

# CITY OF OAKLAND

## *Agenda Report*

06 AUG 27 10:11:26

To: Council President Ignacio De La Fuente  
and Members of the Rules Committee  
From: Lupe Schoenberger, City Council Legislative Analyst  
Date: September 14, 2006  
Re: OVERVIEW OF STATE PROPOSITIONS ON THE NOVEMBER 2006  
GENERAL ELECTION BALLOT

### SUMMARY

Attached is a report prepared by the City's State Lobbyist, Townsend Public Affairs, summarizing the propositions appearing on the November 2006 General Election ballot..

### ACTION REQUESTED OF COUNCIL

This is an informational report and no action is requested.

Respectfully submitted,



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Lupe Schoenberger  
City Council Legislative Analyst



09/14/06 11:27

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**MEMORANDUM**

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**To:** Council President Ignacio De La Fuente and  
Members of the Rules Committee

**From:** Isaac Kos-Read, Director, Northern California, Townsend Public Affairs, Inc.

**Date:** September 14, 2006

**Subject:** Overview of Propositions on the November 2006 General Election Ballot

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This memo is to provide the leadership of the City of Oakland with a summary and brief analysis of the propositions on the November 7<sup>th</sup> General Election Ballot (the Ballot). The deadline for the Legislature to place any further measures on the Ballot has passed. Therefore, voters will decide on the following propositions this coming election:

- 1A: Transportation Funding Protection. Legislative Constitutional Amendment.
- 1B: Highway Safety, Traffic Reduction, Air Quality, and Port Security Bond Act of 2006.
- 1C: Housing and Emergency Shelter Trust Fund Act of 2006.
- 1D: Kindergarten–University Public Education Facilities Bond Act of 2006.
- 1E: Disaster Preparedness and Flood Prevention Bond Act of 2006.
- 83: Sex Offenders. Sexually Violent Predators. Punishment, Residence Restrictions and Monitoring. Initiative Statute.
- 84: Water Quality, Safety and Supply. Flood Control. Natural Resource Protection. Park Improvements. Bonds. Initiative Statute.
- 85: Waiting Period and Parental Notification Before Termination of Minor's Pregnancy. Initiative Constitutional Amendment.
- 86: Tax on Cigarettes. Initiative Constitutional Amendment and Statute.
- 87: Alternative Energy. Research, Production, Incentives. Tax on California Oil Producers. Initiative Constitutional Amendment and Statute.
- 88: Education Funding. Real Property Parcel Tax. Initiative Constitutional Amendment and Statute.
- 89: Political Campaigns. Public Financing. Corporate Tax Increase. Campaign Contribution and Expenditure Limits. Initiative Statute.
- 90: Government Acquisition, Regulation of Private Property. Initiative Constitutional Amendment.

Propositions 1A, 1B, and 1C offer the potential for very significant funding for the City of Oakland. It is our understanding that City staff has prepared an analysis and resolutions in support of these measures for your review and approval. Therefore this memorandum summarizes the remaining measures for your information. They are separated into two categories: Bond measures and issue propositions.

## **Bond Measures**

**Potential Funding Available:** For over a year now in Sacramento, there has been an unprecedented focus on investment in the infrastructure of California. The product of this focus, which was led by Senator Don Perata, the President Pro Tem of the State Senate, and subsequently championed by Governor Arnold Schwarzenegger, was a five measure legislative package, including one constitutional amendment and four bond measures, as well as a voter-led initiative bond. Please note the following overview of the funding available from the five bond measures (i.e. excluding the constitutional amendment):

<b>Bond Measure</b>	<b>Funding</b>
Proposition 1B: Transportation	\$19,925,000,000
Proposition 1C: Housing	\$2,850,000,000
Proposition 1D: School Facilities	\$10,416,000,000
Proposition 1E: Levees, etc.	\$4,090,000,000
Proposition 84: Environment, Parks, etc.	\$5,388,000,000
<b>Total:</b>	<b>\$42,669,000,000</b>

**Current Polling:** Politically, without any major campaign in favor of the bond measures (or one against them), yet under way, according to the most recent Field Poll, California voters favor all but one of the measures:

<b>Bond Measure</b>	<b>Current Polling</b>
Proposition 1B: Transportation	54% Yes, 27% No, 19% Undecided
Proposition 1C: Housing	33% Yes, 42% No, 25% Undecided
Proposition 1D: School Facilities	48% Yes, 37% No, 15% Undecided
Proposition 1E: Levees, etc.	47% Yes, 33% No, 20% Undecided
Proposition 84: Environment, Parks, etc.	49% Yes, 31% No, 20% Undecided
Link to the Field Poll: <a href="http://www.field.com/fieldpollonline/subscribers/RLS2206.pdf">http://www.field.com/fieldpollonline/subscribers/RLS2206.pdf</a>	

The "Rebuild California" campaign in favor of the legislative bond measure package, Propositions 1B-1E (including Proposition 1A), recently announced the bi-partisan team that will be promoting the bond measures. The campaign in favor of Proposition 84 is being run independently of the Rebuild California campaign. Although there is no guarantee that any of these measures will pass, it is widely expected that with the unified support of the Governor, Legislative Leaders, and major stakeholders and interest groups throughout the state, the measures all could potentially pass.

