligation bonds.) Figure 1 (see next page) summarizes the purposes for which the bond money would be available for expenditure by various state agencies and for loans and grants, primarily to local agencies and nonprofit organizations. In order to spend most of these bond funds, the measure requires the Legislature to appropriate them in the annual budget act or other legislation.

FISCAL EFFECTS

Bond Costs. The cost of these bonds would depend on interest rates in effect at the time they

PROP 84 WATER QUALITY, SAFETY AND SUPPLY.
 FLOOD CONTROL. NATURAL RESOURCE PROTECTION.
 PARK IMPROVEMENTS. BONDS. INITIATIVE STATUTE.

ANALYSIS BY THE LEGISLATIVE ANALYST (CONTINUED)

FIGURE 1

Proposition 84: Uses of Bond Funds

	Amount (In Millions)
Water Quality	\$1,525
• Integrated regional water management.	1,000
• Safe drinking water.	380
• Delta and agriculture water quality.	145
Protection of Rivers, Lakes, and Streams	\$928
• Regional conservancies.	279
• Other projects—public access, river parkways, urban stream restoration, California Conservation Corps.	189
• Delta and coastal fisheries restoration.	180
• Restoration of the San Joaquin River.	100
• Restoration projects related to the Colorado River.	90
• Stormwater pollution prevention.	90
Flood Control	\$800
• State flood control projects—evaluation, system improvements, flood corridor program.	315
• Flood control projects in the Delta.	275
• Local flood control subventions (outside the Central Valley flood control system).	180
• Floodplain mapping and assistance for local land use planning.	30
Sustainable Communities and Climate Change Reduction	\$580
• Local and regional parks.	400
• Urban water and energy conservation projects.	90
• Incentives for conservation in local planning.	90
Protection of Beaches, Bays, and Coastal Waters	\$540
• Protection of various coastal areas and watersheds.	360
• Clean Beaches Program.	90
• California Ocean Protection Trust Fund—marine resources, sustainable fisheries, and marine wildlife conservation.	90
Parks and Natural Education Facilities	\$500
• State park system—acquisition, development, and restoration.	400
• Nature education and research facilities.	100
Forest and Wildlife Conservation	\$450
• Wildlife habitat protection.	225
• Forest conservation.	180
• Protection of ranches, farms, and oak woodlands.	45
Statewide Water Planning	\$65
• Planning for future water needs, water conveyance systems, and flood control projects.	65
Total	\$5,388

★ ★ ★ ANALYSIS BY THE LEGISLATIVE ANALYST (CONTINUED)

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

Property Tax-Related Impacts. The initiative provides funds for land acquisition by governments and nonprofit organizations for various purposes. Under state law, property owned by government entities and by nonprofit organizations (under specified conditions) is exempt from property

taxation. To the extent that this initiative results in property being exempted from taxation due to acquisitions by governments and nonprofit organizations, local governments would receive reduced property tax revenues. We estimate these reduced property tax revenues would be several million dollars annually.

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

OFFICIAL TITLE AND SUMMARY ★ ★ ★

Prepared by the Attorney General

**WAITING PERIOD AND PARENTAL NOTIFICATION BEFORE
TERMINATION OF MINOR'S PREGNANCY.
INITIATIVE CONSTITUTIONAL AMENDMENT.**

- Amends California Constitution to prohibit abortion for unemancipated minor until 48 hours after physician notifies minor's parent or legal guardian, except in medical emergency or with parental waiver.
- Permits minor to obtain court order waiving notice based on clear and convincing evidence of minor's maturity or best interests.
- Mandates various reporting requirements, including reports from physicians regarding abortions performed on minors.
- Authorizes monetary damages against physicians for violation.
- Requires minor's consent to abortion, with certain exceptions.
- Permits judicial relief if minor's consent coerced.

Summary of Legislative Analyst's Estimate of Net State and Local Government Fiscal Impact:

- Potential unknown net state costs of several million dollars annually for health and social services programs, court administration, and state health agency administration combined.

ANALYSIS BY THE LEGISLATIVE ANALYST

BACKGROUND

In 1953, a state law was enacted that allowed minors to receive, without parental consent or notification, the same types of medical care for a pregnancy that are available to an adult. Based on this law and later legal developments related to abortion, minors were able to obtain abortions without parental consent or notification.

In 1987, the Legislature amended this law to require minors to obtain the consent of either a parent or a court before obtaining an abortion. However, due to legal challenges, the law was never implemented, and the California Supreme Court ultimately struck it down in 1997. Consequently, minors in the state currently receive abortion services to the same extent as adults. This includes minors in various state health care programs, such as the Medi-Cal health care program for low-income individuals.

PROPOSAL**Notification Requirements**

This proposition amends the California Constitution to require, with certain exceptions, a physician (or his or her representative) to *notify* the parent or legal guardian of a pregnant minor at least 48 hours before performing an abortion involving that minor. (This measure does not require a physician or a minor to obtain the consent of a parent or guardian.) This measure applies only to cases involving an "unemancipated" minor. The proposition identifies an unemancipated minor as being a female under the age of 18 who has not entered into a valid marriage, is not on active duty in the armed services of the United States, and has not been declared free from her parents' or guardians' custody and control under state law.

A physician would provide the required notification in either of the following two ways:

WAITING PERIOD AND PARENTAL NOTIFICATION BEFORE
TERMINATION OF MINOR'S PREGNANCY.
INITIATIVE CONSTITUTIONAL AMENDMENT.

PROP
85

★ ★ ★ ANALYSIS BY THE LEGISLATIVE ANALYST (CONTINUED)

Personal Written Notification. Written notice could be provided to the parent or guardian personally—for example, when a parent accompanied the minor to an office examination.

Mail Notification. A parent or guardian could be sent a written notice by certified mail so long as a return receipt was requested by the physician and delivery of the notice was restricted to the parent or guardian who must be notified. An additional copy of the written notice would have to be sent at the same time to the parent or guardian by first-class mail. Under this method, notification would be presumed to have occurred as of noon on the second day after the written notice was mailed.

Exceptions to Notification Requirements

The measure provides the following exceptions to the notification requirements:

Medical Emergencies. The notification requirements would not apply if the physician certifies in the minor's medical record that the abortion is necessary to prevent the mother's death or that a delay would "create serious risk of substantial and irreversible impairment of a major bodily function."

Waivers Approved by Parent or Guardian. A minor's parent or guardian could waive the notification requirements and the waiting period by completing and signing a written waiver form for the physician. The parent or guardian must specify on this form that the waiver would be valid either (1) for 30 days, (2) until a specified date, or (3) until the minor's 18th birthday. The form would need to be notarized unless the parent or guardian delivered it personally to the physician.

Waivers Approved by Courts. The pregnant minor could ask a juvenile court to waive the

notification requirements. A court could do so if it finds that the minor is sufficiently mature and well-informed to decide whether to have an abortion or that notification would not be in the minor's best interest. If the waiver request is denied, the minor could appeal that decision to an appellate court.

A minor seeking a waiver would not have to pay court fees, would be appointed a temporary guardian and provided other assistance in the case by the court, and would be entitled to an attorney appointed by the court. The identity of the minor would be kept confidential. The court would generally have to hear and issue a ruling within three business days of receiving the waiver request. The appellate court would generally have to hear and decide any appeal within four business days.

The proposition also requires that, in any case in which the court finds evidence of physical, sexual, or emotional abuse, the court must refer the evidence to the county child protection agency.

State Reporting Requirements

Physicians are required by this proposition to file a form reporting certain information to the state Department of Health Services (DHS) within one month after performing an abortion on a minor. The DHS form would include the date and facility where the abortion was performed, the minor's month and year of birth, and certain other information about the minor and the circumstances under which the abortion was performed. The forms that physicians would file would not identify the minor or any parent or guardian by name. Based on these forms, DHS would compile certain statistical information relating to abortions performed on minors in an annual report that would be available to the public.

The courts are required by the measure to report annually to the state Judicial Council the number

85

PROP 85 WAITING PERIOD AND PARENTAL NOTIFICATION BEFORE TERMINATION OF MINOR'S PREGNANCY. INITIATIVE CONSTITUTIONAL AMENDMENT.

ANALYSIS BY THE LEGISLATIVE ANALYST (CONTINUED)

of petitions filed and granted or denied. The reports would be publicly available. The measure also requires the Judicial Council to prescribe a manner of reporting that ensures the confidentiality of any minor who files a petition.

