



Proposition 91: Transportation Funds. Initiative Constitutional Amendment.

OCTax Position: OPPOSE

Proposition 91 would prohibit motor vehicle fuel sales and use taxes that are designated for the Transportation Investment Fund (TIF) from being retained in the general fund so that they could be “borrowed” for other uses. TIF tax revenue could be borrowed only if the Governor issues a proclamation and the Legislature enacts a special statute by a 2/3 vote. TIF money could be borrowed only twice in ten consecutive fiscal years, and not until all prior borrowings have been repaid. Repayment would be required within four years. Proposition 91 also would require repayment by June 2017 of transportation funds already retained in the general fund from July 2003 to June 2008. Currently, repayment is required by June 2016.

Fiscal Impact: none, because 2006’s Proposition 1A already does what Proposition 91 would do.

OCTax Analysis: even Proposition 91’s authors ask for a “no” vote because the measure is redundant. While its proponents were gathering signatures to put it on the ballot, the Governor and the Legislature put a similar measure, Proposition 1A, on the 2006 ballot. Voters approved Proposition 1A by 77%. Even though Proposition 1A obviates Proposition 91, the law requires that Proposition 91 be on the 2008 ballot because the requisite signatures had been gathered.

The admirable intent of Proposition 91 and its prevailing twin, Proposition 1A, is to limit the amount of transportation money politicians can borrow for other uses. Will it work? Yes and no. Yes, it will prevent the Governor and Legislature from diverting money from the TIF as cavalierly as has been their wont. But the state faces a \$16.5 billion structural (i.e., compounding) deficit now and for the foreseeable future. The Governor and Legislature will look lustfully at transportation money. When they borrow it twice per decade to spend on other uses (as they almost certainly will), how will they “repay” it? They won’t. Taxpayers will pay. With interest. Twice. First for the social programs that will be funded with money borrowed from the TIF; a second time to repay the TIF for the loan. Gotcha. Them big-spending political city slickers is a whole batch craftier than us simple rustics who pay the taxes.

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

OCTax Position: OPPOSE

Proposition 92 would: establish in the state Constitution a system of community college districts and governors; require minimum levels of state funding for school districts and community college districts; allocate 10.46% of 1988's Proposition 98 school funding maintenance factor to community colleges; set community college tuition at \$15 per unit per semester; require tuition increases to be approved by a 2/3 vote of the Legislature; and provide taxpayer funding for community colleges that would not otherwise receive general fund revenue.

Fiscal Impact: increase in state spending on K-14 education from 2008 through 2010 averaging \$300 million per year, with unpredictable impacts annually thereafter. Loss of student tuition of about \$70 million annually.

OCTax Analysis: voting rule #1 says that if a ballot initiative is so cryptic that a community college graduate can't understand it, vote "no." The Proposition 92 law comprises over five pages of 8-point type, mostly in arcane legalese. The Legislative Analyst's ballot summary isn't much better. Very few voters will understand what they are voting for.

A voter who hires a lawyer and an accountant to parse Proposition 92 will discover that it would increase spending without providing a source of revenue, lock new spending into the state Constitution to make it irreversible, be a "blank check" with no parameters on spending, and create a bureaucracy of community college insiders with unrestricted power to set salaries and expenses – all at a time when taxpayers are being asked to fill a \$16.5 billion structural deficit.

California's community college tuition today is \$20 per unit, already the lowest in the nation. Proposition 92 would lower it to \$15, and require a 2/3 vote of the Legislature to raise it. This would shift even more of the cost of education from students to taxpayers. According to the "Yes on 92" website, an associate degree adds \$500,000 to a person's lifetime earning capability. Something this valuable merits at least modest sacrifice by the student, yet the \$15 cost of a unit of education would be about the cost of a pizza and a couple of cokes in the campus cafeteria, or less than one-tenth the cost of an i-Pod. Many community college students pay no tuition at all. It would make more sense to raise community college tuition than to lower it.

The community college system is one of California's most valuable assets. It provides workplace skills and moves people up the economic ladder. But these benefits do not justify cluttering the Constitution with Proposition 92's inflexible, unproductive and arbitrary changes.



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

OCTax Position: OPPOSE

Proposition 93 would: reduce the total time a person may serve in the state legislature from 14 years to 12; allow a person to serve a total of 12 years in the Assembly, or in the Senate, or in a combination of both; and allow current members to serve a total of 12 years in the house in which they currently serve, regardless of any previous service.

