



Agenda Item 7
July 6, 2016

DATE: June 22, 2016

TO: Children and Families Commission of Orange County

FROM: Kimberly Goll, Executive Director *Kimberly Goll*

ACTION: Receive report on the impact of the new tobacco legislation and the State Budget; and receive presentation from legislative consultant

SUMMARY:

The Children and Families Commission of Orange County has been coordinating with the First 5 Association of California and the Commission's Legislative Consultant, Curt Pringle & Associates, to monitor the tobacco-related actions that could impact the Commission. Several bills were signed by the Governor. In addition, the 2016/17 State Budget was recently approved by the Legislature. An update on the new tobacco legislation and the State Budget are included in this report.

DISCUSSION:

The Commission Executive Director is a member of the First 5 Association Advocacy Committee, which recently issued a report on the status of the latest state and federal tobacco-related developments and the initial projections of the aggregate impact to Proposition 10 revenue. Curt Pringle & Associates continues to monitor the State Budget. Mr. Pringle will provide an update at the July 6 meeting.

Tobacco Tax Legislation

In May 2016, Governor Brown signed five of six special session bills related to tobacco products. The Governor vetoed one measure that would have allowed cities and counties to impose local taxes on tobacco products. The federal e-cigarette regulation, the potential impact of the new tobacco tax bills, and an update on the \$2 tobacco tax initiative are included in the First 5 Association's Policy Report (Attachment 1). The following is summary of the tobacco-related bills signed by the Governor:

- SBX2 7 (Hernandez) increased the legal age to purchase or consume tobacco from 18 to 21, with an exception for active members of the military.
- SBX2 5 (Leno) classified e-cigarettes as tobacco products subject to the same restrictions on who can purchase them, how they are sold and where they can be used.
- ABX2 7 (Stone) expanded California's smoke-free workplace laws to include locations of self-employed individuals who bring clients to their offices, and removes some exemptions, including hotel lobbies, bars and warehouse facilities.
- ABX2 9 (Thurmond) broadened California's tobacco-free school laws to cover all school property at all times.

- ABX2 11 (Nazarian) established an annual Board of Equalization (BOE) licensing fee of \$265 for tobacco retailers, replacing the former one-time fee.

Estimated Revenue Impact

The statewide impact of new tobacco bills and the pending proposals to add a \$2 tax are included on Attachment 2. The confirmed tobacco bills are estimated to have a total negative impact of \$1.2 million. However, should the proposed \$2 tobacco tax initiative pass by the voters, the early estimated revenues are \$1.8 million resulting in a total net increase to Orange County of just over \$600,000. The potential impact to the Commission's revenue is monitored by the Finance Manager against the Long-Term Financial Plan. Any adjustments to the plan will be presented to the Commission in the fall.

California Fiscal Year 2016/17 Budget

On June 15, the California Legislature passed a \$122.5 billion budget package that repeals a cap on welfare payments, includes more money for higher education, increases subsidies for childcare providers and puts an additional \$2 billion in the state's rainy-day reserve. A measure to borrow \$2 billion against revenue from the state's mental health services tax (Proposition 63) to build housing for people with mental illness remains to be voted on by members of the Legislature. A two-thirds super majority is needed for it to pass. The budget is expected to be signed by Governor Brown by the end of the month.

In the area of Early Childhood Education, the State Department of Education is required to develop a new quality funding expenditure plan by March 1, 2017, to be submitted as an amendment to the state's Child Care and Development Block Grant State Plan. The funding plan is expected to prioritize activities that support the Quality Rating and Improvement System (QRIS). The Orange County Department of Education (OCDE) receives state block grant funding to implement QRIS. The Commission has received First 5 California funding to partner with OCDE to support the expansion of QRIS.

STRATEGIC PLAN & FISCAL SUMMARY:

There are no funding actions proposed for this item.

PRIOR COMMISSION ACTIONS:

None

RECOMMENDED ACTION:

Receive report on the impact of the new tobacco legislation and the State Budget; and receive presentation from legislative consultant

ATTACHMENT:

1. First 5 Association Policy & Advocacy News
2. Tobacco Proposals: Estimated Revenue Breakdown

Contact: Kelly Pijl



May 2016

POLICY & ADVOCACY NEWS

Federal E-Cigarette Regulation

On May 5th the Food and Drug Administration (FDA) extended federal regulatory authority to e-cigarettes, banning their sale to anyone under 18 and requiring that adults under the age of 26 show ID to buy them. In addition, producers will be subject to new federal regulation, requiring them to register with the FDA and provide a detailed account of their products' ingredients and their manufacturing processes. Producers (including vape shops that mix e-cigarette liquids) will also have to apply to the FDA for permission to sell their products. The rules also include limitations on marketing of all e-cigarettes launched since 2007, making up the vast majority of the market.

