

**Proposition 65:
Local Taxpayers and Public Safety Protec-
tion Act**

The Summary Report from the Informational Hearing

Wednesday, September 22, 2004
State Capitol, Room 112

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Proposition 65

"Local Taxpayers and Public Safety Protection Act"

The *Local Taxpayers and Public Safety Protection Act*, sponsored by the California State Association of Counties, the League of California Cities, and the California Special Districts Association, has qualified for the November 2, 2004 General Election as Proposition 65. When an initiative measure qualifies for the ballot, Elections Code §9034 requires each house of the Legislature to assign the initiative measure to its appropriate committees for public hearings on the subject matter. Any hearings must be held before the election, but not within 30 days of the date of the election.

Accordingly, the Assembly Committee on Local Government and the Senate Committee on Local Government held a joint hearing at the State Capitol on September 22, 2004 to review Proposition 65.

This summary report contains the Senate and Assembly Local Government Committees staffs' explanation of what happened at the hearing [see the *white* pages], reprints the background packet that staff provided for the Committees' members for the hearing [see the *blue* pages], and reproduces the witnesses' written materials [see the *yellow* pages].

What follows is a brief description of the hearing, including lists of the legislators who attended and the witnesses who testified. Following the hearing description is a summary of the themes that emerged from witnesses' comments.

THE HEARING

When: Wednesday, September 22, 2004
Where: State Capitol, Room 112, Sacramento
Committees: Senate and Assembly Local Government Committees

On September 22, the Senate and Assembly Local Government Committees held a joint informational hearing at the State Capital in Sacramento to review Proposition 65. Two Senators and two Assemblymembers received testimony from the Legislative Analyst, the State Department of Finance, and the measure's proponents/opponents. The hearing began at 11:00 a.m. and continued until noon. Ap-

proximately 40 people attended the session, which was televised. The legislators who participated were:

Senator Tom Torlakson, Chair, Senate Local Govt Committee

Senator Nell Soto

Assemblymember Simón Salinas, Chair, Assembly Local Govt Committee

Assemblymember Gene Mullin

Five scheduled witnesses addressed the Committees, two of whom offered written materials that appear in the *yellow* pages at the end of this report. Nobody rose to offer testimony during the public comment period. The League of Women Voters of California and the California Budget Project provided background material before the hearing that appears in the *blue* pages.

The witnesses:

Marianne O'Malley, Principal Fiscal and Policy Analyst*
Legislative Analyst's Office

Pat Landingham, Assistant Program Budget Manager*
State Department of Finance

Pat Leary, Legislative Advocate
California State Association of Counties

Dwight Stenbakken, Deputy Executive Director
League of California Cities

Catherine Smith, Executive Director
California Special Districts Association

*= Written material appears in the *yellow* pages

WHAT WE LEARNED

Any attempt to distill all of the presentations and discussions into a summary must necessarily gloss over important details and subtle nuances. The written materials [see the *yellow* pages] convey the exact thoughts of some of the witnesses, but this section summarizes the testimony. Here's what the legislators learned:

What the initiative does. Marianne O'Malley of the Legislative Analyst's Office (LAO) provided the Committees with an overview of Proposition 65 and highlighted several key differences with Proposition 1A. She told legislators that Proposition 65 would amend the California Constitution to substantially reduce state authority over local revenues and operations by prohibiting the Legislature from taking actions affecting local government revenue sources, such as property taxes, local sales taxes, and Vehicle License Fee (VLF) revenues, without voter approval. O'Malley also explained that the measure is retroactive and would suspend any law enacted after November 1, 2003 that would have required voter approval under the terms of Proposition 65. Suspended laws would only take effect upon approval of the state's voters at the next election.

Legislators also learned that Proposition 65 includes a provision that would authorize a local agency to opt-out of state-mandated local programs, except those related to employee rights, if the state does not provide timely reimbursement of costs associated with performing the mandate. This measure also would expand the definition of a reimbursable mandate to include circumstances where the state increases a local agency's share of costs of a jointly financed program.

The fiscal impacts. The LAO representative, Marianne O'Malley, reported to the Committees that Proposition 65 would have an immediate effect on local and state finance by suspending implementation of the \$1.3 billion property tax shift included in the 2004-05 State Budget agreement, as well as the \$4.1 billion swap of VLF backfill for property tax revenues. She explained that this measure's restrictions on state authority to affect local revenue sources could result in higher and more stable local government revenues, possibly in the range of billions of dollars annually. However, the effect of Proposition 65 on state finances would be the opposite of its effect on local finances, resulting in decreased resources being available for state programs, potentially in the range of billions of dollars annually. The Legislature would also have less authority to shift revenues to address concerns regarding funding for specific local governments, resulting in less change to the revenues of individual local governments.

The Committees also learned, based on an LAO review of state measures enacted in the past related to mandated local programs, that Proposition 65 could result in state reimbursement costs exceeding \$100 million annually.

