



BOARD OF SUPERVISORS
AGENDA LETTER

Agenda Number:

Clerk of the Board of Supervisors
105 E. Anapamu Street, Suite 407
Santa Barbara, CA 93101
(805) 568-2240

Department Name: CEO
Department No.: 012
For Agenda Of: 7/14/09
Placement: Departmental
Estimated Tme: 30 minutes
Continued Item: Yes
If Yes, date from: 6/23/09
Vote Required: Majority

TO: Board of Supervisors
FROM: Department Michael F. Brown, County Executive Officer
Director(s)
Contact Info: Terri Nisich, Assistant CEO, 568.3412
SUBJECT: Summit on Reforming the Governance of California

County Counsel Concurrence

As to form: N/A

Other Concurrence: Select_Other

As to form: Select_Concurrence

Recommended Actions:

That the Board of Supervisors consider concepts pertaining to the Statewide Local Government Summit on Governance and Fiscal Reform and provide direction to the delegation attending the Summit regarding:

- a. Cities-Counties-Schools suggested principles of reform and options for discussion, and;
- b. Consideration of a Constitutional Convention.

Summary Text:

The Cities-Counties-Schools (CCS) Partnership, which is a collaborative project of the League of California Cities, California State Association of Counties (CSAC) and California School Boards Association (CSBA), is sponsoring a statewide summit on state governance, budget and fiscal reform in Sacramento on July 17-18, 2009. The agenda for the summit includes: (1) Consideration of principles of reform and associated options; (2) Consideration of the need for a Constitutional Convention. Per the Board of Supervisors action on June 23, 2009, Supervisor Gray and Supervisor Wolf, the County's CSAC Representatives, and the County Executive Officer will attend the Summit. This item is now before the Board of Supervisors to discuss concepts and principles pertaining to the Summit and to provide direction to the County's representatives for communication at the Summit.

Background:

Draft principles of reform: The theme of the principles being considered at the Summit is local control and restoring functional state and local governments by aligning authority, responsibility, resources and accountability. The reforms noted would ideally provide greater autonomy, flexibility and fiscal tools

to local governments to ensure the delivery of high quality services. The County's 2009 adopted legislative platform identified four legislative principles focusing on efficient service delivery/operations, fiscal stability, inter-agency collaboration and local control. Local control may be defined as ensuring local authority and control over governance issues, land use policies and the delivery of services, including flexibility and customization in designing and implementing policies and services that are responsive to the community's preferences.

The CCS Partnership has recently set forth suggested principles of reform, as well as options for consideration which embody those principles, for discussion during the Summit. The Board of Supervisors may consider discussing these principles and reform options, potentially set forth additional options for consideration, and provide direction to the delegation attending the Summit.

The CCS Partnership suggested principles and reform options for consideration are as follows:

1. Responsive and Accountable Local Governments. Local governments should have broad authority, subject to voter approval for bonds and tax increases, to raise and expend a diverse and broad set of revenues necessary to provide critical local services. Concentrating these decisions at the local level will ensure greater transparency and accountability to the voters.

- a) **Option**—Protect Local Revenue Sources: The state should not be able to divert or borrow local tax revenues to fund state programs or state mandated services.
- b) **Option**—Change Requirements for Approval of Local Taxes: Existing law requires voter approval of local general taxes (majority), special taxes (2/3), and parcel taxes (2/3). The reform options could include: (1) **Option**—Approve Local Taxes With <2/3 Vote: Given the active involvement of voters in all decisions on local taxes, the 2/3 threshold for voter approval of taxes or bonds should be reduced (e.g., the current 55% vote for school bonds).
- c) **Option**—Approve Local Taxes Without Voter Approval: Local elected governing bodies should be authorized to approve increases in local taxes without the requirement of seeking prior voter approval, subject to voter referenda.
- d) **Option**—Allow Regional or County-wide Taxes for Regional Services with Voter Approval. Authorize counties, schools, cities, or any combination thereof to seek voter approval to levy income, sales, property (parcel or ad valorem within some limit), utility, vehicle or business taxes to finance important countywide or regional education, health, human services, public safety, environmental, or other services.

2. State Preemption of Local Control. Local control should be the rule and state preemption the exception.

- a) **Option**—Require Findings and Supermajority Vote to Preempt Local Control: When state preemption of local regulatory, taxation and other local powers is deemed necessary, the legislature should make specific findings setting forth the reasons and necessity of having a statewide rule or program, and the preemptive statute should only be adopted with a supermajority legislative vote of both the Assembly and Senate. Implied preemption of local control should be prohibited.

