

**Agenda Item 12**  
**July 1, 2015**

**DATE:** June 23, 2015

**TO:** Children and Families Commission of Orange County

**FROM:** Christina Altmayer, Executive Director 

**SUBJECT:** Board of Equalization Administrative Fees

**ACTION:** Receive report on Legislative Strategies and the Board of Equalization's Increasing Administrative Fees

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**SUMMARY:**

The Children and Families Commission of Orange County, in partnership with the First 5 Association and First 5 LA, has been leading statewide efforts to address the rising administrative fees associated with the Board of Equalization's (BOE) monitoring and collection of Proposition 10 tobacco taxes. The BOE administrative costs charged to the Children and Families Trust Fund have increased by 600 percent statewide in the past 10 years at the same time that tobacco tax revenue has decreased by nearly 30 percent. For the last fiscal year ended June 30, 2014, the BOE charges were \$16.6 million, a cost of over \$1 million to the Children and Families Commission of Orange County.

In May 2014, the State Assembly Budget Subcommittee, Chaired by Assemblyman Tom Daly directed a review of the BOE's tobacco tax program and required the BOE to submit a report to the Legislature by April 1, 2015 including at least three alternative approaches for future funding of the tobacco tax program. The BOE submitted the report on March 9, 2015 and the Assembly Budget Subcommittee No. 4 on State Administration and Assembly Revenue and Taxation Committee held a joint committee hearing on this matter on April 10, 2015. This agenda item provides a summary of the action approved as part of the FY 2015/16 California Budget.

**DISCUSSION:****Background**

As previously reported to the Commission, this year marked the first time that the Legislature took any action related to the BOE administrative fees imposed on Proposition 10 funds. The efforts were prompted with language included in the Supplemental Report of the FY 2014/15 State Budget requiring the BOE to convene a stakeholder meeting to discuss potential approaches for future funding of the Cigarette and Tobacco Products License Program and then to submit a report to the Joint Legislative Budget Committee and related subcommittees by April 1, 2015. Following the BOE actions, the State Assembly Budget Subcommittee No. 4 held hearings on the matter followed by a report by the State Legislative Analyst Office (LAO). The LAO report documented how licensing fee revenue has been insufficient to support the licensing program expenditures, resulting in the increased demand on Proposition 10 and made several recommendations to move the licensing program to self-sustaining revenue.

### **FY 2015/16 Approved Budget Action**

The Assembly Budget Subcommittee recommended language was included in the final FY 2015/16 State Budget that will keep the BOE issue on the agenda for discussion in next fiscal year as noted below:

By February 1, 2016, the Department of Justice (DOJ), in consultation with the State Board of Equalization (BOE) and the Department of Finance, shall submit a report to the fiscal committees of the Legislature describing options for reducing the administrative costs of the BOE's and the DOJ's cigarette and tobacco programs while maintaining the effectiveness of those programs. Each option shall include a timeline for implementation. Each option shall also include estimates of the effects of implementing that option on the BOE's and the DOJ's administrative costs. At least one option shall be designed to increase the rate of electronic filing of various forms related to the licensing program, the excise tax program, or the tobacco programs administered by the DOJ. The report shall also include options for creating a self-sustaining licensing program.

While the language does not improve or secure the protection of Proposition 10, the action does reflect the Legislature's recognition of the problem and willingness to adopt remedies next fiscal year. Continued efforts will be required over the fiscal year to realize a permanent protection on Commission revenue.

### **New Tobacco Taxes – Senate Bill 591/Assembly Bill 1396**

Proposed Senate Bill 591 (Pan - D) would impose an additional \$2 per pack excise tax of each 20 count pack of cigarettes sold and distributed in California on or after January 1, 2016. Revenue generated would be deposited into the California Tobacco Tax Act Fund, and allocated into three accounts for tobacco prevention and education, disease related health care and tobacco law enforcement. The related proposed Assembly Bill 1396 (Bonta - D) allocates the revenue generated by SB 591 and is contingent on passage of SB 591. Assembly Bill 1396 requires that no more than two-percent of the funds be used for administrative costs and contains a back-fill provision to offset potential losses to Proposition 10 funds.

It is anticipated that should the Legislature not meet the required two-thirds votes that are needed for approval that it would be proposed as a ballot initiative in November 2016. The initiative would be sponsored by the California Medical Association and SEIU (Service Employees International Union) California. The First 5 Association and county Commissions throughout the state have been working with the bill sponsors to include provisions that protect Proposition 10 revenue and have proposed that the bill include an enhanced backfill provision, given First 5 investments in health services for children are at risk as revenue declines.

The Governor has expressed support for an increased tobacco tax and may be considered as part of the revenue solution for the Medi-Cal projected shortfall. The Governor has called for a special session on Medi-Cal funding for the fall.

Curt Pringle will be available to address questions at the July Commission meeting.

**STRATEGIC PLAN & FISCAL SUMMARY:**

No funding action is proposed for this item.

**PRIOR COMMISSION ACTIONS:**

- May 2015 - Received report on Legislative Strategies and the Board of Equalization's Increasing Administrative Fees
- February 2014 - Approved Proposed Legislative Strategy to Address Board of Equalization Administrative Fees
- December 2013 – Executive Officer's Report
- February 2013 - First 5 California/Board of Equalization Administrative Fees

**RECOMMENDED ACTION:**

Receive report on Legislative Strategies and the Board of Equalization's increasing administrative fees; and provide direction to the Commission Executive Director on recommend alternatives.

**Contact:** Christina Altmayer