Status: The new rules take effect in 90 days.

Potential First 5 Impact: No anticipated impact on First 5 revenue

Governor Signs Special Session Tobacco Legislation

On Wednesday, Governor Brown signed five of six special session anti-tobacco bills. The bills are California's most significant new tobacco regulations in decades; tightening restrictions on e-cigarettes, raising the smoking age to 21 and implementing an annual BOE licensing fee. Among others.

Annual BOE Licensing Fee

ABX2 11, introduced by Assembly Member Nazarian and signed by the Governor, revises the Cigarette and Tobacco Products Licensing Act to establish an annual Board of Equalization (BOE) licensing fee of \$265, replacing the formerly one-time fee.

Status: Becomes effective June 9, 2016

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Potential First 5 Impact: The LAO estimates that the new fees will raise \$12M and will ensure there is enough money to cover the cost of the licensing program without charging the special funds.

Two of the four cigarette and tobacco product tax funds— those created by Propositions 10 and 99—covered 86 percent of the licensing program’s shortfall in fiscal year 2014–15, amounting to \$6.8M. Of which, the Prop 10 share is approximately \$4.6M. We anticipate that the BOE will not need to charge Prop 10 these costs next year, although we will be watching this issue carefully.

Smoking Age Increase from 18 to 21

SBX2 7, introduced by Senator Hernandez and signed by the Governor, raises the legal age for purchasing tobacco from 18 to 21, with an exemption for active members of the military. Brown’s signature makes California the second state in the nation to raise the tobacco age to 21, following Hawaii. The intent of the bill is to reduce the number of young people who start smoking.

Status: Becomes effective June 9, 2016.

Potential First 5 Impact: The BOE projects reduced tobacco excise tax revenues of about \$43M per year. Based on the current allocations, the Prop 10 share would total approximately \$24.7M.

State Regulation of E-Cigarettes

SBX2 5, introduced by Assembly Member Leno and signed by the Governor, classifies e-cigarettes as a tobacco product subject to the same state restrictions as existing tobacco products. In addition, the law requires electronic cigarette cartridges to be child-resistant. New rules, such as increasing the smoking age to 21 and implementing an annual tobacco licensing fee, also apply to e-cigarettes.

Status: Becomes effective June 9, 2016

Potential First 5 Impact: This bill **does not** change the definition of “tobacco product” in the Revenue and Taxation Code to include electronic cigarettes. Therefore, this bill does not extend the state’s existing tax on those products to e-cigarettes.

Proposed Reallocation of BOE Reserves to Special Fund

On May 4th the Assembly Budget Sub 4 on State Administration approved a staff recommendation to return \$4.8M reserve funds held in the Cigarette and Tax Tobacco Compliance Fund to the special funds, including \$2.995M to Prop 10. The State Auditor’s report had found the balance in the Compliance Fund (funded by special funds including Prop 10) to be excessive. The Governor’s proposed budget would leave a \$7.9M balance.

Status: The Assembly Subcommittee approved the reallocation based on the special funds' share and the issues will now be part of ongoing State Budget negotiations. Pending approval by the Senate and Governor, the reallocation would be included in the 2016-17 State Budget. The Association will track developments and provide updates accordingly.

Potential First 5 Impact: The action would result in \$2.995M additional Prop 10 dollars allocated to the State (\$599K) and County Commissions (\$2.4M).

Update: Ballot Measure

\$2 Tobacco Tax Increase Ballot Measure

The proposed measure would increase excise taxes on the distribution of cigarettes and other tobacco products by \$2 per pack. It also applies, for the first time, the tobacco products excise tax to e-cigarettes. The additional revenues would be used to increase funding for existing healthcare programs and services, tobacco-related prevention and cessation programs, law enforcement programs, medical research on tobacco-related diseases and other specified purposes.

Status: Currently collecting signatures; pending qualification for the November 2016 ballot.

Potential First 5 Impact:

- **Requirements to Backfill:** Any increase in tobacco taxes would result in a decline in sales and decline in tax revenues for the special funds (Prop 99 and Prop 10, the General Fund, and the Breast Cancer Fund). The new measure provides for the backfill of these losses. The LAO estimates that the amount of total backfill funding needed to comply with this requirement would range from \$200-\$230M in 2017-18.
- **E-Cigarettes:** The classification of certain e-cigarettes as tobacco products would generate additional revenue for Prop 99 and Prop 10. The LAO's very rough estimate is that excise taxes on e-cigarettes could generate \$10-\$40M for Prop 10.