Penalties

Any person who performs an abortion on a minor and who fails to comply with the provisions of the measure would be liable for damages in a civil action brought by the minor, her legal representative, or by a parent or guardian wrongfully denied notification. Any person, other than the minor or her physician, who knowingly provides false information that notice of an abortion has been provided to a parent or guardian would be guilty of a misdemeanor punishable by a fine.

Relief From Coercion

The measure allows a minor to seek help from the juvenile court if anyone attempts to coerce her to have an abortion. A court would be required to consider such cases quickly and could take whatever action it found necessary to prevent coercion.

FISCAL EFFECTS

The fiscal effects of this measure on state government would depend mainly upon how these new requirements affect the behavior of minors regarding abortion and childbearing. Studies of similar laws in other states suggest that the effect of this measure on the birthrate for California minors would be limited, if any. If it were to increase the birthrate for California minors, the net cost to the state would probably not exceed several million dollars annually for health and social services programs, the courts, and state administration combined. We discuss the potential major fiscal effects of the measure below.

Savings and Costs for State Health Care Programs

Studies of other states with laws similar to the one proposed in this measure suggest that it could result in a reduction in the number of abortions obtained by minors within California. This reduction in abortions performed in California might be offset to an unknown extent by an increase in the number of out-of-state abortions obtained by California minors. Some minors might also avoid pregnancy as a result of this measure, further reducing the number of abortions for this group. If, for either reason, this proposition reduces the overall number of minors obtaining abortions in California, it is also likely that fewer abortions would be performed under the Medi-Cal Program and other state health care programs that provide medical services for minors. This would result in unknown state savings for these programs.

This measure could also result in some unknown additional costs for state health care programs. If this measure results in a decrease in minors' abortions and an increase in the birthrate of children in low-income families eligible for publicly funded health care, the state would incur additional costs. These could include costs for medical services provided during pregnancy, deliveries, and follow-up care.

The net fiscal effect, if any, of these or other related cost and savings factors would probably not exceed costs of a few million dollars annually to the state. These costs would not be significant compared to total state spending for programs that provide health care services. The Medi-Cal Program alone is estimated to cost the state \$13.8 billion in 2006-07.

85

WAITING PERIOD AND PARENTAL NOTIFICATION BEFORE
TERMINATION OF MINOR'S PREGNANCY.
INITIATIVE CONSTITUTIONAL AMENDMENT.

PROP
85

★ ★ ★ ANALYSIS BY THE LEGISLATIVE ANALYST (CONTINUED)

State Health Agency Administrative Costs

The DHS would incur first-year state costs of up to \$350,000 to develop the new forms needed to implement this measure, establish the physician reporting system, and prepare the initial annual report containing statistical information on abortions obtained by minors. The ongoing state costs for DHS to implement this measure could be as much as \$150,000 annually.

Juvenile and Appellate Court Administrative Costs

The measure would result in increased state costs for the courts, primarily as a result of the provisions allowing minors to request a court waiver of the notification requirements. The magnitude of these costs is unknown, but could reach several million dollars annually, depending primarily on the number of minors that sought waivers. These costs would not be significant compared to total state expenditures for the courts, which are estimated to be \$2 billion in 2006–07.

Social Services Program Costs

If this measure discourages some minors from obtaining abortions and increases the birthrate among low-income minors, expenditures for cash assistance and services to needy families would increase under the California Work Opportunity and Responsibility to Kids (CalWORKs) program. The magnitude of these costs, if any, would probably not exceed a few million dollars annually. The CalWORKs program is supported with both state and federal funds, but because all CalWORKs federal funds are capped, these additional costs would probably be borne by the state. These costs would not be significant compared to total state spending for CalWORKs, which is estimated to cost about \$5 billion in state and federal funds in 2006–07. Under these circumstances, there could also be a minor increase in child welfare and foster care costs for the state and counties.

85

**TAX ON CIGARETTES.
INITIATIVE CONSTITUTIONAL AMENDMENT AND STATUTE.**

- Imposes additional 13 cent tax on each cigarette distributed (\$2.60 per pack), and indirectly increases tax on other tobacco products.
- Provides funding to qualified hospitals for emergency services, nursing education and health insurance to eligible children.
- Revenue also allocated to specified purposes including tobacco-use-prevention programs, enforcement of tobacco-related laws, and research, prevention, treatment of various conditions including cancers (breast, cervical, prostate, colorectal), heart disease, stroke, asthma and obesity.
- Exempts recipient hospitals from antitrust laws in certain circumstances.
- Revenue excluded from appropriation limits and minimum education funding (Proposition 98) calculations.

Summary of Legislative Analyst's Estimate of Net State and Local Government Fiscal Impact:

- Increase in new state tobacco excise tax revenues of about \$2.1 billion annually by 2007–08, declining slightly annually thereafter. Those revenues would be spent for various health programs, children's health coverage, and tobacco-related programs.
- Unknown net state costs potentially exceeding \$100 million annually after a few years due to provisions simplifying state health program enrollment rules and creating a new pilot program for children's health coverage.
- Unknown, but potentially significant, savings to the state Medi-Cal Program and counties from a shift of children from other health care coverage to the Healthy Families Program (HFP); potential state costs that could be significant in the long term for ongoing support of expanded HFP enrollment.
- Unknown, but potentially significant, savings in state and local government public health care costs over time due to various factors, including an expected reduction in consumption of tobacco products.

ANALYSIS BY THE LEGISLATIVE ANALYST**BACKGROUND****Tobacco Taxes**

Current state law imposes certain taxes directly on cigarettes and other tobacco products that are known as excise taxes. Excise taxes are taxes collected on selected goods or services. Currently, the excise taxes total 87 cents per pack of cigarettes (with a similar tax on other types of tobacco products). The total tax of 87 cents per pack consists of:

- 50 cents to support early childhood development programs, enacted by the voters as Proposition 10 in 1998.

- 25 cents to support tobacco education and prevention efforts, tobacco-related disease research programs, health care services for low-income uninsured persons, and environmental protection and recreational programs, enacted by the voters as Proposition 99 in 1988.
- 10 cents for the state General Fund.
- 2 cents to support research related to breast cancer and breast cancer screening programs for uninsured women.

Current taxes on cigarettes and other tobacco products are estimated to raise about \$1.1 billion in 2006–07.

★ ★ ★ ANALYSIS BY THE LEGISLATIVE ANALYST (CONTINUED)

Children's Health Care Coverage

Medi-Cal. The Medi-Cal Program (the federal Medicaid Program in California) provides health care services to low-income persons, including eligible children (depending on the age of the child). Families with incomes up to 133 percent of the federal poverty level (FPL) (about \$27,000 per year for a family of four) are generally eligible for coverage. The program is administered by the state Department of Health Services (DHS).

Under the Medicaid Program, matching federal funds are available for the support of comprehensive medical services for United States citizens and to "qualified aliens"—that is, immigrants who are permanent residents, refugees, or a member of certain other groups granted the legal right to remain in the United States. Federal matching funds are also available for nonqualified aliens, but only for emergency medical services.

The Medi-Cal Program currently serves about 3.2 million adults and 3.2 million children.

Healthy Families. The Healthy Families Program (HFP) offers health insurance to eligible children in families who generally have incomes below 250 percent of FPL (about \$50,000 per year for a family of four) who do not qualify for Medi-Cal. (Children in some families with higher incomes are also eligible.) Funding is generally on a two-to-one federal/state matching basis. Children in HFP must be eligible United States citizens or qualified aliens. The HFP is administered by the Managed Risk Medical Insurance Board (MRMIB).

The HFP provides medical coverage for about 781,000 children.

Local Health Coverage Programs. The County Health Initiative Matching (CHIM) Fund program, which is administered by MRMIB and counties, provides health coverage for children in families with an income between 250 percent and 300 percent of FPL (between \$50,000 and \$60,000 per year for a family of four). The CHIM program relies on county funds as the match required to draw down federal

funds to pay for this health coverage. This program has a caseload of about 3,000 children.

In addition to the CHIM program, some counties have established their own health coverage programs for children that are ineligible for Medi-Cal or HFP. These programs are primarily supported with local funding. These programs serve about 69,000 children.

PROPOSAL

This measure increases excise taxes on cigarettes (and, as discussed below, indirectly on other tobacco products) to provide funding for hospitals for emergency services as well as programs to increase access to health insurance for children, expand nursing education, support various new and existing health and education activities, curb tobacco use and regulate tobacco sales. Major provisions of the measure are described below.

