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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

2007 DEC 21 PM 4:15

COUNTY OF SANTA BARBARA
CLERK OF THE BOARD OF SUPERVISORS

Department Name: CEO
Department No.: 012
For Agenda Of: 1/08/08
Placement: Departmental
Estimated Tme: 40 minutes
Continued Item: No
If Yes, date from:
Vote Required: Majority

07-01203

TO: Board of Supervisors

FROM: Department Michael F. Brown, County Executive Officer
Director(s)
Contact Info: Jason Stilwell, Assistant CEO/Budget Director, 568-3413

SUBJECT: Proposition 172 and Sheriff's Department budget update

Recommended Actions:

Provide policy direction as follows:

- 1) Receive an update on Proposition 172 revenues and reaffirm departments must maintain balanced budgets even if expenditure reductions are required to meet lower Proposition 172 revenue estimates; and
- 2) Receive an update on the Sheriff's department budget and consider action to balance the Sheriff's department's budget.

Summary Text:

This hearing provides the opportunity for the Board to receive a report on two issues. The first is the shortfall of the Proposition 172 public safety sales tax revenues. Second is the challenge with the Sheriff's department's fiscal year 2007-2008 budget and projected continuing budgetary challenges to the department's fiscal year 2008-2009 budget. After receiving the two reports the Board may want to direct five of the Proposition 172 departments to remain within their budgets and consider action to revise the Sheriff's department fiscal year 2007-2008 budget.

Background:

As reported to the Board during the first quarter financial report two primary challenges to the fiscal year 2007-2008 budget are the Proposition 172 revenue shortfall and the projected deficit of the Sheriff's department budget. This hearing will enable the Board to receive a report on these two specific budget challenges and consider action to adopt certain changes to the budget to respond to these two challenges.

These issues are being brought to the Board at this time for two reasons. One is to provide focus on these issues separate from the scheduled quarterly financial reports. The second is, if the Board chooses to enact budget reduction measures, to provide sufficient time for such measures to impact this fiscal year's budget. Reductions at the mid-point of the fiscal year will have a greater budgetary effect than will reductions later in the fiscal year. Moreover and very importantly it will allow time for the cognizant officials to meet their legally required budget control responsibilities.

PROPOSITION 172

Proposition 172 is a statewide voter approved sales tax to fund local public safety services. One-half percent of statewide taxable sales are first deposited into the State's Local Public Safety Pool. The revenue is then allocated to county governments throughout the State based on a formula. Each year the formula is determined based upon the actual sales in the County divided by the total State sales for the prior calendar year. In 1996, the Board adopted a percentage-based allocation of this revenue to six departments - District Attorney, Fire, Parks, Probation, Public Defender, and Sheriff (see Attachment A for details). The County allocation was revised in July 2004 by direction of the Board of Supervisors to provide a gradually increasing percentage to the Fire department (see Attachment B).

As reported to the Board in the first quarter financial report, Proposition 172 revenues were estimated to be \$2.4 million below projections by June 30, 2008. Subsequent projections show this shortfall increasing. The fiscal year 2007-2008 estimated actual now is projected to be \$2.9 million below budget. Preliminary estimates indicate the next year Proposition 172 revenues will not rebound significantly – therefore this decline is expected to continue.

Proposition 172 Revenue

		2006-2007 Actual	2007-2008 Adopted	2007-2008 Estimated Actual	2007-2008 Adjustment	2008-2009 Budget
Fire		\$1,596,371	\$2,205,643	\$2,012,783	(\$192,859)	\$2,509,270
District Attorney		\$3,952,442	\$4,180,152	\$3,814,643	(\$365,509)	\$3,828,347
Probation		\$7,170,986	\$7,584,123	\$6,920,974	(\$663,149)	\$6,945,838
Public Defender		\$2,876,647	\$3,042,377	\$2,776,355	(\$266,023)	\$2,786,329
Sheriff		\$14,775,237	\$15,626,473	\$14,260,109	(\$1,366,365)	\$14,311,338
Parks		\$35,369	\$37,406	\$34,136	(\$3,271)	\$34,258
		\$30,407,052	\$32,676,175	\$29,819,000	(\$2,857,175)	\$30,415,380

This revenue shortfall is putting pressure on all the Proposition 172 departments' finances. Nearly half of this revenue source is allocated to the Sheriff's department. This revenue provides important public safety services.

As stated in the Board adopted Budgetary Control and Responsibility policy, Department Directors are responsible for assuring their departmental budget expenditures are lower than available revenue. Section C of that policy outlines this responsibility and the steps the Department Director should take to maintain budgetary control.

