OFFICE OF THE INDEPENDENT BUDGET ANALYST REPORT

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Safety Sales Tax (Proposition 172)

OVERVIEW

In response to a significant budget deficit in 1992, the State of California enacted legislation that shifted partial financial responsibility for funding education to local government. County auditors were instructed to shift the allocation of local property tax revenues from local government to Educational Revenue Augmentation Funds (ERAFs) to support schools.

In an attempt to ease the impact of the ERAF property tax shifts, the California Legislature and Governor Wilson submitted to the voters a proposal to extend and dedicate a ½ cent sales tax to local public safety including police, fire, sheriff, county district attorneys, ocean lifeguards and corrections. On November 2, 1993, California voters approved Proposition 172, which established a ½ cent tax to be used to support local public safety purposes negatively impacted by property tax shifts.

This informational report reviews the history of Safety Sales Tax (Proposition 172) legislation, explains the allocation to the City and County of San Diego, and discusses legislative options for revisions.

FISCAL/POLICY DISCUSSION

The allocation of Proposition 172 funds is determined by statute. Revenues are collected by the State Board of Equalization and apportioned to each county based on proportionate shares of statewide taxable sales. The revenue is then deposited into a Public Safety Augmentation Fund and allocated by the County Auditor to the county and cities within the county in proportion to their net property tax loss due to the ERAF. According to Government Code Section 30051, the “net property tax loss” is defined as “the agency’s 1993-94 property tax loss due to ERAF, reduced by the agency’s 1993-94 one time receipt of funds from the Transportation Planning and Development Account.” This allocation varies from the methodology used to allocate the Bradley-Burns Sales and Use Tax which returns 1% of the statewide sales tax to the local jurisdiction based primarily on the location of the sales transaction.

California Senate Bill No. 8

Until 1996 San Diego City and County were under a special provision of the law, which had been initially amended to put eight counties (Fresno, Kings, Merced, San Bernardino, San Diego, San Joaquin, Solano and Yolo) under a provision that capped the cities' allocation at 5% of the county's total share. In 1996, arguing that the cities were not receiving an equitable allocation, the cities in San Diego County successfully reached a compromise that resulted in a new special code section to the law (Gov Code Sec 30055(d)). Known as Senate Bill 8, this legislation readjusted the share of the allocation for the cities in San Diego County to 5.65% of the total, with the County of San Diego County receiving the remaining 94.35%. According to the California Local Government Finance Almanac (an advisor sponsored by the League of California Cities) this present allocation formula is similar to most other counties in the state.

The California Local Government Finance Almanac notes that Proposition 172 mitigates about 19% of the annual statewide ERAF property tax loss for cities and about 61% of the statewide ERAF losses of counties. The specific impact to the City and County of San Diego are discussed below.

Impact to the City and County of San Diego

According to the California Local Government Finance Almanac, in Fiscal Year 2007-2008 the ERAF shift resulted in $7.3 billion statewide allocated away from cities, counties and special districts. By FY 2006, the City of San Diego's cumulative ERAF loss since 1993 totaled over $467 million, while the County's cumulative loss totaled over $2.5 billion. Considering the offset provided by Proposition 172 and the COPS program,[1] the net cumulative loss for the City and County of San Diego through FY 2006 is over $366 million and $398 million, respectively. In FY 2006, over $66 million of revenue was shifted away from the City as a result of ERAF, and in this same year San Diego received $7.9 million in Proposition 172 revenue and $1.9 million in COPS funding, totaling a net loss of over $56 million. In FY 2006, the County lost over $318 million due to ERAF, received over $234 million in Proposition 172 revenue and $2.4 million in COPS revenue, totaling a net loss of over $81 million.

[1] The Citizen's Option for Public Safety Program (COPS) was established in 1996 by the Legislature to augment funding for public safety programs. The COPS program allocates $100 million statewide annually for public safety expenditures. According to the California Legislative Analyst's Office, "COPS funding equates to less than 1 percent of local law enforcement expenditures statewide, thus raising questions about the potential impact of the program on public safety."

Jurisdiction	FY08 1% Sales Tax Allocation	% of Total
SAN DIEGO COUNTY	$18,206,045.50	5.137%
CARLSBAD	$20,221,353.17	5.705%
CHULA VISTA	$21,779,593.86	6.145%
CORONADO	$1,818,108.15	0.513%
DEL MAR	$1,174,737.90	0.331%
EL CAJON	$17,124,543.81	4.831%
ENCINITAS	$8,277,951.64	2.336%
ESCONDIDO	$21,919,931.60	6.184%
IMPERIAL BEACH	$612,056.70	0.173%
LA MESA	$8,499,584.32	2.398%
LEMON GROVE	$3,240,158.10	0.914%
NATIONAL CITY	$11,433,326.83	3.226%
OCEANSIDE	$13,168,972.66	3.715%
POWAY	$9,226,593.02	2.603%
SAN DIEGO	$167,770,306.60	47.334%
SAN MARCOS	$11,682,950.95	3.296%
SANTEE	$6,137,090.65	1.732%
SOLANA BEACH	$2,162,711.61	0.610%
VISTA	$9,981,783.93	2.816%
TOTAL SALES TAX	$354,437,801.00	100.000%

Source: State Board of Equalization

Although Proposition 172 allocations to counties are made based on that county's share of total state sales tax revenues, allocations to cities within counties do not reflect individual cities' share of sales tax revenues generated within the county.