New State Tobacco Tax Revenues

A pack of cigarettes now costs roughly \$4.00 in California, including 87 cents in excise taxes. This measure increases the existing excise tax on cigarettes by \$2.60 per pack effective January 2007. Existing state law requires the Board of Equalization (BOE) to increase taxes on other tobacco products—such as loose tobacco and snuff—in an amount equivalent to any increase in the tax on cigarettes. Thus, this measure would also result in a comparable increase in the excise tax on other tobacco products. All of the additional tobacco revenues (including those on other tobacco products) would be used to support various new and existing programs specified in this measure.

How Additional Tobacco Revenues Would Be Spent

Revenues from the excise tax increase would generally be deposited in a new fund called the Tobacco Tax of 2006 Trust Fund and would be allocated for various specified purposes, as shown in Figure 1 later in this analysis.

ANALYSIS BY THE LEGISLATIVE ANALYST (CONTINUED)

Backfill of Proposition 10 Programs. An unspecified amount of the additional excise tax revenues would be used to fully backfill Proposition 10 programs for early childhood development for a loss of funding that would result from the enactment of the new tax measure. This is because the tax increases contained in this measure are (1) likely to result in reduced sales of tobacco products and (2) could result in more sales of tobacco products for which taxes would not be collected, such as for smuggled products and out-of-state sales. This, in turn, would reduce the amount of revenues collected through the excise taxes imposed under Proposition 10. The amount of backfill payments needed to offset any loss of funding for the Proposition 10 program would be determined by BOE.

Health Treatment and Services Account. Under the measure, 52.75 percent of the funds that remain after providing the Proposition 10 backfill funding would be allocated to a Health Treatment and Services Account. This funding would be used for the purposes outlined below:

- **Hospital Funding.** Nearly three-fourths of the funds in this account would be allocated to hospitals to pay their unreimbursed costs for emergency services and to improve or expand emergency services, facilities, or equipment. Allocations would be based largely on the number of persons that hospitals treat in their emergency departments and their costs for providing health care for patients who are poor. Private hospitals and certain public hospitals, including those licensed to the University of California (UC), would be eligible to receive funding. Hospitals licensed to other state agencies or the federal government would not be eligible for funding.
- **Nursing Education Programs.** These funds would be used to expand nursing education programs in UC, California State University, community college, and privately operated nursing education programs.

- **Additional Allocations.** Funding would be allocated for the support of nonprofit community clinics; to help pay for uncompensated health care for uninsured persons provided by physicians; for college loan repayments to encourage physicians to provide medical services to low-income persons in communities with insufficient physicians; to provide prostate cancer treatment services; and for services to assist individuals to quit smoking.

Health Maintenance and Disease Prevention Account. Under the measure, 42.25 percent of the funds that remained after providing the Proposition 10 backfill funding would be allocated to a Health Maintenance and Disease Prevention Account. This funding would be used for the purposes outlined below:

- **Children's Health Coverage Expansion.** Almost one-half of these funds would be allocated to expand the HFP to provide health coverage to include (1) children from families with incomes between 250 percent and 300 percent of the FPL and (2) children from families with incomes up to 300 percent of the FPL who are undocumented immigrants or legal immigrants not now eligible for HFP. This measure requires MRMIB and DHS to simplify the procedures for enrolling and keeping children in HFP and Medi-Cal coverage and creates a pilot project to provide coverage for uninsured children in families with incomes above 300 percent of the FPL.
- **Tobacco-Related Programs.** These funds would support media advertising and public relations campaigns, grants to local health departments and other local organizations, and education programs for school children to prevent and reduce smoking. Funding would also go to state and local agencies for enforcing laws and court settlements which regulate and tax the sale of tobacco products. Also, some funds would be used to evaluate the effectiveness of these tobacco control programs.
- **Health and Education Programs.** Part of these funds would be set aside for various new or

★ ★ ★ ANALYSIS BY THE LEGISLATIVE ANALYST (CONTINUED)

existing health programs related to certain diseases or conditions, including colorectal, breast, and cervical cancer; heart disease and stroke; obesity; and asthma.

Health and Disease Research Account. Under the measure, 5 percent of the funds that remained after providing the backfill funding discussed above would be allocated to a Health and Disease Research Account. This funding would be used to support medical research relating to cancer in general and breast and lung cancer in particular. In addition, it would support research into tobacco-related diseases, as well as the effectiveness of tobacco control efforts. Part of these funds would be used to support a statewide cancer registry, a state program that collects data on cancer cases.

Other Major Provisions

In addition to the provisions that raise tobacco excise taxes and spend these same revenues, this measure contains a number of other significant provisions, which are described below.

Existing Funding for Physician Payments Continued. In recent years, the state has spent almost \$25 million per year in Proposition 99 funds for allocations to counties to reimburse physicians for uncompensated medical care for persons who are poor. This measure requires that this same level of Proposition 99 funds be allocated annually in the future for this purpose.

Expenditure Rules. The funds allocated under this measure would not be appropriated through the annual state budget act and thus would not be subject to change by actions of the Legislature and Governor. The additional revenues would generally have to be used for the services noted above and could not take the place of existing state or local spending. The state and counties could not borrow these new revenues to use for other purposes, but they could be used to draw down additional federal funds. Contracts to implement

some of the new programs funded by this measure would be exempted from state contracting rules for the first five years.

Oversight Provisions. This measure requires DHS to prepare an annual report describing the programs that received additional excise tax funding and how that funding was used. This information would be made available to the public by DHS on its Web site. Programs receiving these funds would be subject to audit. New state committees would be established to oversee the expansion of children's health coverage and antiobesity programs.

Hospital Charges and Bill Collections. Hospitals that are allocated funds under this measure for emergency and trauma care services would be subject to limits on what they could charge to certain patients in families with incomes at or below 350 percent of the FPL. These hospitals would also have to adopt written policies on their bill collection practices and, under certain circumstances, could not send unpaid bills to collection agencies, garnish wages, or place liens on the homes of patients as a means of collecting unpaid hospital bills.

Coordination of Medical Services by Hospitals. Subject to the approval of certain local officials, hospitals receiving funding under this measure would be allowed to coordinate certain medical services, including emergency services, with other hospitals. For example, hospitals would be permitted to jointly share the costs of ensuring the availability of on-call physicians who provide emergency services. The measure seeks to exempt such coordination of emergency services from antitrust laws that might limit or prohibit such coordination efforts.

FISCAL EFFECTS

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

ANALYSIS BY THE LEGISLATIVE ANALYST (CONTINUED)

Impacts on State and Local Revenues

Revenues Affected by Consumer Response. Our revenue estimates assume that the excise tax increase of \$2.60 per pack is passed along to consumers by the distributors of tobacco products who actually pay the excise tax. In other words, we assume that the prices of tobacco products would be raised to include the excise tax increase. This would result in various consumer responses. The price increase is likely to result in consumers reducing the quantity of taxable tobacco products that they purchase. Consumers could also shift their purchases so that taxes would not be collected on tobacco products, such as through Internet purchases or purchases of smuggled products.

The magnitude of these consumer responses is uncertain given the size of the proposed tax increase. There is substantial evidence regarding the response of consumers to small and moderate tax increases on tobacco products in terms of reduced tobacco consumption. As a result, for small-to-moderate increases in price, the revenue impacts can be estimated with a reasonable degree of confidence. However, the increase in taxes proposed in this measure is substantially greater than that experienced previously. As a result, we believe that revenue estimates based on traditional assumptions regarding this consumer response would likely be overstated. Therefore, our revenue estimates below assume a greater consumer response in terms of reduced tobacco consumption to this tax increase than has traditionally been the case. These estimates are subject to uncertainty, however, given a variety of factors, including the large tax changes involved.

Revenues From Tax Increase on Tobacco Products. We estimate that the increase in excise taxes would raise about \$1.2 billion in 2006–07 (one-half year effect from January through June 2007). It would raise about \$2.1 billion in 2007–08 (first full-year impact). This excise tax increase would raise slightly declining amounts of revenues thereafter.

Effects on State General Fund Revenues. The measure's increase in the excise tax would have offsetting effects on state General Fund revenues. On the one hand, the higher price and the ensuing decline in consumption of tobacco products would reduce state General Fund revenues from the existing excise taxes. On the other hand, the state's General Fund sales tax revenues would increase because the sales tax is based on the price of the tobacco product *plus* the excise tax. The decreases in revenues would approximately equal the increases in revenues.

