San Diego County Taxpayers Association

Taxpayers watchdog since 1945
707 Broadway, Suite 905, San Diego, CA 92101
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Proposition 31: Government Performance & Accountability Act

SDCTA **SUPPORTS** Proposition 31. The measure contains a multitude of budgeting and governance reforms for State and local government that could facilitate more efficient governance and to stem potential budget crises. It contains a restructuring of the State budget cycle that prompts more long-term financial planning, a mandate for performance and efficiency reviews of California's various public programs, the inclusion of a safe-guard against political grid-lock, and expands the role of local governments. In the long run, Proposition 31 is likely to increase the return that the citizens of California would see on every tax dollar spent.

- California Forward, the primary sponsor of Proposition 31, is a non-profit non-partisan organization dedicated to increasing power to local governments to support a more efficient system of government.
- Proposition 31 is a combined initiative constitutional amendment and State statute.
- The measure would enact the following:
  - Prohibits the Legislature from creating expenditures of more than $25 million unless offsetting revenues or spending cuts are identified.
  - Shifts portion of sales tax revenue from State to local governments
  - Mandates a two-year budget cycle.
  - Permits the Governor to cut the budget unilaterally during declared fiscal emergencies if Legislature fails to act.
  - Requires performance reviews of all State programs.
  - Requires performance goals in State and local budgets.
  - Requires publication of bills at least three days prior to legislative vote.
- Could potentially shift $200 million in sales tax revenue from State to local governments to implement plans to coordinate their public services.
- While it is projected that the implementation of the oversight programs would cost millions to tens of millions Statewide, it would be offset by the potential billions that could be saved by cutting waste from government programs.
- The exact fiscal impact will depend entirely on future Legislative actions. The Legislative Analyst's Office predicts potentially lower State spending due to restrictions on budgeting, potential elimination of waste and less State funding for local programs.

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Proposition 31: Government Performance & Accountability Act

Board Action: **SUPPORT**

Title: "State Budget. State and Local Government. Initiative Constructional Amendment and Statute"
Election: November 2012 General Election
Description: Establishes two-year State budget. Sets rules for offsetting new expenditures, and Governor budget cuts in fiscal emergencies. Local governments can alter application of laws governing State-funded programs.
Jurisdiction: State
Type: Initiative Constitutional Amendment and Statute
Vote: Majority
Fiscal Impact: Decreased State sales tax revenues of $200 million annually, with corresponding increases of funding to local governments.
Status: Qualified

Rationale:

Proposition 31 contains several measures that are in line with SDCTA's objectives in responsible government ruling and spending. It contains a restructuring of the State budget cycle that prompts more long-term financial planning, a mandate for performance and efficiency reviews of California's various public programs, the inclusion of a safe-guard against political grid-lock, and expands the role of local governments. While not a direct tax increase or decrease, this proposition will have an effect on future tax rates, and significantly impacts the inner workings of the State government. In the long run, Proposition 31 is likely to increase the return that the citizens of California would see on every tax dollar spent.

Background:

Proposition 31 was led by California Forward, a non-profit non-partisan organization dedicated to increasing power to local governments to support a more efficient system of government.[1] Proposition 31 is also largely funded by Nicholas Bruggen, founder of the Think Long Committee for California. California Forward has consistently opposed the supermajority requirement for raising taxes in the legislature. In November 2010, California passed Proposition 25, which ended the supermajority vote requirement by the California State Legislature to approve the State's budget.

California 2008-2012 Budget Crisis
In 2008, Governor Arnold Schwarzenegger signed the Fiscal Year 2008-2009 budget which was then passed on to the California State Legislature. From there, the budget was stuck in political gridlock, as the Democrats refused cuts to programs, and the Republicans opposed tax increases. The vote required a two-thirds majority to pass and neither party had a supermajority of seats.

