



**Agenda Item No. 8  
February 6, 2013 Meeting**

**DATE:** January 28, 2013  
**TO:** Children and Families Commission of Orange County  
**FROM:** Christina Altmayer, Acting Deputy Executive Director   
**SUBJECT:** First 5 California/Board of Equalization Administrative Fees

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**SUMMARY:**

Since 2003-04, there has been a significant increase in the administrative fees charged by the Board of Equalization (BOE) for collection and administration of tobacco taxes, including Proposition 10. While total tobacco tax collection has decreased by approximately 22%, BOE administrative fees have **increased seven-fold in the same time period**. Administrative fees have increased from .3% of total revenue in fiscal year 2003 to 3.4% of total revenue. Actual administrative charges have increased from \$1.9 million in FY 2003-04 to \$15.7 million in FY 2012-13.

In response to the most recent fiscal audit, First 5 California Commission raised questions about the methodology and basis for the BOE administrative charges. The independent audit report by the State Department of Finance made the following finding:

*“The BOE does not have written cost allocation (CAP) procedure for program and administrative costs allocated to the various funds it administers.”*

The report further recommended that the BOE is required per applicable government code and the State Administrative Manual to maintain “documentation of cost allocation procedures.....with detailed information required the costs being allocated, allocation methodology, frequency of allocation, and the rationale for the allocation base”. This information should be supported by appropriately cross-referenced working papers and system documentation, updated periodically, and retained for reference and audit purposes.

Further work on understanding the basis of costs charged by BOE and, developing a strategy to mitigate the dramatic growth in these fees, is being undertaken by the First 5 Association. This agenda item requests Commission approval on a proactive advocacy to address the increasing BOE administrative fees and to ensure that all cost allocation procedures are consistent with appropriate accounting rules, transparent, and verifiable.

**State Board of Equalization**

The State Board of Equalization (BOE) has been the designated tax collection and distribution agency since the passage of Proposition 10 by California voters in 1998. The Board of

**Commissioners**

**Acting Deputy Executive Director**

Equalization enforces and monitors the collection of the Proposition 10 tobacco tax and deposits the revenues in the Children and Families Trust Fund, which was statutorily established for this dedicated funding stream. The BOE's related administrative costs are deducted from the total collected and the net is distributed according to the legislative mandates: 20% of the revenue is allocated to First 5 California to carry out its statutory responsibilities; 80% of the revenue is allocated to independent county commissions based on their proportionate share of statewide births. Since 2009, the Orange County Commission and the First 5 Association have been concerned about the significant growth in these fees and the lack of documentation to explain or justify the allocations.

The Orange County Commission Acting Deputy Executive Director, on behalf of the First 5 Association, expressed the county commission's growing concern over the growth in BOE fees and alerted the First 5 California Commission that we will be directly outreaching to members of the BOE to inform them of both the increasing fees and the recent audit findings. First 5 California staff indicated that the BOE agreed with the recommendations and anticipates having a CAP methodology available in May 2013.

Staff requests approval to aggressively pursue actions to review these administrative charges with the following specific recommendations:

1. **Request an independent review of the proposed cost allocation methodology as proposed by BOE to ensure compliance with generally accepted accounting principles** – There is precedent for this independent review process. Immediately after the passage of Proposition 10, representatives from the County Commissions participated in a workgroup to develop a methodology for the required Proposition 99 backfill. The process was open and transparent and provided multiple opportunities for county commission review and input.
2. **Require a review of the application of the cost allocation methodology for the past three fiscal years (FY 2011, 2012, 2013)** – Once the methodology is developed, prior allocations should be tested against this agreed-to methodology for consistency and verification of prior cost changes.
3. **Agreement to provide annual documentation of the cost allocation methodology and calculations** – Currently, the BOE provides a detailed report on the calculation of the Proposition 99 backfill. This report is included on both the BOE and First 5 California Commission agendas. The report should include a description of the methodology, actual costs applied and comparisons of the total cost pool applied allocated to all tobacco tax funds including Proposition 99, Breast Cancer Research Fund, etc.

Pending Commission direction, staff is prepared to initiate an education and outreach effort with support from our strategic communications firms.

#### **STRATEGIC PLAN & FISCAL SUMMARY:**

The program has been specifically reviewed in relation to the Strategic Plan, and is consistent with all outcome goals. Funding for strategic communication assistance is included in the FY

2012-13 approved Budget.