Effects on Local Revenues. Local governments would likely experience an annual increase in sales tax revenues of as much as \$10 million.

Effects on Existing Tobacco Excise Tax Revenues. The decline in consumption of tobacco products caused by this measure would similarly reduce the excise tax revenues that would be generated for Proposition 99 and 10 programs and for the Breast Cancer Fund. We estimate that the initial annual revenue losses are likely to be about \$180 million for Proposition 10, about \$90 million for Proposition 99, and less than \$10 million for the Breast Cancer Fund. However, these losses would be more than offset in most cases by additional tax revenues generated by this measure, as discussed below.

Impacts of New Programs on State and Local Expenditures

State and local government expenditures for the administration and operation of various programs supported through this measure would generally increase in line with the proposed increase in excise tax revenues. Figure 1 (see next page) shows the main purpose of the accounts established by the initiative, the percentage of funds allocated to each purpose, and our estimate of the funding that would be available for each account in the first full year of tax collection. These allocations would probably decline in subsequent years as excise tax revenues also declined, potentially resulting in a corresponding

★★★ ANALYSIS BY THE LEGISLATIVE ANALYST (CONTINUED)

FIGURE 1		
How Tobacco Tax Funds Would Be Allocated^a		
Purpose	Allocation	Estimate of 2007–08 Funding (Full Year in Millions)
Backfill of California Children and Families First Trust Fund—Proposition 10	Unspecified amount determined by Board of Equalization	\$180
<i>Health Treatment and Services Account</i>	52.75 percent of remaining funds	\$1,015
Hospital emergency and trauma care	74.50 percent of account	\$756
Nursing education programs	9.00 percent	91
Nonprofit community clinics	5.75 percent	58
California Healthcare for Indigents Program—reimbursement of emergency care physicians	5.75 percent	58
Tobacco cessation services	1.75 percent	18
Prostate cancer treatment	1.75 percent	18
Rural Health Services Program—reimbursement of emergency care physicians	0.75 percent	8
College loan repayment program to encourage physicians to serve low-income areas lacking physicians	0.75 percent	8
<i>Health Maintenance and Disease Prevention Account</i>	42.25 percent of remaining funds	\$810
Children's health coverage	45.50 percent of account	\$367
Heart disease and stroke program	8.50 percent	69
Breast and cervical cancer program	8.00 percent	65
Obesity, diabetes, and chronic diseases programs	7.75 percent	63
Tobacco control media campaign	6.75 percent	55
Tobacco control competitive grants program	4.50 percent	36
Local health department tobacco prevention program	4.25 percent	34
Asthma program	4.25 percent	34
Colorectal cancer program	4.25 percent	34
Tobacco prevention education programs	3.50 percent	28
Tobacco control enforcement activities	2.25 percent	18
Evaluation of tobacco control programs	0.50 percent	4
<i>Health and Disease Research Account</i>	5.00 percent of remaining funds	\$95
Tobacco control research	34.00 percent of account	\$32
Breast cancer research	25.75 percent	24
Cancer research	14.75 percent	14
Cancer registry	14.50 percent	14
Lung cancer research	11.00 percent	10
Total Allocations		\$2,100

^a Because the overall revenues from the tobacco tax increase are subject to uncertainty, the actual allocations to programs could be greater or less than the amounts shown here.

Totals may not add due to rounding.

ANALYSIS BY THE LEGISLATIVE ANALYST (CONTINUED)

decrease in state and local expenditures for these new programs.

The state administrative costs associated with the tax provisions of this measure would be minor.

Impacts on Other Tobacco Tax-Funded Programs

This measure would have a number of significant fiscal effects on the three existing programs supported by tobacco excise taxes—Proposition 99 (which supports various health and public resources programs), Proposition 10 (which supports early childhood development programs), and the Breast Cancer Fund (which supports breast and cervical cancer screening and breast cancer research programs).

Proposition 99. This measure does not directly backfill any Proposition 99 accounts for the loss of revenues that would be likely to occur as a result of the excise tax increase proposed in this measure. Specifically, we estimate that this measure would initially result in an annual funding reduction of about \$5 million for the public resources account and initially almost \$25 million for an account that can be used to support any program eligible for Proposition 99 funding.

However, while this measure would reduce revenues for other Proposition 99 accounts, it would also initially provide significant increases in funding in the new accounts created under this measure for activities comparable to those now funded through Proposition 99. This includes health education and tobacco research, hospital services, and physician services. In the aggregate, these activities could initially experience a net gain in funding of almost \$950 million if this measure were enacted.

Proposition 10. Proposition 10 would receive full backfill funding under the terms of this measure. We estimate that this backfill would initially amount to about \$180 million annually.

Breast Cancer Fund. No backfill funding would be provided for the Breast Cancer Fund to offset the loss of revenues resulting from the tax increases proposed in this measure. However, this measure would allocate a set portion of the new tax revenues for breast cancer research and breast cancer early detection services, with the result that these activities initially would likely experience a net gain of about \$80 million annually.

Revenues and Costs From Provisions Affecting Public Hospitals

Some of the hospital emergency services funding provided under this measure could be allocated to public hospitals licensed to state and local agencies, such as those run by UC, counties, cities, and health care districts. This and certain other provisions of the measure could potentially result in increased revenues and expenditures for support of these hospital operations. The magnitude of the fiscal effects of all of these provisions is unknown, but is likely to result in a net financial gain for hospitals operated by state and local government agencies up to the low hundreds of millions of dollars annually on a statewide basis.

Fiscal Impact on State and Counties From Children's Coverage Provisions

Long-Term Increase in State Costs for Increased HFP Enrollment. In the short term, the revenues allocated by this measure to expand HFP would probably exceed the costs to make additional children eligible for health coverage. This would particularly be the case in the early years as enrollment gradually increased. Any excess revenues for expanding children's health coverage would be reserved to support this same purpose in future years.

Over time, however, as the excise tax revenues allocated for this purpose declined (for the reasons mentioned above) and the number of children enrolled in HFP grew, the costs of the expanded HFP could eventually exceed the available revenues. Current state law would permit MRMIB to limit enrollment

★ ★ ★ ANALYSIS BY THE LEGISLATIVE ANALYST (CONTINUED)

in the program to prevent this from occurring. If actions were not taken to offset program costs at that point, however, additional state financial support for the program would be necessary. These potential long-term state costs are unknown but could be significant.

State and County Savings From Shift in Children's Coverage. This measure allows some children now receiving health coverage in local health coverage programs, such as CHIM, to instead be enrolled in the expanded HFP. Also, some children in low-income families receiving health care from counties without local health initiatives would be likely to become enrolled in HFP. These changes would likely result in unknown, but potentially significant, savings on a statewide basis to local governments, particularly for counties.

The Medi-Cal Program could also experience some state savings for emergency services as some children would instead receive their coverage for these and other services through HFP. These savings to the state could reach the tens of millions of dollars annually unless the state decided, as this measure permits, to have these children continue to receive emergency services through Medi-Cal.

Net Increase in State Costs From Pilot Projects and Simplified Enrollment. This measure requires MRMIB and DHS to simplify the procedures for enrolling and keeping children in HFP and Medi-Cal coverage. For example, among other changes, these provisions could allow applicants to "self-certify" their income and assets on their applications for coverage without immediately providing employer or tax documents to verify their financial status. From an administrative perspective, some changes that simplified enrollment rules would reduce state costs, while others, such as changes in computer systems for enrollment activities, would likely increase state costs. As regards caseloads, these changes are likely to increase program enrollment and, therefore, costs for the state. This would occur because children who

are eligible for, but not enrolled in, Medi-Cal and HFP would be signed up for medical benefits and existing enrollees would continue to be served in these programs.

As noted earlier, this measure also directs the state to establish a pilot project to provide health coverage for uninsured children in families with incomes above 300 percent of the FPL. This would also increase state caseload costs.

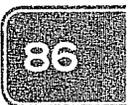
The net fiscal effect of these provisions is an increase in state costs that could exceed \$100 million annually after a few years. Some of these costs could be paid for using the new excise tax revenues generated under this measure.

Potential State and Local Savings on Public Health Costs

Currently, the state and local governments incur costs for providing (1) health care for low-income persons and (2) health insurance coverage for state and local government employees. Consequently, changes in state law that affect the health of the general populace would affect publicly funded health care costs. Because this measure is likely to result in a decrease in the consumption of tobacco products which have been linked to various adverse health effects, it would probably reduce state and local health care costs over the long term.