C. If budgeted revenue is projected to be under-achieved, the department head responsible for that budget shall take one or more of the following steps in the following order:

- 1) Attempt to speed up revenue collections, or obtain additional revenues
- 2) Lower expenditure levels so that originally budgeted County Contribution is not exceeded and notify the County Administrator
- 3) Request a transfer reducing appropriations from a reserve/designation within the same department and fund under the department head's control
- 4) Prepare a transfer request from the Contingency account and an agenda item for the Board of Supervisors with a memo providing adequate justification.

In addition Government Code Section 29121 provides that Department Directors may be held personally liable for their departmental over expenditures. The Budgetary Control and Responsibility policy further states that “the Board of Supervisors reserves the right to apply this law in instances of a department heads' failure to adhere to the procedures outlined in this policy.” Thus California law makes it the Department Director’s responsibility to address their departmental budget imbalances rather than the responsibility of the County Executive Officer or the Board of Supervisors.

Step 4 of the policy requires Board authority to complete the transfer. The Contingency account, which began the year at \$800,000, has a remaining balance of \$546,731. Thus, if the Board were to transfer funding to the affected Proposition 172 departments the transfer would have to occur from both Contingency and the Strategic Reserve since the Contingency does not contain a sufficient balance.

DISTRICT ATTORNEY, FIRE, PARKS, PROBATION, PUBLIC DEFENDER

Each of the above departments is impacted to some extent by the Proposition 172 problem. Currently they are all attempting to manage within their adopted budgets and revised revenue projections. They may well need Board of Supervisors assistance later in the year. However, it is recommended that at this time the Board allow these Department Directors to manage this revenue shortfall within their budgets. The Sheriff’s department is different because of the magnitude of the problem in relation to its budget.

SHERIFF’S DEPARTMENT

The Sheriff’s department expenditures will exceed the department’s available revenues at the end of the fiscal year without intervention. By way of context and background during the 2007-2008 budget adoption hearings the County Executive Office and Sheriff reported the adopted Sheriff’s department budget would be “fragile.” Subsequently, the first quarter financial report stated the Sheriff’s department is on track to end the fiscal year with a deficit of approximately \$2.7 million. Unanticipated revenue is not likely to become available to abate this condition. This hearing enables the Board to determine if it is going to expand the Sheriff’s budget at the end of the year or if it is going to direct the Sheriff utilize all available means to stay within the appropriated budget.

As the fiscal year progressed, better estimates have become available and estimates for fiscal year 2008-2009 are now available. The projected 2007-2008 deficit is now \$3.7 million and without intervention will be approximately \$6 million in 2008-2009.

The deficit in the Sheriff's department budget is a result of a number of factors. Primarily they include:

- The department has ten Deputy class unfunded positions, approved by the Board of Supervisors, that will be nearly fully staffed throughout the second half of the fiscal year. Thus, personnel expenditures are occurring without available revenue.
- The department has full staffing. The department has, on average this fiscal year, been maintaining vacancies of only 12 full-time equivalent out of a total staff of 690. In the past the department has had a large number of vacancies resulting in salary savings to assist in ameliorating unexpected budget impacts.
- Proposition 172 revenue is not meeting budget expectations. Proposition 172 is a primary revenue source for the Sheriff's department. This revenue is \$1.4 million below budget.
- Other factors: the department experienced unexpected reimbursable overtime for the Zaca fire (\$470 thousand); the department incurred overtime relating to the Lompoc/Highway 154 homicide investigation (\$225 thousand); despite full staffing the department continues to experience relatively high levels of overtime use due to a number of Deputy Trainees still in training; and there will be costs associated with a projected wave of 3.0% at 50 induced retirements in March.

The deficit is projected to continue into the 2008-2009 budget as salaries increase and the cost of services and supplies grow beyond the budget target. In addition it appears the Retirement Board is approving the anticipated large rate increase, the Sheriff's department budget could be significantly over budget in the next fiscal year without significant restructuring and/or allocation of additional resources.

As the Board is aware, the financial condition of the County is declining as discretionary revenues soften, the real estate market remains unsettled and expenditures grow. The State budget structural deficit looms and the impact any State budget balancing action will have on County intergovernmental revenues is uncertain. The 2007-2008 County budget remains balanced but it is tightly balanced as unanticipated discretionary revenue is unlikely. The size of the Sheriff's department budget deficits warrant specific reporting to the Board and discussion of available remedies.