[1] California Forward "About" page < http://www.cafwd.org/pages/about-us>

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To stem the crisis, the State has enacted short-term solutions like bond-issuances and borrowing from local governments, with the hopes that property and income will rise in the future, enabling the State to pay back these loans. In December of 2008, Governor Schwarzenegger ordered a two day per month furlough on all State workers that would begin in February, in response to the lawmakers' inability to resolve the budget crisis.[2] Additionally, in July 2009, for only the second time since the Great Depression, the State paid a portion of its bills with IOUs.[3]

California's projected budget deficit for Fiscal Year (FY) 2013 is estimated to be $15.7 billion. The FY 2013 budget was originally anticipated to total $9.2 billion, but increased due to overly optimistic revenue projections included within the FY 2012 budget.[4] The FY 2012 budget agreement included increasing revenue projections by an additional $4 billion. The California Department of Finance recently estimated that not only will the additional $4 billion in revenues not materialize, but revenues will fall an additional $1.2 billion short.

Current Law: Fiscal Impact of Legislation

The Legislature and Governor will review estimates of every proposed legislation's effect on State revenue and spending. The State constitution does not require that each law indentify how it will be funded, only that the entire State budget be balanced.[5]

Current Law: Governor's Abilities

As outlined in Proposition 58 from 2004, the Governor may declare a fiscal emergency if he/she determines that there will be spending overruns or large revenue shortfalls. Once the emergency is declared, the Legislature is called into special session and has 45 days to formulate their response.[6] The Governor, however, has little power to cut State spending during this period.

Proposal:

Proposition 31 is a combined initiative constitutional amendment and State statute. It was required to collect 807,615 signatures in order to be placed on California's 2012 State ballot.

If enacted, Proposition 31 would:

- Establish a two-year State budget cycle;
- Prohibit the Legislature from creating expenditures of more than $25 million unless offsetting revenues or spending cuts are identified;
- Permit the Governor to cut programs from the General Fund unilaterally during declared fiscal emergencies if the Legislature fails to act within 45 days;

[2] "Schwarzenegger signs record-late State budget". *Sacramento Bee*. 2008-09-23.
[3] Sacramento Bee. "California's Fiscal Mess" <http://www.sacbee.com/2009/07/08/2012026/budget-crisis-timeline.html>
[4] "Optimistic projections led to dramatic surge in California budget deficit". By Kevin Yamamura. *Sacramento Bee*. June 15, 2012.
[5] California Legislative Analyst Office. Proposition 31 <http://www.lao.ca.gov/ballot/2012/31_11_2012.aspx>
[6] California Legislative Analyst Office. Proposition 31 <http://www.lao.ca.gov/ballot/2012/31_11_2012.aspx>

  - These cuts could not exceed the necessary amount to balance the budget, or include federally mandated spending
- Require performance reviews of all State programs;
- Require performance goals in State and local budgets;
- Require publication of bills at least three days prior to legislative vote;
- Transfers $200 million from State to local governments to implement plans to coordinate their public services, these plans would need to be approved by all applicable local governing boards, and could be vetoed by the State legislature or relevant agency within 60 days;
  - In these plans the local governments can alter how laws governing State-funded programs apply to them
  - Additionally these plans could also alter how property tax is distributed

Fiscal Impact:

The measure includes no direct addition or subtraction of State revenue but rather transfers funds from the State to local governments and gives local governments more flexibility on how it can spend State funding.

The exact fiscal impact will depend entirely on future Legislative actions. As seen in Figure 2, the Legislative Analyst Office predicts potentially lower spending due to restrictions on budgeting, potential elimination of waste and less State funding for local programs.

Additionally, the State and local governments would see an increase in costs due to new oversight and performance review programs that would be implemented as a result of Proposition 31. This includes the costs to set up systems to implement new budgeting requirements and to administer the new evaluation requirements. The Legislative Analyst's Office has estimated that these costs would likely range from millions to tens of millions of dollars annually, while moderating over time.[7]

[7] California Legislative Analyst Office. Proposition 31 <http://www.lao.ca.gov/ballot/2012/31_11_2012.aspx>