Some of the health programs funded in this measure are intended to prevent individuals from experiencing serious health problems that could be costly to treat. To the extent that these prevention efforts are successful and affect publicly funded health care programs, they are likely to reduce state and local government health care costs over time. In addition, the proposed expansion of these state health programs could reduce county costs for providing health care for adults and children in low-income families.

The magnitude of state and local savings from these factors is unknown but would likely be significant.



**ALTERNATIVE ENERGY. RESEARCH, PRODUCTION,
INCENTIVES. TAX ON CALIFORNIA OIL PRODUCERS.
INITIATIVE CONSTITUTIONAL AMENDMENT AND STATUTE.**

- Establishes \$4 billion program with goal to reduce petroleum consumption by 25%, with research and production incentives for alternative energy, alternative energy vehicles, energy efficient technologies, and for education and training.
- Funded by tax of 1.5% to 6% (depending on oil price per barrel) on producers of oil extracted in California. Prohibits producers from passing tax to consumers.
- Program administered by new California Energy Alternatives Program Authority.
- Prohibits changing tax while indebtedness remains.
- Revenue excluded from appropriation limits and minimum education funding (Proposition 98) calculations.

Summary of Legislative Analyst's Estimate of Net State and Local Government Fiscal Impact:

- New state revenues—depending on the interpretation of the measure—from about \$225 million to \$485 million annually from the imposition of a severance tax on oil production, to be used to fund \$4 billion in new alternative energy programs over time.
- Potential reductions of state revenues from oil production on state lands of up to \$15 million annually; reductions of state corporate taxes paid by oil producers of up to \$10 million annually; local property tax reductions of a few million dollars annually; and potential reductions in fuel-related excise and sales taxes.

ANALYSIS BY THE LEGISLATIVE ANALYST**BACKGROUND**

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

Virtually all of the oil produced in California is delivered to California refineries. In 2005, the total supply of oil delivered to oil refineries in California

was 674 million barrels, including oil produced in California as well as outside the state. Of the total oil refined in California, approximately 67 percent goes to gasoline and diesel (transportation fuels) production.

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

PROP
87

ALTERNATIVE ENERGY. RESEARCH, PRODUCTION,
INCENTIVES. TAX ON CALIFORNIA OIL PRODUCERS.
INITIATIVE CONSTITUTIONAL AMENDMENT AND STATUTE.

★ ★ ★ ANALYSIS BY THE LEGISLATIVE ANALYST (CONTINUED)

PROPOSAL

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

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

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

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

The wording of the measure regarding the application of the tax rates could be interpreted in two different ways. On one hand, it could be interpreted such that the tax would be applied on a *single rate* basis on the *full* gross value of oil per barrel. For example, if the gross value is \$70 per barrel, the tax would be applied at a rate of 6.0 percent on

the full \$70—yielding a tax of \$4.20 per barrel. On the other hand, it could be interpreted to apply on a *marginal rate* basis similar to the income tax. For example, if the gross value is \$70 per barrel, the first \$10 is not taxed, the value from \$10 to \$25 is taxed at 1.5 percent, and so on—yielding a tax of \$2.17 per barrel.

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

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

Term of the Tax. The measure directs that the new California Energy Alternatives Program Authority (Authority), discussed below, shall spend \$4 billion for specified purposes within ten years of adopting strategic plans to implement the measure. The revenues are to be used for new spending (that is, they cannot be used to replace current spending). Under the measure, the Authority has the ability to raise program funds in advance of collecting severance tax revenues by selling bonds that would be paid back with future severance tax revenues.

The severance tax would expire once the Authority has spent \$4 billion and any bonds issued by the Authority are paid off. The length of time that the tax would be in effect will depend on several factors, including the interpretation of the tax rate, the future price and production of oil, and

PROP 87 ALTERNATIVE ENERGY. RESEARCH, PRODUCTION,
INCENTIVES. TAX ON CALIFORNIA OIL PRODUCERS.
INITIATIVE CONSTITUTIONAL AMENDMENT AND STATUTE.

ANALYSIS BY THE LEGISLATIVE ANALYST (CONTINUED)

decisions about using bonds. Because the measure directs the new authority to spend \$4 billion within ten years, the tax will be in effect at least long enough to generate this amount of revenue and longer if bonds are issued.

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

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

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

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

Allocation of Funds. The funds generated from the severance tax, as well as any bonding against future

severance tax revenues, would be allocated as follows, after first covering debt-service costs and expenses to collect the severance tax:

- **Gasoline and Diesel Use Reduction Account (57.50 Percent)**—for incentives (for example, consumer loans, grants, and subsidies) for the purchase of alternative fuel vehicles, incentives for producers to supply alternative fuels, incentives for the production of alternative fuel infrastructure (for example, fueling stations), and grants and loans for private research into alternative fuels and alternative fuel vehicles.

- **Research and Innovation Acceleration Account (26.75 Percent)**—for grants to California universities to improve the economic viability and accelerate the commercialization of renewable energy technologies and energy efficiency technologies.

- **Commercialization Acceleration Account (9.75 Percent)**—for incentives to fund the start-up costs and accelerate the production and distribution of petroleum reduction, renewable energy, energy efficiency, and alternative fuel technologies and products.

- **Public Education and Administration Account (3.50 Percent)**—for public education campaigns, oil market monitoring, and general administration. Of the 3.5 percent, at least 28.5 percent must be spent for public education, leaving a maximum of 71.5 percent of the 3.5 percent (or roughly 2.5 percent of total revenues) for the Authority's administrative costs.

- **Vocational Training Account (2.50 Percent)**—for job training at community colleges to train students to work with new alternative energy technologies.

FISCAL EFFECTS

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

ALTERNATIVE ENERGY. RESEARCH, PRODUCTION, INCENTIVES. TAX ON CALIFORNIA OIL PRODUCERS. INITIATIVE CONSTITUTIONAL AMENDMENT AND STATUTE. PROP 87

★ ★ ★ ANALYSIS BY THE LEGISLATIVE ANALYST (CONTINUED)

on both future oil prices and oil production in the state. As these variables are difficult to predict, there is uncertainty as to the level of revenue collections.

State and Local Administrative Costs to Implement the Measure. Because programs of the size and type to be overseen by the Authority have not been undertaken before in the area of transportation fuels, the administrative costs to the Authority to carry out the measure are unknown. Under the provisions of the measure, up to 2.5 percent of revenues in the new fund would be available to the Authority for its general administration costs. This would on average set aside from about \$5 million to \$12 million annually for administration. The amount of administrative funds available would depend both on (1) whether the tax was interpreted using the marginal rate interpretation or the single rate interpretation and (2) whether oil production on state and federal lands is taxed.

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

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

Reduction in State Income Tax Revenues. Oil producers would be able to deduct the severance tax from earned income, thus reducing their state income tax liability under the personal income tax or corporation tax. The extent to which the measure would reduce state income taxes paid by oil producers would depend on

various factors, including whether or not an oil producer has taxable income in any given year, the amount of such income that is apportioned to California, and the tax rate applied to such income. We estimate that the reduction would likely not exceed \$10 million statewide annually.

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

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

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

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

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

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

OFFICIAL TITLE AND SUMMARY ★ ★ ★

Prepared by the Attorney General

**EDUCATION FUNDING. REAL PROPERTY PARCEL TAX.
INITIATIVE CONSTITUTIONAL AMENDMENT AND STATUTE.**

- Provides additional public school funding for kindergarten through grade 12.
- Funded by \$50 tax on each real property parcel.
- Exempts certain elderly and disabled homeowners.
- Funds must be used for class size reduction, textbooks, school safety, Academic Success facility grants, and data system to evaluate educational program effectiveness.
- Provides for reimbursement to General Fund to offset anticipated decrease in income tax revenues due to increased deductions attributable to new parcel tax.
- Requires school district audits, penalties for fund misuse.
- Revenue excluded from minimum education funding (Proposition 98) calculations.

Summary of Legislative Analyst's Estimate of Net State and Local Government Fiscal Impact:

- State parcel tax revenue of roughly \$450 million annually, allocated to school districts for specified education programs.

