REPORT TO MAYOR AND COUNCIL

NO: 12-226

Council Meeting: October 2, 2012

SUBJECT: Positions on State and Local Ballot Measures for the November 6, 2012 Election

REPORT IN BRIEF

This report provides an opportunity for the City Council to take positions on state and local measures on the November 6, 2012 Ballot. The report summarizes each measure, and for those measures deemed *City business*, also provides the City's adopted policy on the issue (if any), and, as appropriate, a staff recommendation. Consistent with other ballot measures, no public funds have been or will be used to campaign for or against these measures.

Staff has deemed the following measures as *City business* and is recommending the following positions:

Ballot Measure/Official Title	Staff Recommendation
State Ballot Measures	
Proposition 30 – Temporary Taxes to Fund Education. Guaranteed Local Public Safety Funding. Initiative Constitutional Amendment	**Support**
Proposition 31 – State Budget. State and Local Government. Initiative Constitutional Amendment and Statute	**Oppose**
Proposition 34 – Death Penalty. Initiative Statute	**Take No Position**
Proposition 35 – Human Trafficking. Penalties. Initiative Statute	**Support**
Proposition 40 – Redistricting. State Senate Districts. Referendum	**Take No Position**
Local Ballot Measures	
Measure B – Safe, Clean Water Program	**Support**

BACKGROUND

Staff's recommendations are generally based on existing City policies from documents such as the General Plan, Legislative Advocacy Positions, and impact on City services and/or operations.

Consistent with Council Policy 7.3.13 *Support for Councilmembers; Staff-Council Communications,* staff provides analysis and a position recommendation on only those ballot measures that directly impact *City business*. *City business* is defined

as all matters directly related to service delivery, or otherwise contributing to the City's operational success (Per Council Policy 7.3.2 *Legislative Advocacy Positions*).

EXISTING POLICY

Council Policy 7.3.13 *Support for Councilmembers; Staff-Council Communications:* As soon as possible following the release of the Secretary of State's *Official Voter Information Guide* or the Santa Clara County Registrar of Voter's *Voter Information Pamphlet*, staff will present to Council a report reviewing proposed ballot measures.

DISCUSSION

A brief analysis of each measure follows including a measure summary and, for statewide measures only, the California Legislative Analyst's estimate of state and local government fiscal impact; for those measures deemed *City business*, City staff analysis by the appropriate department, existing City policy citation (if any), and, as appropriate, a staff recommendation are also identified.

Staff recommendation options are: Support, Oppose, No Staff Recommendation, or Take No Position. While the meaning of Support and Oppose recommendations are clear, "No Staff Recommendation" and "Take No Position" are clarified as follows:

> No Staff Recommendation – Consistent with City policy, staff does not provide analysis or make recommendations on measures that do not impact *City business* as defined in Council Policy 7.3.2, *Legislative Advocacy Positions*.
>
> Take No Position – Despite a measure's ability to impact *City business*, Staff may recommend that Council abstain from taking a position. This recommendation to remain neutral on an issue may be made for a variety of reasons (e.g., ballot language is not clear; the pros and cons of the business impact cancel each other out; etc.). The reason for recommending this position will be explained as part of the staff analysis.

Measures Deemed *City Business*

Proposition 30: Temporary Taxes to Fund Education. Guaranteed Local Public Safety Funding. Initiative Constitutional Amendment.

Summary:

- Increases personal income tax on annual earnings over $250,000 for seven years.
- Increases sales and use tax by ¼ cent for four years.
- Allocates temporary tax revenues 89% to K–12 schools and 11% to community colleges.

- Bars use of funds for administrative costs, but provides local school governing boards discretion to decide, in open meetings and subject to annual audit, how funds are to be spent.
- Guarantees funding for public safety services realigned from state to local governments.

Summary of California Legislative Analyst's Estimate of Net State and Local Government Fiscal Impact:

- Additional state tax revenues of about $6 billion annually from 2012–13 through 2016–17. Smaller amounts of additional revenue would be available in 2011–12, 2017–18, and 2018–19.
- These additional revenues would be available to fund programs in the state budget. Spending reductions of about $6 billion in 2012–13, mainly to education programs, would not take effect.

City of Sunnyvale Staff Analysis: The state budget deficit has lead to the state relying on tax increases and transferring responsibilities to local governments to balance the state's budget. Although Proposition 30 would increase the state's personal income tax and sales and use tax rates to the highest in the country, the measure provides guaranteed funding for public safety services realigned from state to local governments that occurred in 2011.