For example, in FY 2008, in San Diego County, the City of San Diego generated approximately 47% of total sales tax revenue, as illustrated in the chart.

While the City of San Diego generates approximately 47% of Sales Tax revenue within the County of San Diego, the City of San Diego receives only 3.18% of the total Proposition 172 San Diego County allocation. If the City received 47% of the total Proposition 172 revenue to the County, San Diego would have received over $110 million in FY 2008, compared to $7.4 million received. The chart below illustrates this comparison. In fact, all cities would receive greater allocations at the expense of the county, using this methodology.

Jurisdiction	Proposition 172 Allocation	% of Total, as set by SB 8	Allocation Scenario if Sales Tax % Used	% of Total Sales Tax
SAN DIEGO COUNTY	$220,235,779.81	94.3523743%	$11,989,763.96	5.14%
CARLSBAD	$836,266.62	0.3582694%	$13,316,963.95	5.71%
CHULA VISTA	$729,829.24	0.3126700%	$14,343,158.13	6.14%
CORONADO	$281,434.17	0.1205707%	$1,197,332.37	0.51%
DEL MAR	$62,271.59	0.0266781%	$773,634.79	0.33%
EL CAJON	$345,411.81	0.1479797%	$11,277,530.77	4.83%
ENCINITAS	$0.00	0.0000000%	$5,451,523.58	2.34%
ESCONDIDO	$670,930.54	0.2874369%	$14,435,578.88	6.18%
IMPERIAL BEACH	$126,850.52	0.0543447%	$403,075.75	0.17%
LA MESA	$241,626.30	0.1035164%	$5,597,481.88	2.40%
LEMON GROVE	$35,343.04	0.0151415%	$2,133,836.85	0.91%
NATIONAL CITY	$132,896.05	0.0569347%	$7,529,525.84	3.23%
OCEANSIDE	$1,623,425.74	0.6955004%	$8,672,551.86	3.72%
POWAY	$0.00	0.0000000%	$6,076,260.36	2.60%
SAN DIEGO	$7,429,970.90	3.1831131%	$110,486,726.86	47.33%
SAN MARCOS	$136,580.09	0.0585130%	$7,693,918.17	3.30%
SANTEE	$0.00	0.0000000%	$4,041,639.26	1.73%
SOLANA BEACH	$0.00	0.0000000%	$1,424,274.25	0.61%
VISTA	$529,759.58	0.2269571%	$6,573,598.49	2.82%
TOTAL SAFETY SALES TAX	$233,418,376.00	100.0000000%	$233,418,376.00	100.00%

Source: California State Controller's Office

The table below illustrates amounts budgeted and received under Proposition 172 for the City of San Diego for the past five fiscal years:

Fiscal Year	Safety Sales Tax Revenue - Adopted Budget	Safety Sales Tax Revenue - Actuals
2005	$6,729,196	$7,409,445
2006	$7,734,334	$7,934,530
2007	$8,193,840	$7,943,151
2008	$8,401,528	$7,749,623
2009(1)	$7,394,461	n/a

(1) Figures for FY 2009 reflect Revised Budget

Source: Simpler Financials - City of San Diego

Legislative Options

On February 25, 2005, the Governmental (now Intergovernmental) Relations Department released a report regarding Proposition 172 that was presented at the March 2, 2005 meeting of the Public Safety and Neighborhood Services (Attachment A). The report reviewed the background and history behind Proposition 172, its funding formulas and outlined policy options for the Council's consideration. The proposed policy options included:

1. *Accepting the Status Quo*: The option is to accept the present allocation formula, recognizing that any proposals will encounter County opposition.
2. *Study recalculation of distribution formulas*: Reallocating Proposition 172 revenues to reflect current ERAF contribution totals and reallocating future revenue growth.
3. *Change distribution to consider services provided vs. revenues shifted*: Under the current distribution formula, no consideration is given to the types of services provided by local jurisdictions. For example, in San Diego County fire protection services are provided by cities and fire protection districts, therefore unlike most counties in the state, San Diego County does not incur this additional cost.
4. *Seek a complete re-write of Proposition 172*: Many changes have taken place in local government since 1993 when the legislation was drafted. Possible changes may include broadening permissible uses and re-evaluating public safety purposes.

