
CALIFORNIA BUDGET REPORT

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You're going to love it.

80 Potential Ballot Measures Await November Election!

Yes, that's right. Eighty potential ballot measures for the fun, amusement and diversion of the voters of California and the enrichment of political consultants and pollsters may be headed to the November ballot. Since so much of the 2005-2006 budget debate will be overshadowed by a near-certain special election later this year, we thought you might want to see all the serious, semi-serious and just silly ideas that are out there.

A couple of things to remember:

- Historically only about one third of all ballot measures *submitted* to the Attorney General ever qualify for the ballot. Usually this means their sponsors got cold feet or never had the ability to get a lot of signatures in the first place.
- Since 1911, only about one third of all measures *on* the ballot passed.
- The organized groups playing in this muddle (Governor Schwarzenegger through surrogates like the California Chamber of Commerce and the Business Roundtable, the Republican right, anti-tax crusaders like Ted Costa, organized labor and consumer groups and the Democratic left have all submitted a number of ballot propositions. In fact, most of them have submitted alternate versions of measures on reapportionment or budget reform. They will decide later whether to proceed and, if so, with what version of their proposals they will proceed with.
- Expect the number of ballot measures that appear on the ballot to be less than 20. Of course, this is assuming the Governor actually calls the special election, which is likely, but not certain.

Adoption of California's 2005-2006 budget may well depend on how the pending special election plays out. The topics are pretty much known: reapportionment, spending limits for state government, tighter restrictions on how local governments raise money, state budget caps or

automatic reductions, state employee pension changes and adoption of some kind of merit pay for K-12 teachers.

As of March 4, the Secretary of State announced the following:

- One measure has qualified for the June 2006 primary election. This authorizes \$600 million of bonds for public library construction and rehabilitation.
- One measure has qualified for the November 2006 general election, a \$9.95 billion bond issue for high-speed rail in California.
- Some 28 measures are currently in circulation for the special election expected to be called for November 2005. The list currently in circulation is found at http://www.ss.ca.gov/elections/elections_j.htm#circulating.
- An additional 52 measures—that's right, count em'—are in the Attorney General's office awaiting certification. Once that certification is received, a measure can be circulated for signatures. Most of these measures are also slated for the special election. For details, look at http://www.ss.ca.gov/elections/elections_j.htm#ag.

If you need to know anything about ballot measures, start with the Secretary of State's web site, http://www.ss.ca.gov/elections/elections_j.htm#2006Primary.

It is, of course, far too early for us to begin handicapping any of these measures, or predicting their implications for the state budget. And it remains to be seen as to whether the threatened ballot measures force some compromise in the state Legislature. But you can be sure that we will be tracking these developments and reporting to you as things become interesting....

OCCASIONAL BUDGET ISSUES

This new section of our *California Budget Report* is designed to talk about some of the lesser budget issues facing the Governor and Legislature this year. We use the word "lesser" reluctantly, since most of these issues are important on a policy level and usually cost hundreds of millions of dollars. They do not, however, seem to rise to the level of serious media attention. One of our tests for selecting which issues to talk about is our judgment as to whether or not the issue is known to anyone in the public, or very many legislators for that matter. If our answer is "almost no one knows about it," we may decide to talk about the issue.

Here is a juicy example of what we mean, featured by the Legislative Analyst Office in their *Analysis of the 2005-06 Budget Bill*, pages 75 to 79:

A Yuba County flood control lawsuit goes against the State of California: Should we issue debt to pay for a \$464 million settlement?

Sit tight for a minute; it takes a while to tell this story.

In 1986, the Yuba River flooded the small towns of Linda and Olivehurst. Hundreds of homes and a shopping center were damaged and 2,600 individuals sued the state (and the local reclamation district) for damages resulting from improper maintenance of the levees.

OK, you smart readers ask, “How the hell is the state responsible for a levee break in Yuba County?” Here is how it goes:

- The original levee was constructed in 1904 by Yuba County. Much of the material used came from the residue of old hydraulic mining.
- Years later, a federal flood control entity, called the Sacramento River Flood Control Project, agreed to bring the Yuba County levee into its system.
- In 1953, the feds turned the Sacramento River Flood Control Project over to the state of California. The feds conditioned their transfer on the state’s agreement to continue to operate and maintain the flood control system.
- Simultaneously, the state turned over various levees, including the one in Yuba County that broke 30 years later, to a local reclamation district. The agreement with the reclamation district provided that the locals will operate and maintain the levees, but the state would remain responsible for the project.
- The levee broke in 1986, lawsuits were filed and eventually the Court of Appeals held the state responsible for the damages—and the local reclamation district was held innocent. An unfeeling California Supreme Court refused to hear the case.
- The state is now negotiating a settlement that is expected to amount to \$464 million.
- The Governor is proposing to use a “settlement bond” to pay the legal costs. It will surprise none of you that this is borrowing money to pay a one-time obligation.
- The LAO points out that the state has never used this approach before, although a couple of local governments have done so. Borrowing one-time will cost state taxpayers about \$915 million over 30 years, or about \$600 million once you adjust for inflation, according to the LAO.
- The interesting public policy question is not whether we should borrow money to pay a lawsuit settlement. That seems inevitable. What interests us is the increased use of litigation by governors to adopt public policy by indirection. By “indirection” we mean settling a lawsuit (and setting major public policy), having that settlement approved by a court, and then presenting the whole thing to the Legislature. It sounds backwards to us.

Remember how Gray Davis “solved” the affirmative action dispute at UC? He settled the case with supporters of UC and the court approved the settlement.

Another example is Governor Schwarzenegger’s settlement of the *Williams* litigation last year. The ACLU of Southern California, Public Citizens and a host of other groups sued school districts and the state, alleging that under-funding of low-performing schools had led to unsafe classrooms, inadequate textbooks and a lower proportion of well-trained teachers. To the surprise of many, the Governor settled and promised to pony up \$1 billion in additional funds. Eventually, the Legislature agreed, although there was a modest amount of pulling and tugging.

Has California entered a new era? We say that taxes should be cut and never raised, and spending can never be reduced. Given that dilemma, there are obviously going to be sly ways to get around any deadlock. We nominate litigation settlement (and maybe “litigation promotion”) as the new form of governance.

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