



Memorandum

TO: RULES AND OPEN GOVERNMENT COMMITTEE **FROM:** Betsy Shotwell

SUBJECT: SEE BELOW

DATE: January 10, 2008

Approved

Date

SUBJECT: ACCEPT CITY POSITIONS ON THE FEBRUARY 5, 2008 STATEWIDE PRESIDENTIAL PRIMARY ELECTION BALLOT – PROPOSITIONS 91 THROUGH 97

RECOMMENDATION

Approve the recommended City positions for Propositions 91-97 on the February 5, 2008 Statewide Presidential Primary Election ballot. Individual ballot proposition summaries, text, and analyses from the Legislative Analyst's Office are attached following the staff analysis and recommendations.

Proposition

Recommended City Position

91. Transportation Funds. Initiative Constitutional Amendment	Take no position
92. Community Colleges. Funding. Governance Fees. Initiative Constitutional Amendment and Statute.	Take no position
93. Limits on Legislators' Terms in Office. Initiative Constitutional Amendment.	Support
94. Referendum on Amendment of Indian Gaming Compact.	Support
95. Referendum on Amendment of Indian Gaming Compact.	Support
96. Referendum on Amendment of Indian Gaming Compact.	Support
97. Referendum on Amendment of Indian Gaming Compact.	Support

PUBLIC OUTREACH

- Criteria 1:** Requires Council action on the use of public funds equal to \$1 million or greater. **(Required: Website Posting)**
- Criteria 2:** Adoption of a new or revised policy that may have implications for public health, safety, quality of life, or financial/economic vitality of the City. **(Required: E-mail and Website Posting)**
- Criteria 3:** Consideration of proposed changes to service delivery, programs, staffing that may have impacts to community services and have been identified by staff, Council or a Community group that requires special outreach. **(Required: E-mail, Website Posting, Community Meetings, Notice in appropriate newspapers)**

This document will be posted on the City's website for the January 16 Rules and Open Government Committee where Council and the public have the opportunity to comment.

COORDINATION

This memorandum was coordinated with the City's Legislative Representative in Sacramento, the City Attorney's Office and the Department of Transportation (Proposition 91).



Betsy Shotwell
Director, Intergovernmental Relations

Attachments: Staff recommendations on Propositions 91-97 with background and analysis
Portions of the California Presidential Primary Election February 5, 2008, Voter
Information Guides

For more information contact: Betsy Shotwell, Director of Intergovernmental Relations at
408-535-8270.



Proposition 91 – Transportation Funds. Initiative Constitutional Amendment.

Recommendation: No position.

Background and Analysis:

At this time, there is no coordinated coalition promoting the passage of Proposition 91. In a compromise with the Governor and the Legislature prior to the November 2006 election, Proposition 1A was placed on the ballot as the preferred measure protecting Proposition 42 transportation funds. Unexpectedly, the Transportation Funding Protection Act of 2006 – Proposition 91 did not meet the qualifications necessary to place an initiative on the ballot and so now appears on the February 5 Statewide ballot. Parties to the Proposition 1A agreement have chosen to take no position on Proposition 91, such as VTA, or to oppose the passage the measure as the proponents of the measure recommend.

Proposition 1A – Transportation Funding Protection (November 2006)

In March 2002, approximately 69 percent of California’s voters approved Proposition 42, which dedicated the California portion of sales tax on gasoline and diesel fuel sales to transportation purposes. It was estimated at the time that beginning in 2008-09, after the sunset of the Traffic Congestion Relief Program (TCRP), Proposition 42 would provide an additional \$6.3 billion dollars to the Bay Area over a 25-year period. Included in Proposition 42 language was the ability for the California State Legislature and the Governor to suspend Proposition 42 allowing the funds to remain in the State’s General Fund in times of an economic emergency. Between 2003 and 2005, Proposition 42 was suspended increasing the transportation-funding shortfall in California.

In an effort to strengthen the firewalls surrounding Proposition 42, voters passed, Proposition 1A in November 2006. Proposition 1A amended the State constitution to further limit the conditions under which the Proposition 42 transfer of gasoline sales tax revenues for transportation uses could 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;
- Allows suspension to occur twice in ten consecutive fiscal years; and,
- The repayment of a past suspension, excluding those made prior to 2007-08, to be repaid in full prior to the Legislature and Governor approving a new suspension of funds.

Proposition 91 (February 2008 State Ballot)

Proposition 91 would amend the State Constitution in the following ways:

- Eliminates the state’s authority to suspend the transfer of gasoline sales tax revenues to the Transportation Investment Fund (TIF), which funds highways, streets and roads, and transit systems.