As part of the FY 2011/2012 state budget, the Legislature previously adopted shifts in state program responsibilities and revenues to local governments (primarily counties), also known as "realignment" with no assurance of funding. This in turn provided the City with fiscal uncertainty for repayment of Public Safety expenses such as booking fees and other Public Safety mandates. Under Proposition 30, the state could not impose new requirements to the 2011 realignment that would result in increased costs without providing sufficient funding. As well, the measure makes permanent the revenue formulas within the sale and use tax and Vehicle License Fee that are allocated to local governments to pay for the programs realigned in 2011. If these sources are reduced or eliminated, the state is required to provide alternative funding that is at least equal to the amount that would have been generated. Therefore, the measure would reduce the financial uncertainty and risk for local governments under realignment.

The League of California Cities Board of Directors reviewed this measure and has approved to Take No Position.

Existing City Policy: *Long-term Advocacy Position 7.0 Fiscal Management* (12) Ensure local governments' revenue sources are protected and predictable.

Staff Recommendation: **SUPPORT**

Proposition 31: State Budget. State and Local Government. Initiative Constitutional Amendment and Statute.

Summary:

- Establishes two-year state budget cycle.
- Prohibits Legislature from creating expenditures of more than $25 million unless offsetting revenues or spending cuts are identified.
- Permits Governor to cut 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.
- Allows local governments to alter how laws governing state-funded programs apply to them, unless Legislature or state agency vetoes change within 60 days.

Summary of California Legislative Analyst's Estimate of Net State and Local Government Fiscal Impact:

- Decreased state sales tax revenues of about $200 million annually, with a corresponding increase of funding to certain local governments.
- Other, potentially more significant changes in state and local spending and revenues, the magnitude of which would depend on future decisions by public officials.

City of Sunnyvale Staff Analysis: Proposition 31 is based on good intentions to make state government accountable, cost-effective and transparent. However, Proposition 31 has significant flaws, increased bureaucracy and legal uncertainty that could lead to costly litigation. Under Proposition 31, the governor has the authority to cut or abolish any program in a fiscal emergency (declared by the governor) that's not addressed by the Legislature. This would establish a shift of power over appropriations during times of fiscal emergency. The ballot measure also prescribes the specific manner of state and local government budgeting and constitutionally mandates how performance will be measured.

Additionally, Proposition 31 proposes to shift $200 million of state revenues to fund experimental regional county programs that would require local governments to adopt "Community Strategic Action Plans". The Plans could potentially suspend state environmental requirements which could generate costly litigation. The state is also authorized to withhold or divert taxes from local governments unless those governments adopted a Plan.

The League of California Cities Board of Directors reviewed this measure and has approved to Take No Position.

Existing City Policy: *Long-term Advocacy Position 7.0 Fiscal Management* (10) Oppose any legislation that reduces or erodes local revenues or local control.

Staff Recommendation: **OPPOSE**

Proposition 34: Death Penalty. Initiative Statute.

Summary:
- Repeals death penalty as maximum punishment for persons found guilty of murder and replaces it with life imprisonment without possibility of parole.
- Applies retroactively to persons already sentenced to death.
- States that persons found guilty of murder must work while in prison as prescribed by the Department of Corrections and Rehabilitation, with their wages subject to deductions to be applied to any victim restitution fines or orders against them.
- Directs $100 million to law enforcement agencies for investigations of homicide and rape cases.

Summary of California Legislative Analyst's Estimate of Net State and Local Government Fiscal Impact:
- State and county savings related to murder trials, death penalty appeals, and corrections of about $100 million annually in the first few years, growing to about $130 million annually thereafter. This estimate could be higher or lower by tens of millions of dollars, largely depending on how the measure is implemented and the rate at which offenders would otherwise be sentenced to death and executed in the future.
- One-time state costs totaling $100 million for grants to local law enforcement agencies to be paid over the next four years.

City of Sunnyvale Staff Analysis: Analysis shows that funding will be allocated to Local, County and State agencies; the funding is the only component of the Measure in which there is a City business relationship. The remaining components related to the Death Penalty are not addressed in any City Policy. It is unclear how the proposed mechanisms will actually result in the estimated savings or what the impact will be if the savings are not achieved. Therefore staff recommends that Council not take a position.