Figure 2: Major Fiscal Effects of Proposition 31

	State Government	Local Government
Authorizes and funds local government plans: Funding for plans	$200 million annual reduction in revenues	$200 million annual increase in revenues to local governments in counties that develop plans
Authorizes and funds local government plans: Effects of the new plans	Cannot be predicted, but potentially significant	Cannot be predicted, but potentially significant in some counties
Restricts legislature's ability to pass certain bills	Potentially lower spending—or higher revenues—based on future actions of the Legislature	Potential changes in State funding for local programs based on future actions of the Legislature
Expands governor's ability to reduce State spending	Potentially lower spending in some years	Potentially less State funding for local programs in some years
Changes public budgeting and oversight procedures: implementation costs	Potentially millions to tens of millions of dollars annually, moderating over time.	Potentially millions to tens of millions of dollars annually, moderating over time
Changes public budgeting and oversight procedures: effects of new requirements	Cannot be predicted.	Cannot be predicted.

Source: California Legislative Analyst Office

Policy Discussion:

Community Strategic Action Plans

In the past, SDCTA has supported increasing the role of local governments over the State, and the cornerstone of Proposition 31 would do exactly that. By transferring a dedicated amount of State funds directly to the local governments, they would be allowed more flexibility to utilize State funding to meet their specific needs.

In order to receive this additional flexibility, local governments would have to adopt a Community Strategic Action Plan (Plan) coordinating how they would provide services to their constituents. While there are significant concerns that crucial funding would be transferred from the State to the local governments for "experimental programs", these plans would be subject to review by the various local authorities, including the county's governing board, school districts, and other local governments representing the majority of the county's population.[8] After the local government has approved the plan, it must be passed on to the State Legislature and other regulatory bodies for approval. The County

[8] Proposition 31Official Summary pg. 1

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Board of Supervisors may adopt a Plan or the board may also be petitioned to initiate a Plan. The process for petition though is not outlined.

The local governments would also be allowed to develop "local procedures" as a part of these plans that could allow them to adapt State regulations for funding for their specific need. If they find that a State regulation impedes their ability to service the public, they can produce "local procedures" that are functionally equivalent to the State's objective.[9] This is an area of concern for the opposition, as they fear it would allow local governments to bypass State mandates. For instance, a county's local government in theory could dismiss environmental, health, workers rights, and safety regulations that the local politicians did not personally agree with.

However, to address this concern the measure contains checks and balances to make sure that the local governments do not overstep their bounds. These checks would not allow the local government to completely override State laws, as the Legislature and/or the relevant State department can reject these local procedures, and they would need to be renewed every four years.[10] This would prevent local politicians from undermining the State's objective, while still allowing for a more efficient method of governance.

One concern with this check though, is that it contains loopholes. The provision regarding these plans does not explicitly State that the plan must be submitted while the Legislature is in session. Because the plan only needs to avoid a veto from the State legislature, this could allow local governments to submit the plans when the Legislature is out of session, reducing the time that lawmakers have to respond. However, 60 days should allow the Legislature enough time, even with a session break, to veto a local plan if necessary.

Funding Dedicated to Implementation of Plans

Property tax revenue could also be included in the "local procedures", making property tax distribution to local governments more responsive to the county's needs. Whereas currently, the local property tax was mandated by the State in its allocation, under Proposition 31 local governments would be able to choose the property taxes allocation as part of their local plan, if approved by a two-thirds vote from the governing board.[11] This further expands the local government's ability to provide services for its citizens in a more efficient manner than the State. Once again, such a change in allocation would have to be outlined in the plan, and approved by the State.

In addition, 0.035 percent of the State's sales and use tax would be transferred to a newly created fund, the Performance and Accountability Trust Fund, which would be dedicated to funding programs within each county's Plan. Each year, the Controller would distribute an amount from this Fund to each county based on population basis.

[9] Proposition 31Official Summary pg. 1-2
[10] Proposition 31Official Summary pg. 2
[11] Proposition 31Official Summary pg. 2

Expansion of Governor's Power

Proposition 31's expansion of the governor's ability during times of financial crisis, would also allow the governor to alleviate the political gridlock that can occur during a budget crisis when both parties refuse to compromise. As seen in the 2008 budget crisis, such a situation can cause a large financial nightmare. Many opponents argue that this would give the governor tyrannical control to make drastic cuts, and that this provision of proposition 31 would upset the balance of power, and hurt transparency.