Addressing the Sheriff's budget imbalance is imperative, not only to end this fiscal year with a balanced budget, but to develop the fiscal year 2008-2009 budget. As it stands now in developing the 2008-2009 budget, all County departments are required to submit potential 5% General Fund contribution budget reductions. The County Executive Officer will likely need to recommend a majority of these reductions to present a balanced 2008-2009 recommended budget to the Board. This balancing strategy assumes departments remain within their allocated targets. Amounts over target, including the current Sheriff's department impending budget deficit, will have to be funded from further reductions from other services and departments.

There are three options to control the Sheriff's department budget

- 1) Require the Sheriff to operate within available departmental revenue;
- 2) Increase appropriations to meet Sheriff's department expenditure projections;
- 3) Set an appropriation transfer limit and direct the Sheriff to take necessary action to end the year with a balanced budget.

The details and service level impacts of these three options are discussed to provide necessary decision making information to the Board. It should be noted that the lists below provide representative examples and are not recommended by the Sheriff nor other Department Directors. This notwithstanding, the Board of Supervisors must set policy to balance the budget now.

Option 1 - Require the Sheriff to operate within available departmental revenue

Option 1 would require the Sheriff's department to make expenditure reductions to meet departmental revenue estimates. This would require the department to reduce expenditures or increase revenues by an estimated \$3.7 million prior to June 30, 2008.

The advantage of this option is that the department would be within target and the department's projected 2008-2009 deficit would be diminished primarily as a result of annualizing the option 1 reductions. The department would again have to consider reductions beginning July 1, 2008 to meet the fiscal year 2008-2009 appropriation if additional revenue is not available. An additional advantage is that this option would only pose minimal impacts on the service levels of other County departments.

The disadvantages of this option are significant. There would be a reduction in levels of service as detailed below and the department would have to forego many of the gains made in hiring new recruits and lay-offs of sworn personnel will occur.

The potential reductions required for this option are in the table below. The reductions are calculated based on half of the fiscal year and allow for attrition time for reductions in sworn positions.

Option 1

Division	Amount	Impact
Custody	\$67,938	Eliminate funding for 1.0 FTE Custody Lieutenant, reduce food service expenditures, and defer south yard remodel
Administration	\$74,038	Eliminate funding for 1.0 FTE Chief Deputy Sheriff
Law Enforcement Operations (1)	\$3,354,378	Various reductions in law enforcement operations, patrol and investigations.
Law Enforcement Operations (2)	\$87,112	Eliminate funding for 2.0 FTE Lieutenants.
Support Services	\$89,036	Eliminate funding for 2.0 FTE utility workers and reduce computer maintenance budget.
TOTAL REDUCTION	\$3,672,502	

Option 2 – Increase appropriations to meet Sheriff’s department expenditure projections

Option 2 would primarily identify available revenue and reserves from elsewhere in the County that would be available for the Board of Supervisors to transfer to the Sheriff’s department at fiscal year end. The department proposed \$318,124 in expenditure reductions but otherwise maintains its level of service. This strategy anticipates the department will end the fiscal year with a deficit of \$3.4 million at which time transfers would occur to enable the Sheriff’s department to end the year balanced.

The advantage of this option is that the Sheriff’s department would maintain levels of service and be significantly prepared for a potential large number of retirees prior to fiscal year end by continuing the recruiting and training program.

The disadvantages of this option are significant. This option would require the County to significantly reduce General Fund contribution amounts to other departments, defer capital projects, transfer savings other departments have developed, and reduce reserve and designation balances. Additionally, this option would not reduce the projected 2008-2009 Sheriff’s department budget deficit and one-time reserves and designations would have been allocated this fiscal year to cover an ongoing expenditure deficit that is projected to continue into the next fiscal year.

The potential reductions required for this option are in the table below.