**Analysis:** The two campaigns – Rebuild California and Yes on 84 - are currently in the phase of raising money and building grassroots support, which includes resolutions of support from local municipalities. If any of the measures pass, the focus will immediately turn to the legislative, budget, and administrative processes that will be involved in allocating the funds. There has been and continues to be some legislative efforts with regards to the bond funding, which we are watching closely on behalf of the City, but the legislative leadership has stated that they do not want any divvying up of the bond funds before the measures even pass.

**FIGURE 1**

**Proposition 1D: Uses of Bond Funds**

	Amount (In Millions)
<b>K-12</b>	
Modernization projects	\$3,300 <sup>a</sup>
New construction projects	1,900 <sup>a,b</sup>
Severely overcrowded schools	1,000
Charter schools facilities	500
Career technical facilities	500
Environment-friendly projects	100
Joint-use projects	29
<b>Subtotal, K-12</b>	<b>(\$7,329)</b>
<b>Higher Education</b>	
Community Colleges	\$1,507
University of California	890 <sup>c</sup>
California State University	690
<b>Subtotal, Higher Education</b>	<b>(\$3,087)</b>
<b>Total</b>	<b>\$10,416</b>

<sup>a</sup> 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.

<sup>b</sup> Up to \$200 million is available for earthquake-related retrofitting.

<sup>c</sup> \$200 million is available for medical education programs.

**Proposition 1D: The Kindergarten-University Public Education Facilities Bond Act of 2006**

Figure 1 shows a break down of funding in this \$10.4 billion measure. The City on its own cannot directly apply for any of these funds, but many non-profit educational, vocational, and related institutions within the City can apply. Further, in the case of the Joint-Use fund, the charter school facilities fund, and the career and technical education facilities fund, the City can be an active partner in working with non-profit organizations within the City as well as with the Oakland Unified School District to pursue funding from these programs. Whereas the majority of the funding in this measure is allocated to long-standing state programs, the \$500 million for career and technical education facilities, \$100 million for environment-friendly projects, and various additional rules within preexisting programs are all new and designed to address challenges faced by urban areas like Oakland that are facing declining enrollment and have many under-funded institutions that provide career and technical education. There is no direct downside to the City in supporting this measure. The only potentially indirect impact is that this measure, along with all of the bond measures, increases the indebtedness of the state, leading to increased debt service payments from the limited state budget General Fund from which local governments must compete for annual funding.

**Proposition 1E: The Disaster Preparedness and Flood Prevention Bond Act of 2006**

While this bond measure is often narrowly referred to as the "Levee bond," there is funding in this measure that is directly relevant to the City of Oakland. Specifically, in addition to the

\$4 billion to address critical repairs to levees that are part of the water system in California, there is a \$300 million Stormwater Flood Management Fund. This is a newly created fund for which the details have yet to be determined, but it is well within the spirit and letter of this law to direct it through future implementing legislation toward stormdrain infrastructure improvement that the City of Oakland needs. Nevertheless, of the four legislative bond measures, this is the one that provides the least potential funding for the City of Oakland and organizations within the city directly and specifically.

**Proposition 84: The Safe Drinking Water, Water Quality and Supply, Flood Control, River and Coastal Protection Bond Act of 2006**

This \$5.388 billion measure was a voter-led initiative backed by a coalition of environmentalists, supporters of parks and open space, and related interests. When this measure was being developed in 2005, Townsend Public Affairs, Inc. was actively involved with the authors of the bond measure in crafting specific funding programs. Of the approximately \$5.4 billion in the measure, we have identified the following funds that either the City could apply for directly or agencies within the City could pursue:

**Safe Drinking Water and Water Quality Projects**

- Emergency Safe Drinking Water projects \$10m
- Small Community Drinking Water Systems Grants \$180m
- Safe Drinking Water Revolving Fund \$50m
- State Water Pollution Revolving Fund \$80m
- Integrated Regional Water Management
  - SF Bay Region \$138m
  - Inter-regional, state-wide \$100m
- Groundwater pollution prevention revolving fund \$60m
- Delta Water Quality \$130m
- Agricultural Wastewater Clean-up \$15m

**Protection of Rivers, Lakes and Streams**

- River Parkways \$72m
- Urban Streams \$18m
- Restoration/Conservation projects CCC \$45m
- Stormwater cleanup \$90m

**Beaches, Bays and Coastal Protection**

- San Francisco Bay Area Conservancy Program \$108m

**Parks and Nature Centers**

- Nature Education Centers, Museums and Aquariums \$100m

**Sustainable Communities \$580m**

- Urban Greening and Joint Use Projects \$90m
- Local and Regional Parks \$400m
- Smart Land Use \$90m

Several of these funds for which the City itself could apply are going to be subject to implementing legislation. These include, but are not necessarily limited to all of the Sustainable Communities Programs, the Nature Education Center Program, and the stormwater clean-up program. Elements

of these funds are supplemental or redundant to funding within Propositions 1C and 1E, but even if all three measures pass, that will only mean more potential funding for projects in the City of Oakland.