It is important to note the report underscores that any amendments to the distribution of Proposition 172 funds may only be achieved through State legislation by a majority vote of the legislature to pass. An amendment to the permissible use of the funds or a re-write of Proposition 172 requires a constitutional amendment. In this scenario, the legislature would need a 2/3 vote to place an amendment on the ballot, or a voter initiative process would have to be undertaken to place the amendment on the ballot.

City of San Diego Council Policy 500-07

On June 27, 1994 the San Diego City Council adopted Council Policy 500-07 (Attachment B), which provides direction on the use of Proposition 172 revenue. This policy was amended on February 27, 2001 to require Proposition 172 revenue to be used for public safety expenditures. Specifically, Council Policy 500-07 states that

> "*…Revenue received from Proposition 172 be utilized to fund public safety expenditures over and above current expenditure levels and to fund programs not previously funded, and that no Proposition 172 monies should be used to supplant existing General Fund expenditures*."

In an informational report presented to the Committee on Rules, Finance and Intergovernmental Relations on December 3, 2003, reiterated that although there is no maintenance of effort requirement by law, Council Policy 500-07 "requires that the Proposition 172 monies are to be used for public safety expenditures." Furthermore, this policy also requires that the City Manager (Mayor) include in his proposed budget how the Safety Sales Tax is proposed to be used for that fiscal year.

In light of the recent Council interest in reviewing Proposition 172 intent and allocations, the Council may wish to take this opportunity to revisit the intent of the Council Policy regarding the use of these funds.

City of San Diego Uses of Proposition 172 Revenue to Fund Fire and Lifeguard Facilities Improvements

As noted by City Manager Report 01-031, on June 5, 2000, the City Council approved the use of Proposition 172 revenues as the source of revenue for a plan to fund fire and lifeguard facilities improvements. According to this report, Proposition 172 funds were to be used to provide bond issuance payments to fund the program. In 2002 the City issued $25.1 million in lease revenue bonds to finance the initial phase of the program. However, following the first issuance in 2002, the City's bond ratings were suspended, delaying the issuance of the second series of bonds, thus halting the fire and lifeguard facilities improvement program. Given the recent reinstatement of the City's bond ratings, the IBA review and analysis of the Fire-Rescue Department needs and the Fire-Rescue Facilities Station Master plan presented at the March 4, 2009 meeting of the Public Safety and Neighborhood Services Committee, the Council may wish to revisit its priorities in the use of Proposition 172 funds.

As of June 30, 2008, the principal amount outstanding on the bonds totals $22.8 million, and the FY 2009 debt payment is $1.6 million. Payments are required through FY 2032. Following is a brief description of the projects planned to be funded, as noted in the General Provisions of the bond financing document.

Fire Station Projects

- Fire Station 1 (Downtown)
- Fire Station 2 (Mission Valley)
- Fire Station 5 (Hillcrest)
- Fire Station 12 (Lincoln Park)
- Fire Station 17 (City Heights)
- Fire Station 22 (Point Loma)
- Fire Station 29 (San Ysidro)
- Fire Station 31 (Del Cerro)
- Fire Station 32 (Skyline)
- Fire Station 54 (Paradise Hills)
- Major Components (Replacement)
- Kearny Mesa Repair Facility

Lifeguard Station Projects

- South Pacific Beach Lifeguard Station & Restroom
- North Pacific Beach Lifeguard Station
- La Jolla Shores Lifeguard Station
- South Mission Beach Lifeguard Station
- La Jolla Cove Lifeguard Station
- Children's Pool Lifeguard Station
- Ocean Beach Lifeguard Station
- Mission Beach Lifeguard Station
- Lifeguard Headquarters and Boating Safety Unit Dock
- Old Mission Beach Station

At the March 4, 2009 meeting San Diego Fire-Rescue Department presented an update on the status of these projects and reported that the following work has been completed:

- Fire Station 12 (Lincoln Park)
- Fire Station 31 (Del Cerro)
- Fire Station 29 (San Ysidro)
- Temporary Fire Station at Qualcomm
- Skyline site
- Design work for Pt. Loma
- Emergency generator/door replacement

CONCLUSION

The intent of this report is to offer the Council a review of the Safety Sales Tax (Proposition 172). Legislation was first drafted in 1993, adopted in 1994 and amended for the City and County of San Diego in 1996. Currently, the San Diego City and County Proposition 172 allocation formula resembles those of other cities and counties in the state.

Although the present allocation formula does not proportionately reflect the amount of sales tax revenue generated by the City of San Diego, nor does it represent a proportionate amount of revenue lost to ERAF, any changes would likely require County support which at the present time appears unlikely. At this time, the Council may wish to reassess its strategy in amending this legislation and/or the Council Policy directing the use of these funds.

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Attachments:

A - Legislative Options Report from Governmental Relations Department, February 25, 2005
B - City of San Diego Council Policy 500-07