ANALYSIS BY THE LEGISLATIVE ANALYST

BACKGROUND

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

Local Property Taxes. Local governments in California impose a tax based on the assessed value of property. Under such a tax, the amount owed increases as the value of the property increases. Some local governments also impose a type of property tax known as a parcel tax. Under

this type of tax, the amount owed is typically the same for each parcel—or unit—of land. (Currently, state government does not impose either type of property-related tax.)

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

PROPOSAL

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

★ ★ ★ ANALYSIS BY THE LEGISLATIVE ANALYST (CONTINUED)

Creates a Statewide \$50 Parcel Tax

The measure adds a new section to the State Constitution that establishes an annual \$50 tax on most parcels of land in California. (This dollar amount would not change over time.) For purposes of the measure, a “parcel” is defined as any unit of real property in the state that currently receives a separate local property tax bill. This definition would result in the vast majority of individuals and businesses that currently pay property taxes being subject to the new parcel tax. The measure exempts from the new tax any parcel owner who: (1) resides on the parcel, (2) is eligible for the state’s existing homeowner’s property tax exemption, and (3) is either 65 years of age or older or a severely and permanently disabled person.

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

Funds Specific K–12 Education Programs With Tax Proceeds

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

The measure allocates monies to school districts (and other local education agencies) in various ways. The bulk of funding (amounts for K–12 CSR, instructional materials, and school safety) would be

allocated to school districts, public charter schools, and county offices of education using a new per student formula to be created by the Legislature. The formula likely would provide higher per student funding rates for higher-cost students. (Specifically, the formula is to account for cost differences resulting from students’ disabilities, English language skills, or socioeconomic status.) Facility grants would be allocated to school districts and public charter schools using a flat funding rate (capped at \$500) for each student enrolled in certain schools performing above average. For the data system, the measure does not specify how or to whom funding would be allocated. (Future legislation likely would be needed clarifying such issues.) School districts receiving any Proposition 88 funds would be required to conduct an annual independent audit showing how they spent these monies and post the audit reports online.

FIGURE 1

Proposition 88: Allocation of Parcel Tax Revenues

Program	Annual Target Amount (In Millions) ^a
K–12 class size reduction	\$175 ^b
Instructional materials	100 ^b
School safety	100 ^b
Facility grants	85 ^c
Data system	10 ^d
Total	\$470

^a Amounts adjusted annually, on a proportional basis, to reflect actual revenues available.

^b School districts, county offices of education, and public charter schools would be eligible to receive funding. Funding to be distributed using a weighted per student formula.

^c School districts and public charter schools meeting certain criteria would be eligible to receive funding. Funding to be based on an equal per student amount that is capped at \$500.

^d The measure does not specify how or to whom funds would be distributed.

ANALYSIS BY THE LEGISLATIVE ANALYST (CONTINUED)

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

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

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

Facility-Related Grants. Currently, the state provides funds for school facilities primarily using general obligation bonds. In addition, it has provided \$9 million annually for the last several years to help public charter schools in low-income areas cover some of their facility lease costs. The

\$85 million provided by this measure would be for school districts and charter schools that have not yet received any state general obligation bond monies for school facilities. In addition, charter schools are only eligible if they are governed by or operated by a nonprofit public benefit corporation. If those conditions are met, then school districts and charter schools would receive funding for each student enrolled in a school ranking in the top 50 percent based on the state’s standardized test scores. They could use the grants for any general purpose. Districts and schools receiving such grants would be prohibited from receiving future state general obligation bond monies unless the bond expressly allowed them to receive such funding. We estimate that about 40 noncharter schools (serving less than 1 percent of all noncharter enrollment) would be eligible for grants. For charter schools, we estimate about 100 schools (serving about 25 percent of all charter enrollment) would be eligible for grants.

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

FISCAL EFFECTS

We estimate the statewide parcel tax would result in roughly \$450 million in new tax revenue each year. Given that the dollar amount of the tax would not increase, total parcel tax revenues would grow slowly over time as new parcels of land were created (such as by new subdivisions of property). Roughly \$30 million of the parcel tax revenue

★ ★ ★ ANALYSIS BY THE LEGISLATIVE ANALYST (CONTINUED)

would be transferred annually to the state General Fund to offset a projected decline in state income tax revenues (due to increased property-related tax deductions). In addition, the measure sets aside no more than 0.2 percent (or approximately \$1 million annually) for county administration of the parcel tax. The remainder of new tax revenue

would be allocated to schools for the specified education programs. These revenues likely would be somewhat less than that needed to meet the measure's designated funding levels. If so, the program allocations would be adjusted downward proportionally.

OFFICIAL TITLE AND SUMMARY ★ ★ ★

Prepared by the Attorney General

**POLITICAL CAMPAIGNS. PUBLIC FINANCING.
CORPORATE TAX INCREASE. CAMPAIGN CONTRIBUTION AND
EXPENDITURE LIMITS. INITIATIVE STATUTE.**

- Provides that candidates for state elective office meeting certain eligibility requirements, including collection of a specified number of \$5.00 contributions from voters, may voluntarily receive public campaign funding from Fair Political Practices Commission, in amounts varying by elective office and election type.
- Increases income tax rate on corporations and financial institutions by 0.2 percent to fund program.
- Imposes new limits on campaign contributions to state-office candidates and campaign committees, and new restrictions on contributions by lobbyists, state contractors.
- Limits certain contributions and expenditures by corporations.

Summary of Legislative Analyst's Estimate of Net State and Local Government Fiscal Impact:

- Increased revenues (primarily from increased taxes on corporations and financial institutions) totaling more than \$200 million annually. The funds would be spent on the public financing of political campaigns for state elected officials.

ANALYSIS BY THE LEGISLATIVE ANALYST

OVERVIEW OF THE MEASURE

This proposition makes major changes to the way that political campaigns for state candidates and ballot measures are funded. Candidates could choose to receive public funding for the costs of their campaigns. For those candidates choosing not to receive public funding, existing limits on the amount of political donations (“contributions”) would be lowered. Figure 1 shows the main provisions of the measure, which are discussed in more detail below.

candidate is determined by state law. The limits were last changed when voters approved Proposition 34 at the November 2000 general election. Current limits on the amount of money that can be given depend on the office being sought and who is giving the donation. For instance, an individual can give a candidate for the state Assembly a donation of up to \$3,300. On the other hand, a political party can give that same candidate as much money as it chooses. A candidate can accept donations any time before an election and can spend without limit any money that is collected.

89

BACKGROUND

Current Limits on Political Contributions. Candidates for state offices collect private donations from individuals, corporations, political parties, and other organizations (such as labor unions and nonprofit organizations) to pay for the costs of their political campaigns. The maximum amount of money that each person or group can give to a

Role of Committees and Independent Expenditures. Rather than make donations directly to candidates, some individuals and groups choose to make political donations to “committees.” These committees take donations and then decide which candidates to give money. For instance, one type of committee—a small contributor committee—accepts donations of up to \$200 from more than

★ ★ ★ ANALYSIS BY THE LEGISLATIVE ANALYST (CONTINUED)

100 individuals and then distributes the funds to candidates. Other individuals, groups, and committees choose to spend money on political campaigns without giving money directly to candidates. Instead, they make “independent expenditures” without coordinating with the candidate. These independent expenditures, such as television commercials or newspaper advertisements, may encourage voters to support or oppose a candidate. There are no limits on the amount of money that can be donated for or spent on independent expenditures.

Ballot Measures. There are no limits on the amount of money that can be collected or spent for and against state ballot measures (propositions).

State Government’s Responsibilities. The state’s campaign finance laws are administered by the Secretary of State (SOS) and the Fair Political Practices Commission (FPPC). Under state law, individuals and groups must tell SOS how much money has been given, received, and spent on political campaigns. This information is available to the public—generally on the Internet. The FPPC is in charge of enforcing the laws to make sure candidates and donors obey the rules. The FPPC can assess fines on candidates violating election laws.

FIGURE 1
Proposition 89: Main Provisions
<ul style="list-style-type: none"> ✓ Public Funding for Political Candidates <ul style="list-style-type: none"> • A candidate for state office meeting certain requirements could receive state funds to pay for the costs of a political campaign. • The amount of state funds that a candidate would receive would go up if an opponent spent more in private funds. ✓ Lower Contribution Amounts for Privately Funded Candidates <ul style="list-style-type: none"> • For candidates choosing not to receive public funding, the amount of money that could be collected from each individual, corporation, or other group would be lower than is currently the case. ✓ Contribution Restrictions for State Ballot Measures <ul style="list-style-type: none"> • Places new limits on contributions to candidates’ efforts to support or oppose ballot measures. • Places new limits on contributions from corporations to support or oppose ballot measures. ✓ Higher Corporate Taxes <ul style="list-style-type: none"> • Increases tax rate on corporations and financial institutions. For corporations, tax rate would increase from 8.84 percent to 9.04 percent. For financial institutions, tax rate would increase from 10.84 percent to 11.04 percent. • Raises over \$200 million each year to implement the measure.