Pat Landingham of the State Department of Finance discussed the state budget impacts of Proposition 65 from the context of the enacted 2004-05 budget agreement. She agreed with the LAO that the passage of Proposition 65 would "unwind" this year's budget agreement, increasing state costs by \$1.3 billion in the current year because a reduction in local property taxes would be prohibited without voter-approval. Landingham explained that in addition, the State would not be allowed to borrow local property tax in the future without a statewide vote, preventing the level of cooperation from this year's budget agreement in future fiscal emergencies. She further reported that the mandate provisions of Proposition 65 would require the State to provide millions of dollars of reimbursements, or allow local governments to cease performing mandated activities, since numerous mandate reimbursements are currently being deferred.

The proponents have become the opponents. Three local government representatives, Pat Leary, Dwight Stenbakken, and Catherine Smith, conveyed that the impetus for Proposition 65 was their combined frustration over what they perceived as raids by the State of local government revenue sources. As a result, their organizations formed the LOCAL Coalition ("Leave Our Community Assets Local") with the common goal of bringing stability and predictability to local revenues. In particular, local government representatives were looking to protect the three largest forms of revenue: the property tax, local sales tax, and VLF.

In light of what they perceived as a harsh January budget proposal by Governor Schwarzenegger, the LOCAL Coalition collected 1.1 million signatures to qualify the Local Taxpayers and Public Safety Protection Act for the November 2004 ballot as Proposition 65.

The sponsors explained that since qualifying Proposition 65 for the statewide ballot, they agreed to a superior measure with the Legislature and the Governor's Office as part of the 2004-05 State Budget. This new agreement is found in SB 1096 (Committee on Budget and Fiscal Review, 2004), AB 2115 (Committee on Budget, 2004) and SCA 4 (Torlakson, 2004). SCA 4 appears on the November 2, 2004 statewide ballot as Proposition 1A. Pat Leary of CSAC described Proposition 1A as "a much better package in the end." Dwight Stenbakken noted that the

League of California Cities sees Proposition 1A as “not the last word” but as part of an on-going discussion. He noted the need for clean-up legislation next year.

Pat Landingham from Finance reported that the Schwarzenegger Administration supports Proposition 1A and the local government agreement that was reached as part of the 2004-05 State Budget and opposes Proposition 65. She expressed the Administration’s view that Proposition 1A provides an historic level of protection for local governments, while providing some assistance to the state and allowing some flexibility for dealing with future budget problems.

Senator Torlakson asked Marianne O’Malley from the LAO to compare Propositions 65 and 1A. She noted four distinctions. Namely, that compared to Proposition 65, Proposition 1A:

- Is *not* retroactive.
- Allows the Legislature to reallocate non-school shares of property tax revenues without voter approval.
- Defines mandates more narrowly.
- Constitutionally guarantees VLF revenues to local governments.

The initiative process. The local representatives explained that the 2004-05 State Budget agreement requires the state to issue a supplemental voter guide describing both Proposition 65 and Proposition 1A. This additional publication allowed the proponents of Proposition 65 to revise their ballot argument which, as revised, argues in favor of Proposition 1A and against Proposition 65.

Legislators learned that if both measures pass and Proposition 1A receives a greater number of votes, none of the provisions of Proposition 65 will take effect. However, if both measures pass and Proposition 65 receives more votes than Proposition 1A, or if Proposition 65 passes and Proposition 1A fails, key provisions of the 2004-05 budget agreement would be prohibited, including shifts of property tax revenues from cities, counties, and special districts to the state.

The local representatives noted that the absence of support for Proposition 65 has resulted in the measure becoming an "orphan" initiative on the November ballot. Even though the sponsors of the measure are now the opponents, Proposition 65 cannot legally be removed from the ballot.

Closing remarks. In closing, Senator Torlakson observed that it is good to have an historic partnership among local groups, but that it is unfortunate that it

takes a crisis to bring about clear thinking. He further noted that other important issues remain, including new revenue tools, mandate reform, adequate housing, and infrastructure needs.

Assemblymember Salinas recognized this new partnership as an historic step in establishing trust among the parties. He articulated that he hopes to continue to work with all involved.

Senator Soto concurred and noted that it's time to get past the "state vs. local" mentality. Assemblymember Mullin hoped that these ballot measures would be a springboard to other changes.

Senator Torlakson asked a final question, wondering how the local groups were helping to clarify for the electorate the Proposition 65-Proposition 1A switch. Dwight Stenbakken mentioned the ballot arguments. Pat Leary indicated that they were approaching it "one group at a time," using editorial boards, town hall meetings, and other local gatherings as chances to explain and clarify. Catherine Smith explained that CSDA is including explanations in their materials and that they have stopped talking about Proposition 65 and are promoting Proposition 1A instead. They are also encouraging special districts to pass resolutions supporting Proposition 1A.