



A Tradition of Stewardship
A Commitment to Service

Agenda Date: 9/23/2014

Agenda Placement: 11A

NAPA COUNTY BOARD OF SUPERVISORS Board Agenda Letter

TO: Board of Supervisors
FROM: Lawrance Florin - Director
Housing and Intergovernmental Affairs
REPORT BY: Michael Karath, STAFF ASSISTANT - BOS - 299-1477
SUBJECT: Board of Supervisors Discussion on 2014 State Ballot Measures

RECOMMENDATION

Director of Housing and Intergovernmental Affairs, on behalf of the Legislative Subcommittee, requests discussion and possible action on the following November 4, 2014 ballot propositions.

The Legislative Subcommittee recommends the following advocacy positions:

1. Proposition 48 - **OPPOSE**
2. Proposition 1 - **NO RECOMMENDATION**
3. Proposition 2 - **NO RECOMMENDATION**
4. Proposition 45 - **NO RECOMMENDATION**
5. Proposition 46 - **NO RECOMMENDATION**
6. Proposition 47 - **NO RECOMMENDATION**

EXECUTIVE SUMMARY

California Secretary of State Debra Bowen has certified six propositions to appear on the November 4, 2014, ballot. The Legislative Subcommittee met on September 8, 2014, to discuss the measures and recommended to the full Board opposition to:

1. **Proposition 48** - Seeks approval of gaming compacts between the State and the North Fork Rancheria of Mono Indians and the Wiyot Tribe.

The Subcommittee did not take formal positions on the other five propositions:

- | **Proposition 1** - Authorizes a \$7.5 billion water bond bill.
- | **Proposition 2** - Revises rules for State Budget Stabilization Account ("rainy-day fund" for state budget).
- | **Proposition 45** - Requires the State Insurance Commissioner to approve rates for certain types of health insurance, modeling a similar process for automobile or homeowners' insurance rates.
- | **Proposition 46** - Raises medical malpractice cap to \$1.1 million from \$250,000; requires drug and alcohol testing of doctors and reporting of positive tests to the California Medical Board.
- | **Proposition 47** - Changes the felony classification of certain crimes to misdemeanor crimes, including: certain drug possession; and petty theft, receiving stolen property, forging or writing checks, if the amount involved in these crimes is \$950 or less.

PROCEDURAL REQUIREMENTS

1. Staff reports.
2. Public comments.
3. Motion, second, discussion and vote on the item.

FISCAL IMPACT

Is there a Fiscal Impact? No

ENVIRONMENTAL IMPACT

ENVIRONMENTAL DETERMINATION: The proposed action is not a project as defined by 14 California Code of Regulations 15378 (State CEQA Guidelines) and therefore CEQA is not applicable.

BACKGROUND AND DISCUSSION

California Secretary of State Debra Bowen has certified six propositions to appear on the November 4, 2014, ballot. The Legislative Subcommittee met on September 8, 2014, to discuss the measures.

The Legislative Subcommittee recommends opposition to:

Proposition 48 - Seeks approval of gaming compacts between the State and the North Fork Rancheria of Mono Indians and the Wiyot Tribe.

This measure would allow AB 277, the tribal-state compacts with North Fork and Wiyot and the MOUs between the tribe and various governmental agencies, to go into effect. This would allow North Fork to move forward with the construction and operation of a new casino. Wiyot would also be prohibited from conducting gaming on their tribal lands. Additionally, any state or local governmental agency that assists in the construction of the North Fork casino (such as through the construction of a road to the casino) would be exempt from certain state environmental

regulations. If this proposition is rejected by voters, North Fork would not be able to move forward with the construction and operation of a new casino unless a new compact was approved by the state and federal governments. Wiyot would be free to negotiate a new compact with the state for gaming activities on its tribal lands.

CSAC: NO POSITION TAKEN

RCRC: NO POSITION TAKEN

The Legislative Subcommittee did not take formal positions on the other five propositions:

Proposition 1 - Authorizes a \$7.5 billion water bond bill that includes the authorization of \$7.12 billion in new general obligation bonds and the reauthorization of \$425 million in unissued bonds.