PROPOSAL

This measure makes significant changes to state laws regarding the financing of campaigns for elected state offices and state ballot measures. The measure’s provisions regarding candidates for office generally affect only state elected officials (see Figure 2).

FIGURE 2
State Elected Officials Covered by Proposition 89
<p>Statewide Officials</p> <ul style="list-style-type: none"> Governor Lieutenant Governor Attorney General Secretary of State Treasurer Controller Insurance Commissioner Superintendent of Public Instruction <p>Legislature</p> <ul style="list-style-type: none"> Senators (40) Assembly Members (80) <p>Board of Equalization Members (4)</p>

PROP POLITICAL CAMPAIGNS. PUBLIC FINANCING.
89 CORPORATE TAX INCREASE. CAMPAIGN CONTRIBUTION AND
 EXPENDITURE LIMITS. INITIATIVE STATUTE.

ANALYSIS BY THE LEGISLATIVE ANALYST (CONTINUED)

PUBLIC FUNDING FOR POLITICAL CANDIDATES

The measure establishes a system for candidates to receive public funds to pay for the costs of campaigning for state offices.

Requirements to Receive Money

In order to receive public funding for a campaign, a candidate would have to meet certain requirements:

- **\$5 Donations and Signatures.** A candidate would be required to collect a number of \$5 donations (“qualifying contributions”) and signatures from residents prior to a primary election. As shown in Figure 3, the required number of donations would range from 750 to 25,000 depending on the office sought. The measure requires that these donations be paid to the state.
- **Private Contributions.** To receive public funding, a candidate could not receive private campaign funding, with two main exceptions. First, beginning up to 18 months prior to a primary election, the measure allows candidates to collect and spend start-up contributions, or “seed money.” (These funds could be used, for instance, to pay costs for collecting the qualifying contributions and signatures.) The measure restricts these types of donations to \$100 each. Total donations would be limited to between \$10,000 and \$250,000 depending on the office (see Figure 3). These funds could only be spent until 90 days prior to a primary election. Second,

candidates would continue to be able to receive donations from political parties. Donations from political parties would be subject to the same limits as for candidates choosing not to receive public funds (described below).

- **Other Requirements.** By accepting public funding, a candidate would be subject to some additional requirements. For example, candidates would be required to participate in public debates before each election. In addition, candidates could not use their personal funds to pay for campaign costs.

Public Funding Provided

Those candidates meeting the requirements described above would become eligible to receive public funds. As shown in Figure 3, the amount of funding would vary based on (1) the office sought and (2) whether it was a primary or general election. For instance, for a primary election, a candidate running for the Assembly could receive \$250,000 for the primary election and an additional \$400,000 for the general election (if successful in the primary election). A candidate for Governor could receive \$10 million in the primary election and an additional \$15 million in the general election. The FPPC would administer the funds and make disbursements using a debit card system.

Additional Public Funds. In cases where a candidate’s opponent chose not to participate in the public financing system, the measure allows a

FIGURE 3

Proposition 89: Public Financing Provisions for Major Party Candidates

Office	Initial Steps		Public Financing Available	
	NUMBER OF \$5 CONTRIBUTIONS	MAXIMUM START-UP CONTRIBUTIONS	PRIMARY ELECTION	GENERAL ELECTION
Assembly	750	\$10,000	\$250,000	\$400,000
Senate	1,500	20,000	500,000	800,000
Board of Equalization	2,000	30,000	250,000	400,000
Statewide officials	7,500	75,000	2,000,000	2,000,000
Governor	25,000	250,000	10,000,000	15,000,000

★ ★ ★ ANALYSIS BY THE LEGISLATIVE ANALYST (CONTINUED)

participating candidate to receive additional funds in some cases. Specifically, if an opponent spent more in private funds than the amount of public funds available, additional public funds would be provided to the candidate on a dollar-for-dollar basis. Similarly, a participating candidate would receive additional public funds if independent expenditures were made in support of an opponent. The maximum amount of additional public funds that a candidate could receive is capped under the measure (generally five times the original amount provided to a candidate and four times the amount for a candidate for Governor). For instance, the maximum amount of additional public funds that a candidate for the Assembly could receive for a primary election would be \$1.25 million.

Funds for Expenses While in Office. Under current law, state elected officials generally may use leftover campaign funds to pay for some expenses while in office. Under the measure, those candidates who accept public financing and win their election would be eligible to receive annual payments to cover similar expenses. Members of the Legislature would receive \$50,000 each year while in office and other state officials would receive \$100,000 each year.

Minor Party and Independent Candidates

The amounts shown in Figure 3 are for

candidates representing major parties (generally, parties whose nominee for Governor in the last election received at least 10 percent of the vote). Under the measure, candidates from minor parties and independent candidates are eligible to receive smaller amounts of public funds. Depending on the situation, a minor party or independent candidate could receive as much as one-half of the amount that a major party candidate receives.

LOWER CONTRIBUTION AMOUNTS FOR PRIVATELY FUNDED CANDIDATES

Lower Campaign Contributions. For those candidates who choose not to participate in the public financing of campaigns, the measure imposes new limits for campaign donations to candidates. The measure's limits generally are much more restrictive than is now the case. For instance, currently individuals, corporations, and other groups can donate \$3,300 per election to a candidate for the Legislature. This measure would restrict contributions to \$500 for legislative candidates. Currently, political parties can give unlimited amounts to candidates. Under the measure, a political party's donations would be limited. For example, a political party could give a privately funded candidate for Assembly up to \$20,000 for a general election. These new limits are summarized in Figure 4.

FIGURE 4
Campaign Contribution Limits for Privately Funded Candidates (For Each Election)

	Individual, Group, or Corporation		Small Contributor Committee		Political Party	
	CURRENT	PROPOSITION 89	CURRENT	PROPOSITION 89	CURRENT	PROPOSITION 89 ^a
Assembly	\$3,300	\$500	\$6,700	\$2,500	No limit	\$20,000
Senate	3,300	500	6,700	2,500	No limit	40,000
Board of Equalization	5,600	500	11,100	2,500	No limit	20,000
Statewide officials	5,600	1,000	11,100	2,500	No limit	200,000
Governor	22,300	1,000	22,300	2,500	No limit	750,000

^aAmounts shown are for general elections. Primary election limits are between one-half and two-thirds of the amounts shown. Political party limits would apply to both privately and publicly funded candidates.

PROP POLITICAL CAMPAIGNS. PUBLIC FINANCING.
89 CORPORATE TAX INCREASE. CAMPAIGN CONTRIBUTION AND
 EXPENDITURE LIMITS. INITIATIVE STATUTE.

ANALYSIS BY THE LEGISLATIVE ANALYST (CONTINUED)

Other Restrictions on Campaign Contributions. The measure also adds other types of restrictions on campaign contributions related to privately funded candidates, which are summarized in Figure 5.

- **Independent Expenditure Contribution Limit.** The measure restricts donations to \$1,000 each year to a committee for independent expenditures. As under current law, individuals could make unlimited independent expenditures if they spent the money on their own, without the use of a committee.
- **Overall Donation Limit.** The measure also adds new limits on the overall amount of political contributions that a person or group can make to candidates and committees in a year. The total amount that could be donated to all types of committees to support or oppose state candidates would be limited to \$15,000. Of this total, however, any contributions over \$7,500 would be required to go for independent expenditures.
- **Lower Political Party Contribution Limit.** The measure lowers an existing limit on annual contributions to political parties from \$27,900 to \$7,500.
- **Lobbyist Restrictions.** Under existing law, lobbyists are prohibited from making contributions to candidates. The measure also forbids lobbyists from making donations to political parties and committees.

- **State Contractor Restrictions.** Under existing law, those individuals and entities receiving state contracts are not subject to any special restrictions on political contributions. The measure forbids, in some instances, those receiving state contracts from making donations to candidates, political parties, and committees.