The League of California Cities Board of Directors reviewed this measure and has approved an Oppose position.

Existing City Policy: None

Staff Recommendation: **TAKE NO POSITION**

Proposition 35: Human Trafficking. Penalties. Initiative Statute.

Summary:

- Increases criminal penalties for human trafficking, including prison sentences up to 15-years-to-life and fines up to $1,500,000.
- Fines collected to be used for victim services and law enforcement.
- Requires person convicted of trafficking to register as sex offender.
- Requires sex offenders to provide information regarding Internet access and identities they use in online activities.
- Prohibits evidence that victim engaged in sexual conduct from being used against victim in court proceedings.
- Requires human trafficking training for police officers.

Summary of California Legislative Analyst's Estimate of Net State and Local Government Fiscal Impact:

- Increased costs, not likely to exceed a couple million dollars annually, to state and local governments for criminal justice activities related to the prosecution and incarceration of human trafficking offenders.
- Potential one-time local government costs of up to a few million dollars on a statewide basis, and lesser additional costs incurred each year, due to new mandatory human trafficking-related training requirements for law enforcement officers.
- Potential additional revenue from new criminal fines, likely a few million dollars annually, which would fund services for human trafficking victims and for law enforcement activities related to human trafficking.

City of Sunnyvale Staff Analysis: The measure requires two hours of training for every Law Enforcement Officer assigned to field or investigative services in the next two years. The cost of this training requirement is estimated to be minimal with the established training program in place at Public Safety. There is anticipated workload impact for the registration requirement to Public Safety operations believed to be minimal. Although there are identified fiscal impacts, it is believed that this increased awareness and oversight will provide for a safer community. This is inline with the Safety and Noise Policy in the General Plan.

The League of California Cities Board of Directors reviewed this measure and has approved a Support position.

Existing City Policy: *General Plan*, *Safety and Noise* Chapter, GOAL SN-3: *Safe and Secure City* - Ensure a safe and secure environment for people and property in the community by providing effective Public Safety response, prevention and education services.

Staff Recommendation: **SUPPORT**

Proposition 40: Redistricting. State Senate Districts. Referendum.

Summary

- A "Yes" vote approves, and a "No" vote rejects, new State Senate districts drawn by the Citizens Redistricting Commission.
- If the new districts are rejected, the State Senate district boundary lines will be adjusted by officials supervised by the California Supreme Court.
- State Senate districts are revised every 10 years following the federal census.

Summary of California Legislative Analyst's Estimate of Net State and Local Government Fiscal Impact:

- If the voters vote "yes" and approve the state Senate district maps certified by the Citizens Redistricting Commission, there would be no fiscal effect on state or local governments.
- If the voters vote "no" and reject the state Senate district maps certified by the Citizens Redistricting Commission, the state would incur a one-time cost of about $500,000 to establish new Senate districts. Counties would incur one-time costs of about $500,000 statewide to develop new precinct maps and related election materials for the new districts.

City of Sunnyvale Staff Analysis: How districts are drawn will impact the City's representation in the State Legislature, which can have an impact on City services and operations. If the new districts are rejected by voters, the districts will be redrawn; however, it is unclear if the City's Senate representation options would improve or worsen once redrawn. Staff therefore makes no recommendation.

Existing City Policy: None.

Staff Recommendation: **TAKE NO POSITION.**

Measure B: Safe, Clean Water Program

Summary:
To:

- Ensure safe, reliable water supply;
- Reduce toxins, hazards and contaminants in waterways;
- Protect water supply and dams from earthquakes and natural disasters;
- Restore wildlife habitat and provide open space;
- Provide flood protection to homes, schools and businesses;
- Provide safe, clean water in creeks and bays,

Shall Santa Clara Valley Water District renew an existing, expiring parcel tax without increasing rates, and issue bonds, described in Resolution 12-62, with independent citizen oversight and annual audits?

City of Sunnyvale Staff Analysis: Staff supports and participates in regional efforts to maintain water quality and reliability of supply such as those undertaken by Santa Clara Valley Water District. This measure is in line with existing policies.

Existing City Policy: Policy EM-7.3: Active Participation in Watershed Management Approach, Goal EM-8: Assure Reasonable Protection of Beneficial Uses of Creeks and SF Bay, Policy L-2.2: Encourage Parks, Open Spaces, Well Planned Development, Mixed Use Projects and Other Desirable Uses.

