

# Proposition 172 Facts

## A Primer on the Public Safety Augmentation Fund

### Background: A Sales Tax for Public Safety Born Out of ERAF

In 1992, facing serious budget deficits, the California Legislature and Governor Wilson instructed county auditors to shift the allocation of local property tax revenues from local government to “educational revenue augmentation funds” (ERAFs), directing that specified amounts of city, county and other local agency property taxes be deposited into these funds to support schools. School funding from the state general fund was reduced by a commensurate amount. To cushion the impact of the ERAF shifts, the California Legislature and Governor Wilson submitted to the voters a proposal for a new half cent sales tax to be dedicated to local public safety including sheriff, police, fire, county district attorneys, and corrections. Proposition 172, the Local Public Safety Protection and Improvement Act of 1993, was approved by 58% of the voters.

The Proposition 172 half-cent sales tax actually replaced a prior half-cent sales tax for public safety imposed by the Legislature and Governor Wilson for the 2003 year. That sales tax, also intended as a mitigation for ERAF, replaced a half-cent state sales tax for earthquake insurance. Consequently, taxpayers saw no net increase in their overall tax burden from Proposition 172.

### What Public Safety Services Can Proposition 172 Be Spent On?

A city or county that receives Proposition 172 funds must place the revenues in a special revenue fund to be expended only on public safety services as defined in Government Code Section 30052. Eligible services include sheriffs, police, fire, county district attorneys, corrections and ocean lifeguards.<sup>1</sup> Government Code Section 30056 contains “maintenance of effort” provisions concerning Proposition 172 funds requiring cities and counties to maintain funding levels to public safety functions which receive Proposition 172 funds. These provisions ensure that Proposition 172 funds are spent on public safety services as defined.

### Allocation of Proposition 172<sup>2</sup>

The one-half cent sales tax imposed by Proposition 172 is collected by the State Board of Equalization and apportioned to each county based on its proportionate share of statewide taxable sales. Each county is required to deposit this revenue in a Public Safety Augmentation Fund to be allocated by the County Auditor to the county and cities within the county.

Mindful of the substantially larger proportion of ERAF paid statewide by counties than by cities or special districts, legislative leaders initially considered allocating all Proposition 172 proceeds to counties only. But they realized the success of Proposition 172 with the voters would be enhanced with the support of city officials, police and fire chiefs, police officers and city firefighters, so a portion was allocated to cities.

Government Code Section 30051 requires each County Auditor to allocate the revenues in the county Public Safety Augmentation Fund (PSAF) to the county and each city in that county based on their proportionate share of net property tax loss due to ERAF as defined. For the purposes of allocating PSAF revenue, an agency’s “net property tax loss” is defined as the that agency’s 1993-94 property tax loss due to phase II of ERAF, reduced by that agency’s 1993-94 one-time receipt of funds from the Transportation Planning and Development Account.

Phase II of ERAF<sup>3</sup>, which began in 1993-94 is based on each agency’s estimated receipt of property tax revenues under AB8 of 1980. Cities that received no property tax or that did not exist in 1980 are not affected by this phase of ERAF and consequently are ineligible for Proposition 172 revenues.

<sup>1</sup> Government Code Section 30052

<sup>2</sup> Government Code Section 30051 et seq.

The law provides nine counties with unique allocation formulas. These unique formulas are the result of special circumstances and negotiated compromises. These exception counties are:

- Fresno, Kings, Merced, San Bernardino, San Joaquin, Solano, Yolo (Gov Code Sec 30055(b))
- Alameda (Gov Code Sec 30055(c))
- San Diego (Gov Code Sec 30055(d))

Cities in San Diego County initially had their allocation capped at 5% under the same provision that still affects cities in Fresno, Kings, Merced, San Bernardino, San Joaquin, Solano, and Yolo counties. In 1996, cities in the San Diego County sought to get out from this cap. Under a compromise solution, reluctantly supported by the County of San Diego, the cities and the professional firefighters,<sup>4</sup> a new, special code section was adopted with allocation factors for San Diego County and cities that were calculated to match the factors that would apply under the section that applies to most other counties.<sup>5</sup> Thus, the Proposition 172 allocations in San Diego County today effectively treat the county and cities the same as most others in the state.

### How Much Mitigation Does Proposition 172 Provide For ERAF?

Cities contribute 14% of ERAF funds, counties 77%, and special districts 7% annually (see Chart 2A). Proposition 172 mitigates about 19% of the annual statewide ERAF property tax loss for cities, about 61% of the statewide ERAF losses of counties (see Chart 2B). But Proposition 172 allocations do not mirror ERAF property tax shifts. Local agencies vary in the degree to which Proposition 172 compensates for ERAF property tax loss.