CONTRIBUTION RESTRICTIONS FOR STATE BALLOT MEASURES

Unlike donations for candidates, the amount of money donated by entities to support or oppose state ballot measures currently is not subject to contribution limits. This measure places two new restrictions on donations for ballot measures:

- First, when a candidate for state office is significantly involved with a committee that supports or opposes a ballot measure, individuals, corporations, and other groups would be limited to a \$10,000 contribution to that committee.
- Second, corporations would be prohibited from making contributions or spending more than \$10,000 to support or oppose a ballot measure. (Nonprofit corporations meeting certain requirements would not be subject to this restriction.) Corporations, however, could establish special committees to collect voluntary donations from employees for additional expenditures.

FIGURE 5

Other Changes Under Proposition 89

	Current	Proposition 89
Candidate-Related Contributions		
• Total annual contribution to an independent expenditure committee to support or oppose a candidate.	No limit	\$1,000
• Total annual contributions to political parties for candidate-related expenditures.	\$27,900	7,500
• Total annual contributions to all types of committees for candidate-related expenditures.	No limit	15,000 ^a
Ballot Measure Contributions		
• Contributions for or against a ballot measure where a candidate is significantly involved.	No limit	\$10,000
• Contributions for or against a ballot measure by a corporation.	No limit	10,000

^aContributing more than \$7,500 is allowed only for independent expenditures.

★ ★ ★ ANALYSIS BY THE LEGISLATIVE ANALYST (CONTINUED)

FISCAL PROVISIONS

Higher Corporate Taxes. In order to pay for the measure's provisions (primarily for the public financing of campaigns), the measure increases taxes on corporations and financial institutions beginning in 2007. The measure increases the income tax rates paid by corporations from 8.84 percent to 9.04 percent. For financial institutions, the rate would rise from 10.84 percent to 11.04 percent.

Other Revenues. In addition, the measure would result in other, small sources of revenues, primarily the collection of candidates' \$5 contributions and fines on candidates violating election laws. (Under current law, fines for violating election laws are deposited into the state's General Fund.)

Total Amount of Funds. The total amount of funds that could be held by the state at any time for the measure's purposes would be limited to about \$900 million. (The formula determining this amount would be adjusted for inflation every two years.) Any amount over this limit would be transferred to the state's General Fund. If there were not enough money to fully fund the measure's provisions, the measure authorizes FPPC to proportionately reduce the amount of funds available to each candidate.

OTHER PROVISIONS

Administration Costs. The measure provides that a minimum of \$3 million (adjusted for inflation every two years) of the new funds would go to FPPC to pay for the administration of the measure. The SOS would also be required to use some of the funds for a voter education campaign.

Election Procedures. The measure makes a number of other changes to election procedures. For instance, the measure prohibits any candidate (whether receiving public financing or not) from collecting campaign donations earlier than 18 months prior to a primary election. Also, the measure changes what counts as independent and political expenditures prior to an election. These changes

would result in more spending being subject to donation limits and disclosure requirements.

FISCAL EFFECTS

New Revenues. We estimate that the measure would raise over \$200 million annually. Virtually all of this amount would come from the increased taxes on corporations and financial institutions. Small amounts would come from the collection of candidates' \$5 contributions and fines on candidates violating election laws. Since fines for violating election laws are currently deposited in the state's General Fund, the measure would slightly reduce General Fund revenues (by about \$1 million annually).

New Spending. The new funds would pay for costs associated with the measure. We estimate costs to administer the provisions of the measure and pay for voter education would be in the range of several million dollars each year. (There would be additional one-time costs, largely for computer systems and voter education, to set up the public financing of campaigns for the first time.) The remaining funds would be available for candidates who choose to receive public funds for their political campaigns. The amount of spending on the public financing of election campaigns would depend on a number of factors and vary from election to election. Among the factors affecting spending would be:

- The number of candidates accepting public funds.
- The amount of money spent by candidates not receiving public financing (which would determine the level of any additional public funds).

The measure provides that total spending could not exceed the amount of money available from the increased revenues. Assuming that the number of candidates in each election does not increase significantly from current levels, there probably would be sufficient funds available to provide all candidates with the amounts allowed under the measure.

OFFICIAL TITLE AND SUMMARY ★ ★ ★

Prepared by the Attorney General

GOVERNMENT ACQUISITION, REGULATION OF PRIVATE PROPERTY. INITIATIVE CONSTITUTIONAL AMENDMENT.

- Bars state and local governments from condemning or damaging private property to promote other private projects or uses.
- Limits government's authority to adopt certain land use, housing, consumer, environmental and workplace laws and regulations, except when necessary to preserve public health or safety.
- Voids unpublished eminent domain court decisions.
- Defines "just compensation."
- Government must occupy condemned property or lease property for public use.
- Condemned private property must be offered for resale to prior owner or owner's heir at current fair market value if government abandons condemnation's objective.
- Exempts certain governmental actions.

Summary of Legislative Analyst's Estimate of Net State and Local Government Fiscal Impact:

- Increased annual state and local government costs to pay property owners for (1) losses to their property associated with certain new laws and rules, and (2) property acquisitions. The amount of such costs is unknown, but potentially significant on a statewide basis.

ANALYSIS BY THE LEGISLATIVE ANALYST

SUMMARY

This measure amends the California Constitution to:

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

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

cover a variety of government requirements, including statutes, ordinances, and regulations.)

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

PROPOSAL

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

What Laws and Rules *Would Not* Require Compensation?

All *existing* laws and rules would be exempt from the measure's compensation requirement. New laws

PAYING PROPERTY OWNERS FOR ECONOMIC LOSSES

State and local governments pass laws and other rules to benefit the overall public health, safety, or welfare of the community, including its long-term economy. (In this analysis, we use the term "laws and rules" to

★ ★ ★ ANALYSIS BY THE LEGISLATIVE ANALYST (CONTINUED)

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

What Laws and Rules Could Require Compensation?

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

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

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

Would Government Pay Property Owners for All Losses?

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

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

EFFECTS ON STATE AND LOCAL GOVERNMENTS

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

- **How Many Laws and Rules Would Be Exempt From the Requirement That Government Pay Property Owners for Losses?** The measure does not require government to compensate property owners under certain circumstances (such as actions to protect public health and safety). If these exemptions were interpreted broadly (rather than narrowly), fewer new laws and rules could require compensation.
- **How Big Is a Substantial Economic Loss?** If relatively small losses (say, less than a 10 percent reduction in fair market value) to a property owner required compensation, government could be required to pay many property owners for costs resulting from new laws and rules. On the other hand, if courts ruled that a loss must exceed 50 percent of fair market value to be a substantial economic loss, government would be required to pay fewer property owners.

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

PROP 90 GOVERNMENT ACQUISITION, REGULATION OF PRIVATE PROPERTY. INITIATIVE CONSTITUTIONAL AMENDMENT.

ANALYSIS BY THE LEGISLATIVE ANALYST (CONTINUED)

- Give property owners incentives to voluntarily carry out public objectives.
- Reduce the scope of government requirements so that any property owners' losses were not substantial.
- Link the new law or rule directly to a public health and safety (or other exempt) purpose.
- Restricting the purposes for which government may take property.
- Increasing the amount that government must pay property owners.
- Requiring government to sell property back to its original owners under certain circumstances.

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

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

Under What Circumstance Could Government Take Property?

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

LIMITING GOVERNMENT AUTHORITY TO TAKE PROPERTY

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

What Property Takings Would Be Prohibited?

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

Over the years, government has taken private property to build roads, schools, parks, and other public facilities. In addition to these uses of eminent domain, government also has taken property for public purposes that do not include construction of public facilities. For example, government has taken property to: help develop higher value businesses in an area, correct environmental problems, enhance tax revenues, and address “public nuisances” (such as hazardous buildings, blight, and criminal activity).

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

PROPOSAL

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

★ ★ ★ ANALYSIS BY THE LEGISLATIVE ANALYST (CONTINUED)

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

How Much Would Government Have to Pay Property Owners?

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

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

When Would Government Sell Properties to Former Owners?

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

EFFECTS ON STATE AND LOCAL GOVERNMENTS

Government buys many hundreds of millions of dollars of property from private owners annually.

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

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

The rest of the property government acquires is used for purposes that do not meet the requirements of this measure. In these cases, government could not use eminent domain and could acquire property only by negotiating with property owners on a voluntary basis. If property owners demanded selling prices that were more than the amount government previously would have paid, government's spending to acquire property would increase. Alternatively, if property owners did not wish to sell their property and no other suitable property was available for government to purchase, government's spending to acquire property would decrease.

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