This measure authorizes \$7.12 billion in general obligation bonds for state water supply infrastructure projects, such as public water system improvements, surface and groundwater storage, drinking water protection, water recycling and advanced water treatment technology, water supply management and conveyance, wastewater treatment, drought relief, emergency water supplies, and ecosystem and watershed protection and restoration.

Specific spending proposals in the proposition include:

- | \$520 million to improve water quality for "beneficial use," for reducing and preventing drinking water contaminants, disadvantaged communities, and the State Water Pollution Control Revolving Fund Small Community Grant Fund
- | \$1.495 billion for competitive grants for multibenefit ecosystem and watershed protection and restoration projects
- | \$810 million for expenditures on, and competitive grants and loans to, integrated regional water management plan projects
- | \$2.7 billion for water storage projects, dams and reservoirs
- | \$725 million for water recycling and advanced water treatment technology projects
- | \$900 million for competitive grants, and loans for, projects to prevent or clean up the contamination of groundwater that serves as a source of drinking water
- | \$395 million for statewide flood management projects and activities

CSAC: SUPPORT

RCRC: STAFF RECOMMENDS SUPPORT; BOARD TO VOTE NEXT WEEK ON PROPOSITION 1

Proposition 2 - Revises the rules for the State Budget Stabilization Account ("rainy-day fund" for state budget).

This measure amends the State Constitution to end the existing rules for a state budget reserve—the Budget Stabilization Account (BSA)—and replace them with new rules. The new rules would change how the state pays down debt and saves money in reserves. In addition, if Proposition 2 passes, a new state law would go into effect that sets the maximum budget reserves school districts can keep at the local level in some future years. Finally, the proposition places in the Constitution an existing requirement for the Governor's budget staff to estimate future state General Fund revenues and spending. The measure's main provisions include:

- | Requires annual transfer of 1.5% of general fund revenues to state budget stabilization account
- | Requires additional transfer of personal capital gains tax revenues exceeding 8% of general fund revenues to budget stabilization account and, under certain conditions, a dedicated K–14 school reserve fund
- | Requires that half the budget stabilization account revenues be used to repay state debts and unfunded

liabilities

- | Allows limited use of funds in case of emergency or if there is a state budget deficit
- | Caps budget stabilization account at 10% of general fund revenues, directs remainder to infrastructure.

CSAC: SUPPORT

RCRC: SUPPORT

Proposition 45 - requires the State Insurance Commissioner to approve rates for certain types of health insurance, modeling a similar process for automobile or homeowners' insurance rates

This measure makes current and future individual and small group health insurance rates—including rates for health insurance that are regulated by CDI or DMHC—subject to the rate approval process established under Proposition 103. The measure also states that rates proposed after November 6, 2012 must be approved by the Commissioner, and payments based on rates in effect on November 6, 2012 are subject to refund. There is some legal uncertainty about whether the Commissioner could require health insurance companies to issue refunds for health insurance no longer in effect. The measure also broadly defines “rates” in a way that includes other factors beyond premiums, such as benefits, copayments, and deductibles. While there is some uncertainty regarding how this provision would be interpreted, it likely would not give the Commissioner any new authority to approve characteristics of health insurance products beyond premiums, such as the types of benefits covered.

CSAC: NO POSITION TAKEN

RCRC: NO POSITION TAKEN

Proposition 46 - Raises medical malpractice cap to \$1.1 million from \$250,000; requires drug and alcohol testing of doctors and reporting of positive tests to the California Medical Board.