Individual agency losses to the ERAF property tax shifts are primarily related to property tax revenues received by each agency in the post-Proposition 13 property tax shift often referred to as the “AB8 bailout.”<sup>6</sup> Proposition 172 allocations depend primarily on the volume of taxable sales occurring in each county. Within each county Proposition 172 allocations are allocated to cities and the county based on a part of the ERAF shift. Because the intent of Proposition 172 has always been to mitigate the impacts of the ERAF property tax shifts on public safety services, cities that were not impacted by this phase of the shift do not receive Proposition 172 revenues.

For a complete listing of Proposition 172 allocations for all cities and counties see “Net Impact of ERAF, Prop 172 and COPs” at <http://www.californiacityfinance.com/ERAFbyCity06.pdf>

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<sup>3</sup> Revenue and Taxation Code Section 97.3

<sup>4</sup> The policy committee analyses of SB8 (1996) lists all these as supporters.

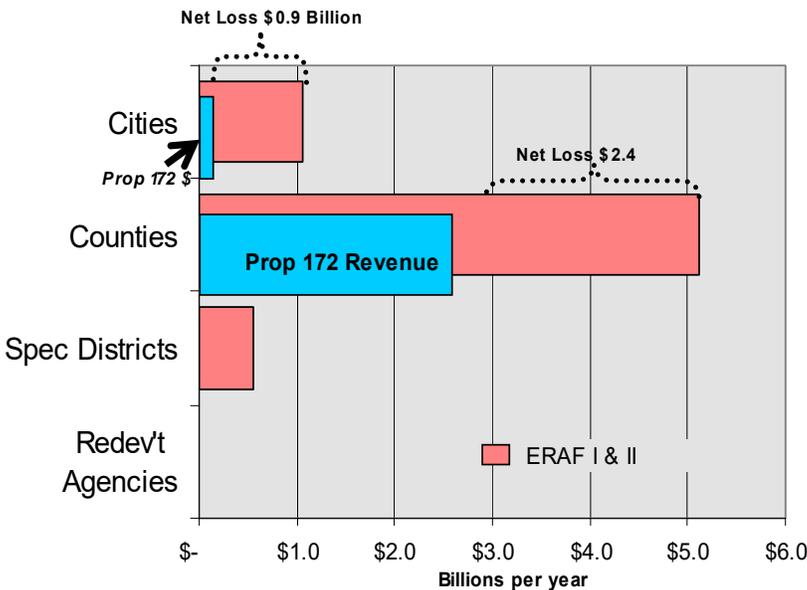
<sup>5</sup> This reduced the county’s share from 95% to 94.35% and adjusted the collective share to cities from 5% to 5.65%. The San Diego County Auditor estimated this change cost the county \$848,000 in 1996-97. In FY05-06 the effect is roughly \$1.5 million.

<sup>6</sup> AB8 (Greene) Statutes of 1980

### Fast Facts on Proposition 172

- The purpose of Proposition 172 was not necessarily to increase public safety funding, but to maintain public safety funding levels in spite of ERAF property tax shifts.
- Counties, the primary losers under ERAF, were the primary recipients of Proposition 172.
- Fire and police special districts receive no Proposition 172 funding because they are virtually exempt from ERAF.
- Proposition 172 funds go to many cities and some counties that don't provide or fund fire service.<sup>7</sup> The purpose of Proposition 172 is to mitigate the impact of ERAF on public safety – but not just fire and regardless of what specific levels of service or responsibility a particular agency might have.
- Phase II ERAF did not affect cities that got no post-Proposition 13 AB8 benefit, such as no property tax cities or those that incorporated after 1980. These cities have substantially lower ERAF impacts than others. Consequently, they don't get a share of Proposition 172.

Chart 1: Net Loss E.R.A.F. & Prop172 FY06-07



#### Annual Impact in 2006-07

	ERAF	Prop172	Net
Cities	-1,058	163	-895
Counties	-5,109	2,707	-2,402
Spec Distri	-556	0	-556
Redev't Ag	0	0	0
<b>TOTAL</b>	<b>-6,723</b>	<b>2,871</b>	<b>-3,853</b>

<sup>7</sup> 72 cities and over 20 counties do not fund or provide fire protection services. In these jurisdictions the services are funded and provided by special districts. Fire protection services are completely exempt from ERAF II.