3. Enhanced Protection from State Mandates. Local governments need additional protection from state mandates that attempt to micromanage local affairs.

- a) **Option**—Modernize Mandate Claims Process: Reform the existing state mandate claims process to remove unreasonable burdens and delays on local agencies seeking to recover costs.
- b) **Option**—Require Mandate Reimbursement Even if Local Fees Possible: Prohibit the state from avoiding mandate claims by prohibiting the state from requiring local governments to pass on costs through local fees.

4. Personnel Policies and Pensions. All local governments should have broad authority and flexibility in personnel matters.

- a) **Option**—Allow Local Control of Employee Retirement Benefits: All local governments, including schools, should be able to design and implement their own appropriate pension and post-retirement health benefits program, including the ability to establish new benefit tiers for new hires and to implement cost-saving measures otherwise allowed by the constitution.

5. Focus on Outcomes in State Funding of Locally Delivered Services. When local agencies administer state programs and mandates with state funds, they should be held accountable for the measureable outcomes and given extensive administrative flexibility over the means and methods chosen by local leaders to achieve those outcomes.

- a) **Option**—Expand Block Grants: Make greater use of block grant programs that give local government flexibility in the administration of state funded services.
- b) **Option**—Allow Contracting for Services and Reward Innovation: Remove obstacles to contracting out services as opposed to using employees of the local agency. Create financial incentives for lowering administrative overhead.

6. Modernize State Budgeting. The state budget process should be modernized to reflect the best practices in state financial management from across the country.

- a) **Option**—Institute Performance-Based Budgeting and Prudent Reserves: Implement best practices in performance-based, multi-year budgeting and establish prudent reserves in order to achieve measurable outcomes and improved stability during periods of financial turmoil.
- b) **Option**—Require New Funding for New Mandates: New programs or mandated funding obligations should be approved only if the budget authorizes a new, dedicated, reliable and adequate funding source or explicitly provides for measurable offsetting savings in state or local operations.
- c) **Option**—Require New Funding Sources for Statewide Ballot Measures that Impose New Obligations: Every new ballot measure that imposes new funding obligations on state or local governments should authorize a new, dedicated and reliable funding source or provide for

measurable offsetting savings in state or local operations to finance the entire cost of the new obligations.

- d) **Option**—Change Requirements for Legislative Approval of State Budget and Tax Increases. Current law requires a 2/3 vote of the state legislature to approve a state budget or increase taxes. Possible reforms of this requirement include:
- e) **Option**—Require Voter Approval of State Tax Increases. All state tax increases should be approved by less than a 2/3 vote of the electorate before taking effect.
- f) **Option**—Reduce Vote Required for Legislative Approval of State Budget and Tax Increases. The 2/3 vote of the state legislature required to approve a state budget and increase taxes should be reduced.
- g) **Option**—Reduce Vote Required for State Budget Only: The Legislature should be authorized to approve the state budget with less than a 2/3 vote but the 2/3 vote required to increase taxes should be retained.

7. Update the State and Local Revenue Systems. The laws governing the major state and local tax revenues should be regularly updated and revised to reflect the transformation to a service-based economy and the tax equity concerns that have arisen over time.

- a) **Option**—Modernize the Sales Tax: Broaden the sales tax base to cover major services and lower the rate to ensure a revenue neutral effect in the short-term.
- b) **Option**—Equalize Tax Inequities Among Similar Property Owners. Over time equalize inequities in property values among similar property tax payers that have arisen based on differences in the date of property acquisition.

8. Governance and Responsiveness. State government should periodically review and recommend improvements to the structure, functions and financing of state government operations in order to assure citizens that decisions are being made and services are being delivered in the most responsive and efficient manner possible.

- a) **Option**—Require Periodic Legislative Reauthorization of Existing Programs: At least every 10 years the Legislative Analyst should identify for the legislature those state programs that have increased in cost at a rate faster than state revenue growth or some other relevant factor or which for reasons of inefficiency or ineffectiveness should be the subject of legislative oversight and reauthorization. Upon completion of the evaluation of the programs by the LAO and the legislature, the continuation of the programs should be contingent upon reauthorization and funding by the legislature.
- b) **Option**—Require Voter Approval for Reauthorization of Fast-Growing Programs. Except for federally mandated services and programs, upon completion of the evaluation of programs by the LAO and the legislature, the legislature shall not appropriate any funds for a program it reauthorizes in excess of the average state revenue growth unless it is first approved by the voters.