**Conclusion:** To conclude the analysis, it is important to note that the bond measures on the ballot include significant funding for transportation, housing, educational, water, and related public infrastructure improvements throughout the City of Oakland. As currently written, many of the funds in the bond measures will benefit cities like Oakland that have been pursuing urban infill, sustainable, and smart-growth strategies, while also benefiting numerous non-profit organizations and local public agencies that also contribute to the well-being of the residents of the City. Through future implementing legislation, many of the most important funds for the City of Oakland can be modified further to create eligibility and priority criteria that benefits the City and projects with the City. The bond measures on the November 2006 ballot thus represent an unprecedented opportunity for the City of Oakland.

### **Issue Propositions**

There are seven propositions on the November 2006 ballot that are not bond measures:

#### **Proposition 83: Sex Offenders. Sexually Violent Predators. Punishment, Residence Restrictions and Monitoring. Initiative Statute.**

This measure would enact the following changes to California law:

- 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 the 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.

According to the latest Field Poll, Proposition 83 is currently favored by an overwhelming 76% to 11% margin.

The policy impacts of this measure on the City of Oakland are largely unknown. The Legislative Analyst suggests the possibility of increases in parole program costs, courts system costs, and capital outlay for prisons. To the extent that these are costs borne by the City of Oakland, this should be taken into account.

#### **Proposition 85: Waiting Period and Parental Notification Before Termination of Minor's Pregnancy. Initiative Constitutional Amendment.**

This measure, which is the rebirth of Proposition 73 that was defeated on the November 2005 ballot by a 52.6% to 47.4% margin, would do the following:

- 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.

The latest Field Poll has this measure trailing by one percentage point. There would likely be little direct impact to the City of Oakland with this measure, but the costs to local public health agencies could be great depending on the additional costs

As with Proposition 83, the direct impact of this measure on the City of Oakland is *challenging to calculate*. The Legislative Analyst projects increased healthcare costs locally, and this may indirectly affect the City of Oakland.

**Proposition 86: 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.**

This measure, which is strongly opposed by the tobacco industry, would have the following effect:

- 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, and 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.

This measure is currently favored by a nearly two-to-one margin by California voters.

The long-term fiscal impact of this measure on the City of Oakland is unclear, but likely positive given increased revenue for health-related programs and likely declining long-term public health costs driven by the reduced rate of smoking that both the tax itself and the programs funded by the tax is expected to generate.

**Proposition 87: Alternative Energy. Research, Production, Incentives. Tax on California Oil Producers. Initiative Constitutional Amendment and Statute.**

This measure is akin to the Stem-Cell Initiative in that it is largely supported by venture capitalists involved in a particular industry, in this case the "cleantech" industry, pitting it against the oil industry. The following are the key points of the measure:

- 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.

This measure is currently polling favorably with a 52% to 31% margin. Both proponents and opponents of this measure are expected to spend significant money on their respective campaigns, so it is much too early to tell what is likely to happen with this measure.

The potential impact of Proposition 87 on the City of Oakland is challenging to evaluate, given that most of the revenue and expenditures that the measure would generate involve the state.

**Proposition 88: Education Funding. Real Property Parcel Tax. Initiative Constitutional Amendment and Statute.**

Developed and promoted by EdVoice, an education advocacy organization, this measure has the following key elements:

- 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.

We have yet to see polling on this measure, but the opposition includes a broad range of groups that seldom if ever have agreed on a proposition including, but not limited to, the California Democratic Party, Governor Schwarzenegger, California Federation of the AFL-CIO, California State PTA, Howard Jarvis Taxpayers Association, and the League of Women Voters.

**Proposition 89: Political Campaigns. Public Financing. Corporate Tax Increase. Campaign Contribution and Expenditure Limits. Initiative Statute.**

This measure would have the following effects:

- 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.



Backed by the California Nurses Association and several other groups that have been pushing for publicly-financed campaigns and campaign finance reform, this measure has yet to be polled. The California Democratic Party has taken a neutral position. The California Chamber is leading the opposition, calling this measure "a blatant effort to deprive California's job providers of a voice in the political process."

**Proposition 90: Government Acquisition, Regulation of Private Property. Initiative Constitutional Amendment.**

This measure, an initiative largely funded by out-of-state interests, has the following impact:

- 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.

Preliminary Field Poll results suggest that this measure has slightly favorable margins among likely voters, however the campaigns for and against are just beginning. The supporters are primarily funded by the "Fund for Democracy," created and largely funded by New York City developer Howard Rich. It has been given more attention by the US Supreme Court Kelo decision last year, but opponents point out that what the measure proposes goes much farther than simply eminent domain issues. Opposition is led by environmental groups, policy and fire firefighter associations, among many others.

The impact on the City of Oakland would be very significant, as it would be on any governmental agency in the State of California, affecting any and every law pertaining to land use, housing, consumer, environmental and workplace laws and regulations, except when necessary to preserve public health or safety.