- Eliminates the authority to loan Article XIX funds (excise tax on fuel used to drive motor vehicles on public streets and highways, truck weight fees, driver license fees, and vehicle registration fees) to the General Fund for multiple years. Funds could still be loaned to the General Fund for short-term cash flow purposes within a fiscal year, and must be repaid within 30 days of the adoption of a budget for the following fiscal year.
- Eliminates existing constitutional restrictions that limit loans of Public Transportation Account (PTA) funds to the General Fund

The Transportation Funding Protection Act of 2006 was circulated for signatures prior to Proposition 1A being placed on the November 2006 ballot. The ballot initiative, which became Proposition 91, was circulated in response to the past practice of diverting Proposition 42 funds for non-transportation purposes. In a compromise with Governor Schwarzenegger and the Legislature, the supporters of the Transportation Funding Protection Act of 2006 (Proposition 91) supported Proposition 1A and delayed their measure from appearing on the November 2006 ballot.

Support and Opposition: The measure's original proponents submitted language for the Secretary of State's Official Voters Information Guide recommending that voters vote no on Proposition 91 as "it is no longer needed." There were no arguments filed in opposition to the Proposition.

Proposition 92: Community Colleges. Funding. Governance. Fees. Initiative Constitutional Amendment and Statute.

Recommendation: No position. While this Proposition could allow community colleges to offer more accessible and affordable academic and vocational education, it also reduces the flexibility needed on the state level to set budgets. Restrictive constitutional provisions regarding funding have, in the past, led to budget crises that have negatively affected local government.

Background and Analysis:

According to the State's Legislative Analyst, (LAO), "California Community Colleges (CCC) provide instruction to about 2.5 million students annually. The CCC system is made up of 109 colleges operated by 72 districts throughout the state. The system provides a number of educational programs and spends over \$8 billion in public funds annually. About two-thirds of the funding that supports community college programs comes from the state General Fund and local property taxes. The remaining one-third comes from other sources (such as student fee revenue and federal funds)."

Each year the state provides under the mandate of voter passed Proposition 98 in 1988, a minimum level of funding for elementary, secondary schools and community colleges (K-14). An additional requirement specifies that K-14 education must receive at least a specified percentage (about 40 percent) of General Fund revenues each year. Under the Proposition 98 formula calculated every year based on changes to the economy and K-12 attendance a minimum amount of funding for K-14 is determined. According to the LAO, "in recent years, community colleges have received between 10 percent and 11 percent of total Proposition 98 funds."

Proposition 92:

If passed by the voters, the main provisions of Proposition 92 are as follows:

- **Education Funding Level:** Changes current minimum education funding requirement into two separate requirements: one for K-12 schools and one for community colleges.
- **Student Fees:** Lowers community colleges education fees from \$20 per unit to \$15 per unit and significantly limits the state's authority to increase fee levels in future years. Any fee increase would require a two-thirds vote of the legislature.
- **Governance:** Formally establishes the community colleges in the State Constitution and increases the size of the community colleges state governing board and the board's administrative body.
- **Fiscal Impact:** Would increase state spending on K-14 education from 2007-08 through 2009-10 averaging about \$300 million per year, with unknown impacts

annually thereafter. Loss of student fee revenues to community colleges – potentially about \$70 million annually.

According to the LAO, Proposition 92 “would not change the existing requirement that roughly 40 percent of General Fund revenues be spent on K-14 education. Consequently, Proposition 92’s new funding formulas would not apply in years when K-14’s share of General Fund spending was less than this level. In these years, the existing K-14 minimum funding requirement would apply and the state would continue to have discretion over how to allocate funds between K-12 schools and community colleges.”

The basic problem with the Proposition is that it places additional restrictions into the State Constitution that will affect how the State structures its budget. In the past, such constitutional restrictions have severely affected how the State addresses revenue shortfalls, leading to consequential impacts on other local governmental entities. Although this Proposition has laudable objectives (during the past decade fees have fluctuated between \$11 and \$26 per unit), the number of constitutional provisions limiting the State Legislature and the Governor has made California increasingly unable to effectively respond to fiscal funding crises.

Support/Opposition:

Supporters for Proposition 92 include the Faculty Association of California Community Colleges, the President of the California Community College Trustees and the California Federation of Teachers. Supporters also include the Chancellors of the West Valley – Mission Community College District, the San Jose/Evergreen Community College District and the Foothill – DeAnza Community College District.

Opponents include the Presidents of the California Chamber of Commerce, Small Business Action Committee, the California Taxpayers’ Association, the California Teachers Association and the Governing Boards of the University of California and the California State University Systems.

Proposition 93: Limits on Legislators' Terms in Office. Initiative Constitutional Amendment

Recommendation: Support. Passage of Proposition 93 would authorize an extension for those members of the Legislature who under current law otherwise would be termed out in 2008 and would enhance the seniority of members of the Legislature which translates into holding key committee positions that can benefit their constituency in many ways. For example, by allowing Legislators to serve up to twelve years in either the Senate and the Assembly, the City's and the region's potential opportunities for state funding for infrastructure projects is enhanced. Proposition 92 would stabilize the Legislature and would allow for legislators to stay in one-house for a longer time and apply their expertise and experience gained while doing so to dealing with the State's complex issues.