Although proposition 31 would increase the governor's power, these cuts could only be made during declared financial crises, and when the State Legislature fails to come to a solution after 45 days following the declaration. Additionally, the governor cannot cut spending that is mandated by federal law, which includes most school spending, debt service, pension contributions, and health and social service programs, all of which currently account for a majority of the General Fund. This provision simply provides a last resort solution that is better than no solution.

Restrictions on Legislature

Proponents also claim that the proposition's restrictions on the Legislature's ability to pass expensive bills would also help to stem deficit spending. Proposition 31 would mandate that each proposed spending increase or State revenue decrease of $25 million or more must include specific spending cuts or tax increases that will pay for the bill. This would force the California Legislature to adapt a policy of more responsible spending, and could potentially avert future financial crises.

However opponents argue that this would make the Legislature more cumbersome. Opponents argue Proposition 31's language only mentions "new" programs, and that extensions of older programs of $25 million or more would not be subject to those restrictions.[12] This could potentially cause lawmakers to be more inclined to increase funding for an older program, when the more cost effective solution may actually be to create a new program, thereby decreasing government efficiency. Moreover, this would make it more appealing for lawmakers to put new programs on the ballot, rather than face more adversity in the Legislative process. In addition, new programs over $25 million would need to be paid for in the first year, even if they had long run returns, which could stifle needed long term investments.[13]

Legislative Transparency

Proposition 31 would additionally facilitate more transparency in the legislative process, as it would require that bills and amendments be made public three days before they are voted on (excluding bills responding to natural disasters or terrorist attacks).[14] This would make it more difficult for political back-door dealings, in which assembly members can attach amendments to bills last minute to avoid the public eye. By forcing political honesty, Proposition 31 would work towards SDCTA's goal of a more responsible government.

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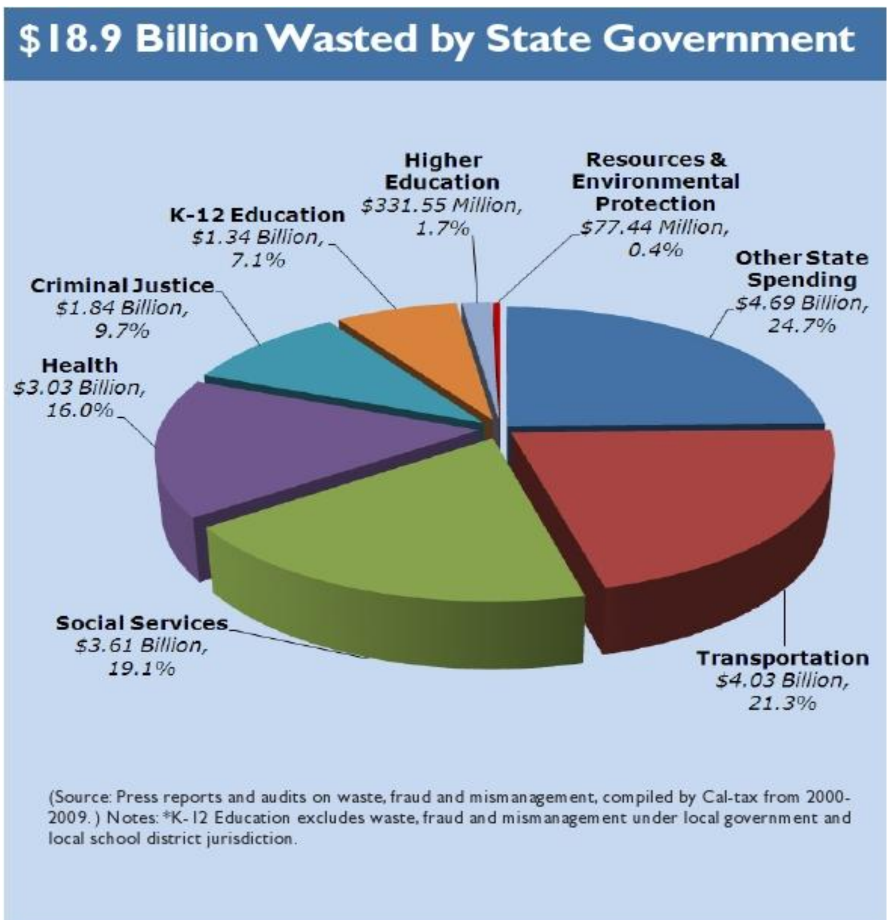
[12] Phone Interview with Health Access Executive Director Anthony Wright, Sept. 6th 2012.
[13] Phone Interview with Health Access Executive Director Anthony Wright, Sept. 6th 2012.
[14] California Legislative Analyst Office. Proposition 31 <http://www.lao.ca.gov/ballot/2012/31_11_2012.aspx>