Beginning January 1, 2015, this measure adjusts the current \$250,000 cap on noneconomic damages in medical malpractice cases to reflect the increase in inflation since the cap was established—effectively raising the cap to \$1.1 million. The cap on the amount of damages would be adjusted annually thereafter to reflect any increase in inflation. This measure also requires hospitals to conduct testing for drugs and alcohol on physicians who are affiliated with the hospital. There are currently no requirements for hospitals to test physicians for alcohol and drugs. The measure requires that testing be done randomly and in two specific instances: 1) When a physician was responsible for the care and treatment of a patient within 24 hours prior to an adverse event. (Adverse events include such things as mistakes made during surgery, injuries associated with medication errors, or any event that causes the death or serious disability of a patient.); 2) When a physician is the subject of a report of possible drug or alcohol use while on duty or failure to follow the appropriate standard of care (discussed below). The hospital would be required to bill the physician for the cost of the test. The hospital would also be required to report any positive test results, or the willful failure or refusal of a physician to submit to the test, to the Board. Requires Medical Board to Discipline Physicians Found to Be Impaired. If the Board finds that a physician was impaired by drugs or alcohol while on duty or during an adverse event, or that a physician refused or failed to comply with drug and alcohol testing, the Board must take specified disciplinary action against the physician. This action may include suspension of the physician's license.

CSAC: OPPOSE

RCRC: OPPOSE

Proposition 47 - Changes the felony classification of certain crimes to misdemeanor crimes, including: certain drug possession; and petty theft, receiving stolen property, forging or writing checks, if the amount involved in these

crimes is \$950 or less.

This measure reduces certain non-serious and non-violent property and drug offenses from wobblers or felonies to misdemeanors. The measure limits these reduced penalties to offenders who have not committed certain severe crimes listed in the measure—including murder and certain sex and gun crimes. Specifically, the measure reduces the penalties for the following crimes:

- | Grand Theft - Under current law, theft of property worth \$950 or less is often charged as petty theft, which is a misdemeanor or an infraction. However, such crimes can sometimes be charged as grand theft, which is generally a wobbler. For example, a wobbler charge can occur if the crime involves the theft of certain property (such as cars) or if the offender has previously committed certain theft-related crimes. This measure would limit when theft of property of \$950 or less can be charged as grand theft. Specifically, such crimes would no longer be charged as grand theft solely because of the type of property involved or because the defendant had previously committed certain theft-related crimes.
- | Shoplifting - Under current law, shoplifting property worth \$950 or less (a type of petty theft) is often a misdemeanor. However, such crimes can also be charged as burglary, which is a wobbler. Under this measure, shoplifting property worth \$950 or less would always be a misdemeanor and could not be charged as burglary.
- | Receiving Stolen Property. Under current law, individuals found with stolen property may be charged with receiving stolen property, which is a wobbler crime. Under this measure, receiving stolen property worth \$950 or less would always be a misdemeanor.
 - Writing Bad Checks. Under current law, writing a bad check is generally a misdemeanor. However, if the check is worth more than \$450, or if the offender has previously committed a crime related to forgery, it is a wobbler crime. Under this measure, it would be a misdemeanor to write a bad check unless the check is worth more than \$950 or the offender had previously committed three forgery related crimes, in which case it would remain a wobbler crime.
- | Check Forgery. Under current law, it is a wobbler crime to forge a check of any amount. Under this measure, forging a check worth \$950 or less would always be a misdemeanor, except that it would remain a wobbler crime if the offender commits identity theft in connection with forging a check.
- | Drug Possession. Under current law, possession for personal use of most illegal drugs (such as cocaine or heroin) is a misdemeanor, a wobbler, or a felony—depending on the amount and type of drug. Under this measure, such crimes would always be misdemeanors. The measure would not change the penalty for possession of marijuana, which is currently either an infraction or a misdemeanor. We estimate that about 40,000 offenders annually are convicted of the above crimes and would be affected by the measure. However, this estimate is based on the limited available data and the actual number could be thousands of offenders higher or lower.

CSAC: OPPOSE

RCRC: STAFF RECOMMENDS OPPOSITION; BOARD TO VOTE NEXT WEEK ON PROPOSITION 47

SUPPORTING DOCUMENTS

A . 2014 California Voter Information Guide

CEO Recommendation: Approve

Reviewed By: Helene Franchi