**PRIOR COMMISSION ACTION:**

- November 2012 – Long Term Financial Plan Update

**RECOMMENDED ACTION:**

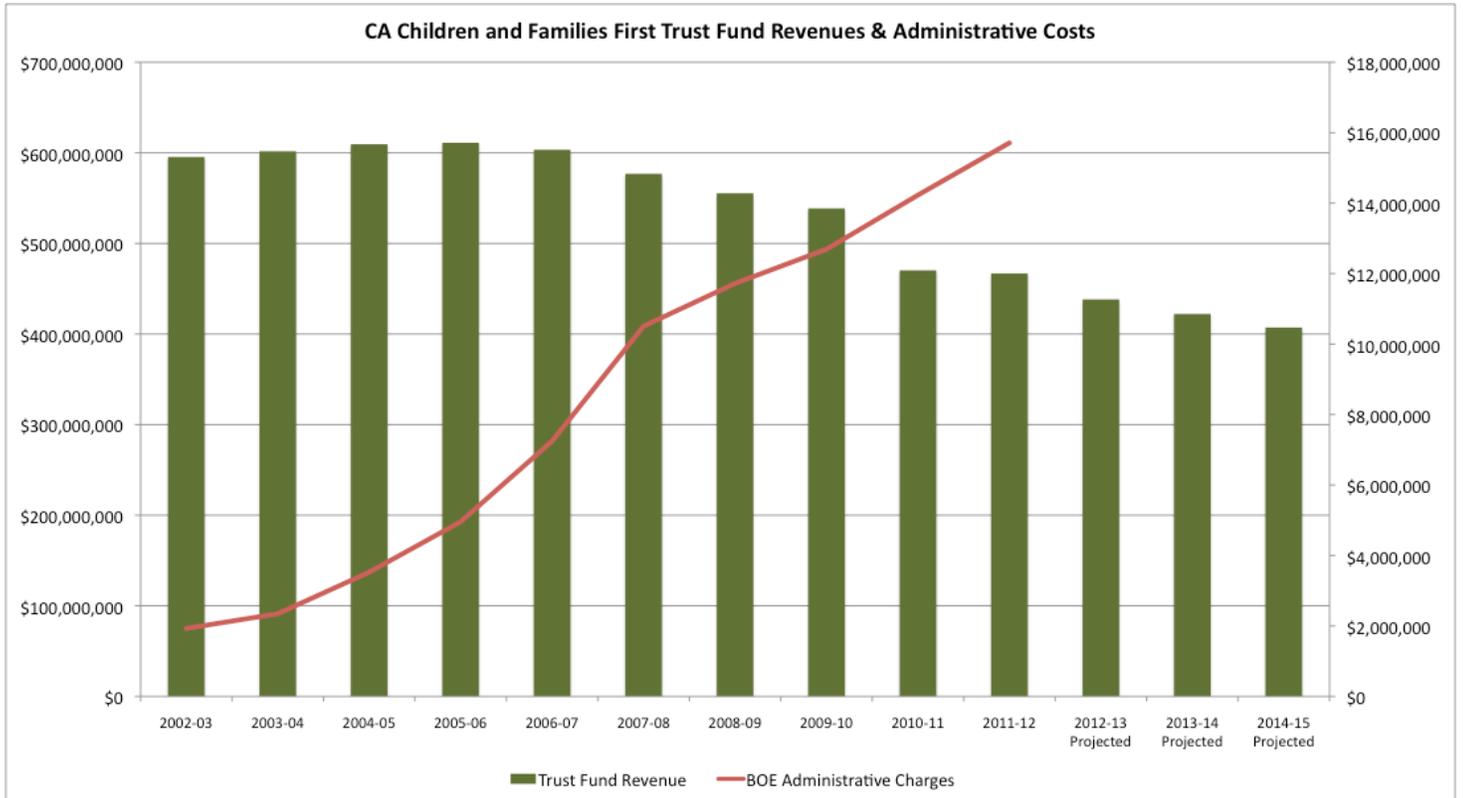
Direct staff to pursue actions as outlined in this staff report related to the State Board of Equalization's administrative charges.

**ATTACHMENTS:**

1. Growth in BOE Administrative Fees
2. Revenue Adjustments, First 5 California – January 24, 2013

**Contact:** Christina Altmayer

## Growth in BOE Administrative Fees FY 2002-03 through FY 2012-13



## Revenue Adjustments

### First 5 California - January 24, 2013

BOE Administration		Backfill	
FY 1998-99	\$570,000	FY 1998-99	
FY 1999-00	\$876,000	FY 1999-00	
FY 2000-01	\$886,000	FY 2000-01	\$24,000,000
FY 2001-02	\$959,416	FY 2001-02	\$25,900,000
FY 2002-03	\$1,974,530	FY 2002-03	\$35,500,000
FY 2003-04	\$2,301,371	FY 2003-04	\$21,700,000
FY 2004-05	\$4,642,000	FY 2004-05	\$21,300,000
FY 2005-06	\$4,958,000	FY 2005-06	\$20,300,000
FY 2006-07	\$7,388,000	FY 2006-07	\$18,500,000
FY 2007-08	\$11,162,000	FY 2007-08	\$19,600,000
FY 2008-09	\$11,721,382	FY 2008-09	\$21,200,000
FY 2009-10	\$12,693,653	FY 2009-10	\$21,800,000
FY 2010-11	\$14,229,862	FY 2010-11	\$20,200,000
FY 2011-12	\$15,711,540	FY 2011-12	\$16,500,000
FY 2012-13	\$17,162,000 *	FY 2012-13	\$15,000,000 *
FY 2013-14	\$17,602,000 *	FY 2013-14	\$15,000,000 *
FY 2014-15	\$17,602,000 **	FY 2014-15	\$15,000,000 **

\* Governor's FY 13/14 Budget

\*\* Dept. of Fin. Projections

#### Prop 99 Backfill

At the November 15, 2012, BOE Board Meeting, the BOE Board approved the staff recommendation to adjust the California Children and Families Trust fund by \$15 million for backfill. The adjustment occurred against the November 2012 cigarette tax revenue.

#### BOE Administration

Pursuant to Revenue and Tax Code section 30131.3, the BOE will be reimbursed FY 2012-13/\$17.1 million and FY 2013-14/\$17.6 million for expenses incurred in the administration and collection of the taxes imposed by Proposition 10. Historically, actual expenditures are under the estimates by around \$1 million.