Fiscal Impact: none.

OCTax Analysis: Proposition 93 would modify 1990's Proposition 140, which restricts a person from serving more than three two-year terms in the Assembly plus two four-year terms in the Senate. The value of the term limits imposed by either measure is subjective. It depends on whether you personally want to 1) retain seasoned legislators, or 2) throw the bums out.

Either way, you would lose under Proposition 93. If you prefer to "retain seasoned legislators," vote "no" on Proposition 93: it would shorten the total time limit for future legislators. If you want to "throw the bums out," vote "no": the measure would give 42 incumbents (most of whom share responsibility for our \$16.5 billion deficit) more years to do mischief.

Proposition 93 began as a self-serving but productive proposal: in exchange for more years in office, incumbent legislators would agree to allow an independent panel to reapportion the state's legislative districts. Unfortunately, incumbents of both parties refused to put their safe districts at risk, so the better half of the deal (i.e., reapportionment) died.

We're left with a ballot proposition whose sole purpose is to give incumbents a few more years of pomp under the capitol dome. According to columnist Dan Walters, "everyone in the Capitol knows that the real reason for [changing the date of the primary election from June to February] was to allow Nunez and other legislators to place a measure on the February 5 ballot to extend their legislative careers through a revision in the term-limit law." Assembly Speaker Nunez and Senate President Pro Tem Perata are the main proponents, and would be the main beneficiaries, of Proposition 93. Arguing in favor of higher taxes, the Speaker said, "the state no longer can fix its [budgetary] imbalance by cuts alone . . . we've been cutting our way out of this budget mess for the last four years." Huh? "Cutting"? Spending has increased 11% per year under the Speaker's and President Pro Tem's leadership. Can we afford to amend the Constitution of the State of California so these people can stay in office for a few more years?

Propositions 94, 95, 96, 97: Referendum Petitions to Overturn Amendments to Indian Gaming Compacts.

OCTax Position: OPPOSE

Propositions 94, 95, 96 and 97, if approved by voters, would let stand existing compacts, approved by the Governor and the Legislature, with each of four Indian tribes (Pechanga, Morongo, Sycuan and Agua Caliente). The compacts permit those four tribes, but no others, to add 17,000 slot machines to the 8,000 they currently operate. In return, the tribes will give the state 15% to 25% of the “net win” (as calculated by the tribes) from the additional machines. (If voters reject the four propositions, the existing compacts would be negated.)

Fiscal Impact: increase in state revenue, in the low hundreds of millions of dollars annually.

OCTax Analysis: tribal gambling monopolies are innately unfair. In 1998 voters approved Proposition 5, which said in effect that casino gambling (i.e., slot machines and house-banked games) is a socially acceptable enterprise. That being the case, casino business opportunities should be available to everyone, not just to monopolists chosen by government on the basis of race. Non-tribal establishments are prohibited from offering casino gambling; they are limited to pari-mutuel betting and card rooms. In addition, Indian tribes are exempt from many state and federal income taxes, local property taxes, and special wagering taxes. Non-tribal gambling establishments must pay those taxes, which puts them at a competitive disadvantage. Non-tribal gambling is taxed at rates higher than ordinary sales taxes.

In 2004, the Governor successfully (and unwisely) opposed Proposition 68, which would have required tribes to pay 25% of casino revenue to the state (\$1 billion per year in 2004, over \$2 billion in today’s dollars). If the tribes had refused, Proposition 68 would have allowed five non-tribal racetracks and 11 card rooms to operate a total of 30,000 slot machines, paying 33% to the state. Either way, Proposition 68 would have been a much fairer deal for taxpayers: more money for the state, possibly less monopoly of the lucrative casino business.

Unfortunately, the Governor reversed course. He signed new compacts that provide less money and more monopoly than 2004’s Proposition 68. If approved by voters, Propositions 94, 95, 96 and 97 would perpetuate those unfavorable compacts.

Monopolies and unfair taxation are bad for taxpayers and bad for business. The existing compacts make the bad deal worse. A “no” vote on Propositions 94, 95, 96 and 97 will negate the existing compacts. Perhaps then we could re-run Proposition 68, which would increase revenue to the state and possibly end or shrink the tribal monopoly on casino gambling.