Staff Recommendation: **SUPPORT**

Measures Deemed NOT *City Business*

These measures have been deemed **not** *City business*. Consistent with Council policy, staff has not analyzed these measures and has no position recommendation. These measures are presented to Council for possible action at Council's discretion.

Proposition 32: Political Contributions by Payroll Deduction. Contributions to Candidates. Initiative Statute.

Summary:

- Prohibits unions from using payroll-deducted funds for political purposes. Applies same use prohibition to payroll deductions, if any, by corporations or government contractors.
- Permits voluntary employee contributions to employer-sponsored committee or union if authorized yearly, in writing.
- Prohibits unions and corporations from contributing directly or indirectly to candidates and candidate-controlled committees.
- Other political expenditures remain unrestricted, including corporate expenditures from available resources not limited by payroll deduction prohibition.
- Prohibits government contractor contributions to elected officers or officer-controlled committees.

Summary of California Legislative Analyst's Estimate of Net State and Local Government Fiscal Impact: Increased costs to state and local government—potentially exceeding $1 million annually—to implement and enforce the measure's requirements.

Proposition 33: Auto Insurance Companies. Prices Based on Driver's History of Insurance Coverage. Initiative Statute.

Summary:

- Changes current law to allow insurance companies to set prices based on whether the driver previously carried auto insurance with any insurance company.
- Allows insurance companies to give proportional discounts to drivers with some history of prior insurance coverage.
- Will allow insurance companies to increase cost of insurance to drivers who have not maintained continuous coverage.
- Treats drivers with lapse as continuously covered if lapse is due to military service or loss of employment, or if lapse is less than 90 days.

Summary of California Legislative Analyst's Estimate of Net State and Local Government Fiscal Impact: Probably no significant fiscal effect on state insurance premium tax revenues.

Proposition 36: Three Strikes Law. Repeat Felony Offenders. Penalties. Initiative Statute.

Summary:

- Revises three strikes law to impose life sentence only when new felony conviction is serious or violent.
- Authorizes re-sentencing for offenders currently serving life sentences if third strike conviction was not serious or violent and judge determines sentence does not pose unreasonable risk to public safety.
- Continues to impose life sentence penalty if third strike conviction was for certain nonserious, non-violent sex or drug offenses or involved firearm possession.
- Maintains life sentence penalty for felons with nonserious, non-violent third strike if prior convictions were for rape, murder, or child molestation.

Summary of California Legislative Analyst's Estimate of Net State and Local Government Fiscal Impact:

- State savings related to prison and parole operations of $70 million annually on an ongoing basis, with even higher savings—up to $90 million annually—over the next couple of decades. These estimates could be higher or lower by tens of millions of dollars depending on future state actions.
- One-time state and county costs of a few million dollars over the next couple of years for court activities related to the resentencing of certain offenders.

The League of California Cities Board of Directors reviewed this measure and has approved to Take No Position.

Proposition 37: Genetically Engineered Foods. Labeling. Initiative Statute.

Summary:

- Requires labeling on raw or processed food offered for sale to consumers if made from plants or animals with genetic material changed in specified ways.
- Prohibits labeling or advertising such food, or other processed food, as "natural."
- Exempts foods that are: certified organic; unintentionally produced with genetically engineered material; made from animals fed or injected with genetically engineered material but not genetically engineered themselves; processed with or containing only small amounts of genetically engineered ingredients; administered for treatment of medical conditions; sold for immediate consumption such as in a restaurant; or alcoholic beverages.

Summary of California Legislative Analyst's Estimate of Net State and Local Government Fiscal Impact:

- Increased annual state costs ranging from a few hundred thousand dollars to over $1 million to regulate the labeling of genetically engineered foods.
- Potential, but likely not significant, costs to state and local governments due to litigation resulting from possible violations of the requirements of this measure. Some of these costs would be supported by court filing fees that the parties involved in each legal case would be required to pay under existing law.

Proposition 38: Tax to Fund Education and Early Childhood Programs. Initiative Statute.