**Proposition 172: California Constitution Article XIII Section 35**

*SEC. 35. (a) The people of the State of California find and declare all of the following: L (1) Public safety services are critically important to the security and well-being of the State's citizens and to the growth and revitalization of the State's economic base. L (2) The protection of the public safety is the first responsibility of local government and local officials have an obligation to give priority to the provision of adequate public safety services.*

*(3) In order to assist local government in maintaining a sufficient level of public safety services, the proceeds of the tax enacted pursuant to this section shall be designated exclusively for public safety.*

*(b) In addition to any sales and use taxes imposed by the Legislature, the following sales and use taxes are hereby imposed:*

*(1) For the privilege of selling tangible personal property at retail, a tax is hereby imposed upon all retailers at the rate of percent of the gross receipts of any retailer from the sale of all tangible personal property sold at retail in this State on and after January 1, 1994.*

*(2) An excise tax is hereby imposed on the storage, use, or other consumption in this state of tangible personal property purchased from any retailer on and after January 1, 1994, for storage, use, or other consumption in this State at the rate of percent of the sales price of the property.*

*(c) The Sales and Use Tax Law, including any amendments made thereto on or after the effective date of this section, shall be applicable to the taxes imposed by subdivision (b).*

*(d) (1) All revenues, less refunds, derived from the taxes imposed pursuant to subdivision (b) shall be transferred to the Local Public Safety Fund for allocation by the Legislature, as prescribed by statute, to counties in which either of the following occurs:*

*(A) The board of supervisors, by a majority vote of its membership, requests an allocation from the Local Public Safety Fund in a manner prescribed by statute.*

*(B) A majority of the county's voters voting thereon approve the addition of this section.*

*(2) Moneys in the Local Public Safety Fund shall be allocated for use exclusively for public safety services of local agencies.*

*(e) Revenues derived from the taxes imposed pursuant to subdivision (b) shall not be considered proceeds of taxes for purposes of Article XIII B or state General Fund proceeds of taxes within the meaning of Article XVI.*

*(f) Except for the provisions of Section 34, this section shall supersede any other provisions of this Constitution that are in conflict with the provisions of this section, including, but not limited to, Section 9 of Article II.*

## **Proposition 172. Local Public Safety Protection and Improvement Act of 1992.**

### **Analysis by the Legislative Analyst**

#### **Background**

A sales tax is imposed on most goods purchased in California. This tax consists of statewide uniform sales taxes and optional local sales taxes.

*Uniform Sales Taxes.* These taxes include both state and local government components. The state sales tax rate is currently 6 percent. Since 1967, a statewide local sales tax of 1.25 percent also has been imposed in all counties. Thus, the uniform statewide sales tax rate is 7.25 percent. Under current law, the state rate will decrease by one-half percent on January 1, 1994, thus reducing the uniform rate by a similar amount.

*Optional Local Sales Taxes.* Counties also have the option of levying additional sales taxes, not to exceed 1.5 percent, to pay for local programs, such as transportation and education. At the present time, 21 of the state's 58 counties levy at least one of these optional taxes. As a result, the total sales tax rate varies from county to county, but averages approximately 8 percent statewide. Figure 1 shows the current total sales tax rate in each of California's counties.

#### **Proposal**

This measure places a one-half percent state sales tax rate in the state's Constitution, effective January 1, 1994. As a result, the state's portion of the sales tax rate would remain at its current 6 percent level.

The measure requires that the revenues from the additional one-half percent sales tax be used only for local public safety activities, which include police and sheriffs' departments, fire protection, county district attorneys, county probation, and county jail operations. The amendment adds to the Constitution a statement that declares that public safety is the first responsibility of local government, and that local government officials have an obligation to give priority to the provision of public safety services.

**The additional sales tax revenues resulting from this measure are intended to offset part of the \$2.3 billion in county and city revenue losses that resulted from adoption of the state's 1993-94 budget. Specifically, \$2.3 billion in annual property tax revenues were shifted from counties and cities to the schools, thereby reducing the state's funding obligations to public schools. [Emphasis added]** Revenue generated from this addition to the sales tax rate would be allocated to counties whose board of supervisors had adopted a resolution in support of this measure by August 1, 1993. Alternatively, if no resolution had been adopted, a county would receive the funds only if a majority of its voters approve this measure.

#### **Fiscal Effect**

For fiscal year 1993-94, passage of this measure is projected to generate approximately \$714 million in additional revenue for counties and cities. On a full-year basis (beginning in 1994-95), this measure raises approximately \$1.5 billion in revenue. **These annual revenues would offset, on a permanent basis, about 65 percent of the statewide property tax loss to counties and cities resulting from the 1993 state budget actions. [Emphasis added]**