The budgeting provisions in Proposition 31 would commission the State to adapt to more foresighted financial planning. By forcing the State to plan two-year budgets rather than one year budgets, the Legislature would need to have more long-term plans for the State's spending. This could also limit politicians' ability to change budget positions at the last minute, promoting SDCTA's overall goal of a more financially conscious government.

Oversight

Most significantly, Proposition 31 would also prioritize oversight of public programs, and their efficiency. It would mandate that the Legislature set aside a period for review of public programs. They would need to create a process to review every State program. In a study by the California Taxpayers Association, it was determined that from 2000-2009, an estimated $18.9 billion could be attributed to State waste, fraud or mismanagement.[15] While it is projected that the implementation of these oversight programs would cost millions to tens of millions, it would be offset by the potential billions that could be saved by cutting waste from government programs.



Source: California Taxpayers Association.

[15] California Taxpayers Association. "A decade of waste, fraud, and mismanagement" http://www.caltax.org/201003_CalTaxResearchBulletin_Decade%20of%20Waste.pdf

List of Proponents:

- Taxpayers for Government Accountability
- California Republican Party
- California Forward
- Think Long Committee for California

Proponent Arguments:

- YES on 31 will stop politicians from keeping Californians in the dark about how their government is functioning.
- It will prevent the State from passing budgets behind closed doors, stop politicians from creating programs with money the State doesn't have, and require governments to report results before spending more money.
- Proposition 31 requires a real balanced budget. It stops billions of dollars from being spent without public review or citizen oversight. Unless we pass Proposition 31, hundreds of millions of dollars every year will continue to be wasted that could be better used for local schools, law enforcement and other community priorities.
- Proposition 31 does not raise taxes, increase costs to taxpayers or set up any new government bureaucracy. Proposition 31 makes clear that its provisions should be implemented with existing resources—and it will generate savings by returning tax dollars to cities and counties.
- It will increase public input and transparency, impose fiscal oversight and constraints on new government spending, increase local control and flexibility, require performance and results in budgets, require performance review of State government programs, and require a two-year State budget.
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List of Opponents:

- Californians for Transparent and Accountable Government
- California Democratic Party
- Californians for Clean Energy and Jobs
- Working Families Issues Committee
- American Federation of State, County and Municipal Employees
- California Tea Party

Opponent Arguments:

- Proposition 31 is a badly flawed initiative that locks expensive and conflicting provisions into the Constitution, causing lawsuits, confusion, and cost.
- Proposition 31 threatens public health, the environment, prevents future increases in funding for schools, and blocks tax cuts.
- It allows local politicians to override or alter laws they don't like, undermining protections for air quality, public health, worker safety without a vote of the people.

- The State can barely pay its bills now. And the majority of the State's budget goes to education. Yet this measure transfers $200 million per year from State revenues into a special account to pay for experimental county programs. This is not the time to gamble with money that should be spent on our highest priorities.
- Performance-based budgeting is more of a slogan than anything else. It's been tried many times before. The one thing we know it will do is raise costs. The official fiscal analysis by the non-partisan Legislative Analyst's Office says it will raise the costs of government by tens of millions of dollars per year for new budgeting practices, with no guarantee any improvement will result.