Summary:

- Increases personal income tax rates on annual earnings over $7,316 using sliding scale from .4% for lowest individual earners to 2.2% for individuals earning over $2.5 million, for twelve years.
- During first four years, allocates 60% of revenues to K–12 schools, 30% to repaying state debt, and 10% to early childhood programs. Thereafter, allocates 85% of revenues to K–12 schools, 15% to early childhood programs.
- Provides K–12 funds on school-specific, per-pupil basis, subject to local control, audits, and public input.
- Prohibits state from directing new funds.

Summary of California Legislative Analyst's Estimate of Net State and Local Government Fiscal Impact:

- Increase in state personal income tax revenues from 2013 through 2024. The increase would be roughly $10 billion in 2013–14, tending to increase over time. The 2012–13 increase would be about half this amount.
- In each of the initial years, about $6 billion would be used for schools, $1 billion for child care and preschool, and $3 billion for state savings on debt payments. The 2013–14 amounts likely would be higher due to the additional distribution of funds raised in 2012–13.
- From 2017–18 through 2024–25, the shares spent on schools, child care, and preschool would be higher and the share spent on debt payments lower.

Proposition 39: Tax Treatment for Multistate Businesses. Clean Energy and Energy Efficiency Funding. Initiative Statute.

Summary:

- Requires multistate businesses to calculate their California income tax liability based on the percentage of their sales in California.
- Repeals existing law giving multistate businesses an option to choose a tax liability formula that provides favorable tax treatment for businesses with property and payroll outside California.
- Dedicates $550 million annually for five years from anticipated increase in revenue for the purpose of funding projects that create energy efficiency and clean energy jobs in California.

Summary of California Legislative Analyst's Estimate of Net State and Local Government Fiscal Impact:

- Approximately $1 billion in additional annual state revenues—growing over time—from eliminating the ability of multistate businesses to choose how their California taxable income is determined. This would result in some multistate businesses paying more state taxes.
- Of the revenue raised by this measure over the next five years, about half would be dedicated to energy efficiency and alternative energy projects.
- Of the remaining revenues, a significant portion likely would be spent on public schools and community colleges.

Measure A: One-Eighth Cent Sales Tax

Summary: Shall the County of Santa Clara enact a one-eighth cent sales tax, that cannot be taken by the state, for local priorities such as:

- Law enforcement and public safety;
- Trauma and emergency room services;
- Health coverage for low-income children;
- Economic development and job creation;

- Housing for the homeless; and
- Programs to help students stay in school; for a limited period of ten years, with annual public reports to ensure fiscal accountability?

Measure M: El Camino Hospital District

Summary: Shall the ordinance limiting the compensation of El Camino Hospital District and El Camino Hospital executives, administrators and managers be adopted?

PUBLIC CONTACT

Public contact was made by posting the Council agenda on the City's official-notice bulletin board outside City Hall, at the Sunnyvale Senior Center, Community Center and Department of Public Safety; and by making the agenda and report available at the Sunnyvale Public Library, the Office of the City Clerk and on the City's website.

ALTERNATIVES

1. Adopt the following positions on the ballot measures:

State Ballot Measures	
Proposition 30 – Temporary Taxes to Fund Education. Guaranteed Local Public Safety Funding. Initiative Constitutional Amendment	**Support**
Proposition 31 – State Budget. State and Local Government. Initiative Constitutional Amendment and Statute	**Oppose**
Proposition 34 – Death Penalty. Initiative Statute	**Take No Position**
Proposition 35 – Human Trafficking. Penalties. Initiative Statute	**Support**
Proposition 40 – Redistricting. State Senate Districts. Referendum	**Take No Position**
Local Ballot Measures	
Measure B – Safe, Clean Water Program	**Support**

2. Adopt alternative positions on the ballot measures.
3. Take no action at this time.
4. Other action as directed by Council.

RECOMMENDATION

Staff recommends Alternative 1:

Adopt the following positions on the ballot measures:

State Ballot Measures	
Proposition 30 – Temporary Taxes to Fund Education. Guaranteed Local Public Safety Funding. Initiative Constitutional Amendment	**Support**
Proposition 31 – State Budget. State and Local Government. Initiative Constitutional Amendment and Statute	**Oppose**
Proposition 34 – Death Penalty. Initiative Statute	**Take No Position**
Proposition 35 – Human Trafficking. Penalties. Initiative Statute	**Support**
Proposition 40 – Redistricting. State Senate Districts. Referendum	**Take No Position**
Local Ballot Measures	
Measure B – Safe, Clean Water Program	**Support**

Reviewed by:

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