9. Organization of the State Legislature: The legislature should be modernized in order to achieve greater effectiveness and responsiveness to the priorities of the people of the state, including changes in how legislators are elected, limits on the length of their terms, the duration of the legislative session, and the way in which the legislature operates.

- a) **Option--Reform Term Limits:** Term limits should be eliminated or reformed to extend the length of service of members of the legislature. As a result of the rapid turnover of representatives in the current system, a large number of representatives are always new and inexperienced. This has resulted in a loss of historical memory, a system where representatives feel more loyalty to their respective parties than to the constituents that elected them, and a greater concentration of power among unelected staff members and lobbyists.
- b) **Option—Institute Open Primaries:** The ideological extremes in the state legislature have impeded the accomplishment of the people’s business, and a system of nonpartisan open primaries should be approved by the voters, such as SCA 4 (“Two Top Primaries Act”) approved by the legislature in February 2009 for the June 2010 ballot. Voters should be able to vote for any state or congressional candidate in the primary, regardless of the voter’s party registration, and the top two vote getters, regardless of party, should compete in the general election.
- c) **Option—Increase Legislative Transparency:** Public confidence in the legislature has declined in part due to the fact it operates largely in secret. The legislature should function under the same open meetings and open records requirements as local governments, and no legislation should be enacted without being first published and publicly available for at least 24 hours prior to action.
- d) **Option—Shorten Legislative Sessions and Financially Reward Time in District:** The legislative session should be shortened (e.g., 90 – 180 days per year), and legislators should receive a financial incentive to hold hearings and spend time in their districts meeting with constituents rather than in Sacramento.

Constitutional Convention: Another concept that will be discussed at the Summit is the issue of whether a Constitutional Convention is necessary to ensure statewide reform. The Board of Supervisors may wish to consider whether it supports the concept of a Constitutional Convention and comment on issues related to the actual creation of a Convention.

Article 18 of the California Constitution articulates the process to amend and revise the Constitution:

“SEC. 2. The Legislature by roll call vote entered in the journal, two-thirds of the membership of each house concurring, may submit at a general election the question whether to call a convention to revise the Constitution. If the majority vote yes on that question, within 6 months the Legislature shall provide for the convention. Delegates to a constitutional convention shall be voters elected from districts as nearly equal in population as may be practicable.”

Two bills have been introduced, ACR 1 (Blakeslee) and SCR 3 that propose placing the questions of calling a Constitutional Convention on the next statewide general election. In addition to legislative

efforts, various organizations and other proponents have suggested placing an initiative on the ballot to amend the Constitution. This process would allow the voters, rather than the Legislature, to decide whether a Convention should be established. However, there are outstanding issues pertaining to the structure and content of a Convention including:

- (1) The agenda of the Convention: Will it focus exclusively on governance and fiscal issues or will it also address social issues?
- (2) The selection of delegates: The Constitution requires delegates to be based on districts. Yet other proposals are being considered including a statewide election, a jury-like or modified jury selection process, and a process similar to the citizens' redistricting commission.
- (3) Delegation process: Will the Convention meet in public? What threshold will be required for Constitutional amendments- 2/3 vote by delegates or a simple majority?
- (4) Consultative Process: How will input from other interested individuals and groups be incorporated into the process?
- (5) Implementing the Convention: If the Convention is convened, what will be the timing for the Convention to conclude? What are the mechanisms and timeframes for implementing any amendments or revisions to the Constitution that come forth through the Convention?

Performance Measure:

N/A

Fiscal and Facilities Impacts:

Budgeted: No

Fiscal Analysis:

Narrative: Any reforms that emerge from the Summit may have a fiscal impact to the County in the long-term if reforms lead to changes in the State's budget process, fiscal stability and relationship with local government entities. There will be a fiscal impact associated with convening a Constitutional Convention, although the cost is unknown at this time.

Staffing Impacts:

Legal Positions:

N/A

FTEs:

N/A

Attachments:

1. Prah, Pamela, "The Path to California's Fiscal Crisis", Stateline.org, May 15, 2009, www.stateline.org
2. Hauck, Bill and Mayer, James, "The Road to a Constitutional Convention: Things to Figure Out", California Counties Magazine, May/June 2009, California State Association of Counties.

Authored by:

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