Ballot Measure to Legalize Recreational Marijuana Qualifies for the November Ballot

Supporters of a campaign to legalize recreational marijuana use in California announced that they have collected enough signatures to qualify a voter initiative for the November ballot. The Measure, known as the Adult Use of Marijuana Act, would allow residents and visitors 21 and over to buy one ounce of marijuana and marijuana-infused products as licenses outlets and also grow up to six pot plans for personal recreational use. State officials estimate the measure could net as much as \$1 billion a year in new tax revenue for the state and local governments. Revenue would direct most proceeds to cover regulatory costs, research on

the effects of legalization, environmental mitigation, substance abuse treatment and other purposes.

Status: Qualified for the November 2016 ballot.

Potential First 5 Impact: The proposed measure has no revenue impact on First 5.

Tobacco Proposals: Estimated Revenue Breakdown

Green = confirmed proposals

Blue = pending proposals

	% of Births	Impact of Annual Licensing Fee	Impact of Age Increase to 21	Total w/ confirmed proposals	Impact of Proposed \$2 Tobacco Tax (Backfill)	Impact of Proposed \$2 Tobacco Tax (New E-Cig Rev)	Total
Estimate		New fee covers costs currently paid by special funds (including Prop 10)	Reduced tobacco excise tax revenues of about \$43M per year.		\$200 to \$230M in 2017-18.	Very rough estimates from the Legislative Analysts Office	
Source:		State Auditor's Report	Bill Analysis		LAO	LAO	
Prop 10		\$4,600,000	-\$24,510,000	-\$19,910,000	Neutral	\$30,000,000	
First 5 CA (20%)		\$920,000	-\$4,902,000	-\$3,982,000	Neutral	\$6,000,000	\$1,190,000
First 5's (80%)		\$3,680,000	-\$19,608,000	-\$15,928,000	Neutral	\$24,000,000	\$8,072,000
Los Angeles	25.73%	\$946,768	-\$5,044,624	-\$4,097,857	Neutral	\$6,174,571	\$2,076,714
San Diego	8.63%	\$317,662	-\$1,692,585	-\$1,374,923	Neutral	\$2,071,708	\$696,784
Orange	7.57%	\$278,607	-\$1,484,490	-\$1,205,883	Neutral	\$1,817,001	\$611,118
Riverside	6.18%	\$227,322	-\$1,211,233	-\$983,910	Neutral	\$1,482,537	\$498,627
San Bernardino	6.12%	\$225,279	-\$1,200,347	-\$975,068	Neutral	\$1,469,213	\$494,145
Santa Clara	4.70%	\$172,865	-\$921,072	-\$748,207	Neutral	\$1,127,383	\$379,177
Sacramento	3.93%	\$144,692	-\$770,954	-\$626,263	Neutral	\$943,640	\$317,378
Alameda	3.85%	\$141,797	-\$755,532	-\$613,735	Neutral	\$924,764	\$311,029
Fresno	3.22%	\$118,641	-\$632,151	-\$513,510	Neutral	\$773,746	\$260,237
Kern	2.94%	\$108,036	-\$575,643	-\$467,607	Neutral	\$704,581	\$236,974
Contra Costa	2.46%	\$90,610	-\$482,796	-\$392,185	Neutral	\$590,937	\$198,752
Ventura	2.14%	\$78,638	-\$419,004	-\$340,366	Neutral	\$512,857	\$172,491
San Joaquin	2.06%	\$75,769	-\$403,719	-\$327,949	Neutral	\$494,148	\$166,198
San Mateo	1.78%	\$65,614	-\$349,608	-\$283,994	Neutral	\$427,917	\$143,923
San Francisco	1.77%	\$65,265	-\$347,748	-\$282,483	Neutral	\$425,641	\$143,157
Tulare	1.59%	\$58,460	-\$311,488	-\$253,029	Neutral	\$381,259	\$128,230
Stanislaus	1.55%	\$56,901	-\$303,181	-\$246,280	Neutral	\$371,090	\$124,810
Monterey	1.33%	\$48,767	-\$259,845	-\$211,078	Neutral	\$318,048	\$106,970
Santa Barbara	1.15%	\$42,312	-\$225,449	-\$183,137	Neutral	\$275,947	\$92,810
Solano	1.04%	\$38,417	-\$204,695	-\$166,278	Neutral	\$250,544	\$84,266
Sonoma	1.04%	\$38,390	-\$204,550	-\$166,161	Neutral	\$250,368	\$84,207
Merced	0.87%	\$31,849	-\$169,698	-\$137,850	Neutral	\$207,709	\$69,860
Placer	0.77%	\$28,329	-\$150,946	-\$122,616	Neutral	\$184,756	\$62,140
Imperial	0.63%	\$23,367	-\$124,504	-\$101,137	Neutral	\$152,392	\$51,254
Santa Cruz	0.61%	\$22,369	-\$119,190	-\$96,821	Neutral	\$145,888	\$49,067
San Luis Obispo	0.52%	\$19,208	-\$102,344	-\$83,136	Neutral	\$125,268	\$42,132
Yolo	0.49%	\$18,085	-\$96,363	-\$78,278	Neutral	\$117,947	\$39,670
Kings	0.49%	\$17,990	-\$95,855	-\$77,865	Neutral	\$117,325	\$39,460
Butte	0.48%	\$17,654	-\$94,063	-\$76,409	Neutral	\$115,132	\$38,723
Madera	0.47%	\$17,411	-\$92,768	-\$75,358	Neutral	\$113,547	\$38,190