Background and analysis:

In 1990, the state's voters passed Proposition 140 which among many changes, changed the State Constitution to create term limits for the Legislature. Currently, an individual generally cannot serve a total of more than 14 years in the State Legislature. An exception is if one is finishing out less than one-half of another person's term. An individual's service is restricted to six years in the Assembly (three two-year terms) and eight years in the Senate (two four-year terms).

Proposition 93:

Under Proposition 93, an individual could serve a total of 12 years in the Legislature compared to 14 years in current law. The 12 years could be served without regard to whether they were in the Senate or the Assembly. As example, an individual could serve six two-year terms in the Assembly, three four-year terms in the Senate or some combination of terms in both houses totaling 12 years. Some current members of the Legislature may serve longer than the current 14 years if they have less than 12 years in their current legislative house. According to the LAO this measure would have no direct fiscal effect on state or local governments.

Support/Opposition:

Arguments in support of Proposition 93 were signed by the President of the California Small Business Association, the Executive Director of the California League of Conservation Voters, the President of the California Association of Highway Patrolmen. Opponents to Proposition 93 include the President of the Howard Jarvis Taxpayers Association, the California Insurance Commissioner, Steve Poizner, and the President of the National Tax Limitation Committee

Propositions 94, 95, 96 and 97: Referendums on Amendment to Indian Gaming Compact.

Recommendation: Support. Passage of the four measures would add to the State's annual government revenues "probably in the tens of millions of dollars, growing over time through 2030" according to the Legislative Analyst's Office (LAO).

Background and Analysis:

These four measures relate to the gambling operations of the Pechanga Band of Luiseno Indians in Riverside County (94), the Morongo Band of Mission Indians in Riverside County (95), the Sycuan Band of the Kumeyaay Nation in San Diego County (96), and the Agua Caliente Band of Cahuilla Indians in Riverside County (97).

The State Constitution allows the Governor to negotiate agreements – known as compacts – with Indian tribes. From the State Ballot booklet LAO analysis, "a compact authorizes a tribe to operate casinos with certain slot machines and card games. The Constitution gives the Legislature the power to accept or reject compacts. In 1999, the Governor and 58 tribes, including the four tribes mentioned above, reached agreements on casino compacts and the Legislature passed a law approving them. The U.S. government then gave the final approval of these compacts. All of the 1999 compacts contain similar provisions giving tribes exclusive rights to operate certain gambling activities in California. Several tribes have negotiated amendments to their 1999 compacts in recent years." However, for most of the 58 tribes – including the four tribes referenced above—the 1999 compacts remain in effect today.

In August 2006, the Governor and the four tribes reached an agreement to change the tribes' 1999 compacts. The compact amendments would allow for the tribes to expand its gambling operations significantly and would require, among many things, that the tribes to pay more money to the state. The Legislature also passed four Senate bills approving the compact amendments and would have taken effect on January 1, 2008. However, Propositions 94, 95, 96, and 97, referendums on the four Senate bills, qualified for the ballot and as a result the Senate bills were put on hold, and the four compacts can only take effect if the propositions pass on February 5.

Propositions 94, 95, 96 and 97:

Should the four propositions be passed by the voters the following will take place:

- **Nevada-Style slot machines:** The number of Nevada-Style slot machines allowed to be operated in the four casinos could increase by a total of 17,000 and expand the industry significantly;
- **Payments to the State General Fund:** Currently no payments made by the four casinos go to the State's General Fund as the money goes to two state funds. Supporters of the propositions are indicating that the State General Fund would

gain an estimated \$9 billion for the duration of the agreement through 2030. With the passage of the four propositions, nearly all of the money would go to the State's General Fund. The LAO's "best estimate is that annual state revenues over the next few years would increase by a net amount of less than \$120 million. Over the longer run, the net annual increase could be the low to mid hundreds of millions of dollars lasting until 2030.

- **Environment impacts and increased costs of local services:** Before commencing specified casino projects, tribe and county and/or city would either:
 1. Enter into enforceable agreement to reduce or avoid significant environmental impacts and to pay for increased public service costs, or
 2. Go to arbitration to settle disagreements on these issues.

Support/Opposition:

Supporters of the four propositions include Governor Arnold Schwarzenegger, California Superintendent of Schools Jack O'Connell, the Legislative Director of the California Fire Chiefs Association, Chief Gene Gantt, the Secretary of the California Environmental Protection Agency, the California Fire Chiefs Association, and the California Chamber of Commerce. Opponents include Dolores Huerta, Maury Hannigan, former Commissioner and CEO of the California Highway Patrol, and the California Federation of Teachers.

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