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First 5's (80%)		\$3,680,000	-\$19,608,000	-\$15,928,000	Neutral	\$24,000,000	\$8,072,000
Marin	0.47%	\$17,191	-\$91,598	-\$74,407	Neutral	\$112,114	\$37,708
Shasta	0.41%	\$15,270	-\$81,361	-\$66,092	Neutral	\$99,585	\$33,494
El Dorado	0.32%	\$11,616	-\$61,895	-\$50,278	Neutral	\$75,758	\$25,480
Napa	0.30%	\$11,175	-\$59,543	-\$48,368	Neutral	\$72,880	\$24,512
Humboldt	0.29%	\$10,829	-\$57,702	-\$46,872	Neutral	\$70,626	\$23,754
Sutter	0.26%	\$9,605	-\$51,179	-\$41,574	Neutral	\$62,643	\$21,069
Yuba	0.25%	\$9,172	-\$48,872	-\$39,700	Neutral	\$59,818	\$20,119
Mendocino	0.22%	\$8,016	-\$42,710	-\$34,694	Neutral	\$52,277	\$17,582
Nevada	0.16%	\$6,045	-\$32,207	-\$26,163	Neutral	\$39,421	\$13,259
San Benito	0.15%	\$5,680	-\$30,262	-\$24,583	Neutral	\$37,041	\$12,458
Tehama	0.15%	\$5,592	-\$29,798	-\$24,206	Neutral	\$36,472	\$12,267
Lake	0.15%	\$5,404	-\$28,794	-\$23,390	Neutral	\$35,243	\$11,854
Siskiyou	0.09%	\$3,439	-\$18,323	-\$14,884	Neutral	\$22,428	\$7,543
Tuolumne	0.09%	\$3,305	-\$17,609	-\$14,305	Neutral	\$21,554	\$7,249
Glenn	0.08%	\$2,910	-\$15,507	-\$12,597	Neutral	\$18,981	\$6,384
Calaveras	0.07%	\$2,441	-\$13,009	-\$10,567	Neutral	\$15,923	\$5,355
Del Norte	0.06%	\$2,360	-\$12,573	-\$10,213	Neutral	\$15,389	\$5,176
Colusa	0.06%	\$2,278	-\$12,136	-\$9,859	Neutral	\$14,855	\$4,996
Lassen	0.06%	\$2,218	-\$11,819	-\$9,601	Neutral	\$14,466	\$4,866
Amador	0.05%	\$2,002	-\$10,669	-\$8,667	Neutral	\$13,059	\$4,392
Inyo	0.04%	\$1,630	-\$8,686	-\$7,056	Neutral	\$10,631	\$3,576
Plumas	0.03%	\$1,161	-\$6,187	-\$5,026	Neutral	\$7,573	\$2,547
Mono	0.03%	\$1,057	-\$5,632	-\$4,575	Neutral	\$6,893	\$2,318
Mariposa	0.03%	\$1,020	-\$5,434	-\$4,414	Neutral	\$6,651	\$2,237
Trinity	0.02%	\$804	-\$4,283	-\$3,479	Neutral	\$5,243	\$1,763
Modoc	0.01%	\$536	-\$2,856	-\$2,320	Neutral	\$3,495	\$1,176
Sierra	0.00%	\$141	-\$754	-\$612	Neutral	\$922	\$310
Alpine	0.00%	\$45	-\$238	-\$193	Neutral	\$291	\$98
		\$3,680,015	-\$19,608,079	-\$15,928,064		\$24,000,097	\$8,072,033