Option 2

Department/Division	Amount	Impact
Sheriff	\$318,124	This includes four of reductions presented in Option 1.
Fire	\$750,000	Reduce General Fund contribution to the Fire department due to the department’s increase in unanticipated property tax revenue designations
Social Services	\$500,000	Reduce General Fund contribution to the Social Services department requiring the department to utilize designation balances
Parks – Capital projects	\$250,000	Reduce the Goleta Beach restoration project budget as the project will not require the entire appropriation for 07-08
General Services – Deferred maintenance	\$400,000	Reduce the General Services deferred maintenance budget
County Executive Office, Auditor-Controller, General Services, Treasurer Tax Collector, Housing and Community Development, Agriculture Commissioner, Parks, County Counsel	\$450,000	Transfer year end expenditure savings from these departments that are projecting positive year end budget balances
General County Programs	\$200,000	Transfer from the Contingency account
General County Programs	\$400,000	Transfer from the Salary designation
General County Programs	\$431,876	Transfer from the Strategic Reserve
TOTAL REDUCTION	\$3,700,000	

Option 3 - Set an appropriation transfer limit and direct the Sheriff to take necessary action to end the year with a balanced budget

Option 3 is essentially a hybrid of the first two options. It would identify available a specific dollar amount of revenue and reserves from elsewhere in the County that would be available to the Sheriff's department at fiscal year end but would require the Sheriff's department to end the year with an adjusted balanced budget. This strategy provides the Board with the most discretion in setting a potential year-end transfer amount while requiring the Sheriff's department to take action to further reduce expenditures.

The advantages of this option are that 1) the Sheriff's department would be able to enact targeted service level reductions, 2) the Board would be able to set a strict transfer target thus reducing overall financial exposure and maintaining flexibility to address other budget challenges between now and the end of the fiscal year, and 3) this option would maintain the policy discussed above that departments are to reduce expenditures to meet unanticipated reductions in revenue.

The disadvantages of this option are 1) reductions in law enforcement service levels, 2) the reduction of one-time reserves to fund an ongoing operational deficit in the Sheriff's department, 3) lay-offs of sworn personnel will occur, and 3) a projected continuing deficit in the fiscal year 2008-2009 Sheriff's department budget would be reduced but not eliminated.

The potential reductions required for this option are in the table below.

Option 3

Division	Amount	Impact
Sheriff	\$318,124	This includes four of reductions presented in Option 1
Sheriff - Law Enforcement Operations	\$1,031,876	This item includes a \$1,031,876 reduction from Law Enforcement Operations rather than the \$3,354,378 outlined in Option 1
Fire	\$500,000	Reduce General Fund contribution to the Fire department due to the department's increase in unanticipated property tax revenue which is accumulating in the departments fire fund reserve
Social Services	\$350,000	Reduce General Fund contribution to the Social Services department requiring the department to utilize designation balances
General Services -- Deferred maintenance	\$200,000	Reduce the General Services deferred maintenance budget
County Executive Office, Auditor-Controller, General Services, Treasurer Tax Collector, Housing and Community Development, Agriculture Commissioner, Parks, County Counsel	\$200,000	Transfer year end expenditure savings from these departments that are projecting positive year end budget balances
General County Programs	\$200,000	Transfer from the Contingency account
General County Programs	\$400,000	Transfer from the Salary designation
General County Programs	\$500,000	Transfer from the Strategic Reserve
TOTAL REDUCTION	\$3,700,000	

Attachments:

A – History of Proposition 172, the Public Safety Sales Tax

B – Reallocation of Future Local Public Safety Fund Proposition 172 Revenue and Intent to Allocate Certain Future Capital Funds to the Fire Department

Authored by: Jason Stilwell, Assistant County Executive Officer

cc: Sheriff Bill Brown
Ron Cortez, Deputy County Executive Officer
Bob Geis, Auditor-Controller
All Department Directors

ATTACHMENT A

History of Proposition 172, the Public Safety Sales Tax

Memorandum



Date: December 31, 2001

To: Honorable Board of Supervisors

From: Michael F. Brown, County Administrator

Subject: History of Proposition 172, the Public Safety Sales Tax

CC: Each Department Head, Public Safety Departments
Bob Geis, County Auditor-Controller
Shane Stark, County Counsel

During your Board's November 13 Budget Workshop, Supervisor Rose asked for information regarding Proposition 172, particularly its early history and decisions regarding the local allocation of Proposition 172 revenues. A report on the subject is attached. Please contact Ken Masuda at 568-3411 if you have any questions about the report.

Attachment

Proposition 172 Background and History

Introduction

In the early 1990's, state government revenues declined as both the national and California state economies slid into a recession. This revenue shortfall, coupled with the earlier passage of Proposition 98, which established a constitutionally guaranteed minimum level of state funding for public K-12 school districts and community colleges, created a state level budget crisis—not the first nor the last.

In 1992, in response to the funding crisis, the State began transferring local property tax revenues primarily from counties, and also from cities and most special districts, to schools. This reallocation authority was, until this time, one of the unused features of Proposition 13 of 1978.

Proposition 172, the “Public Safety Sales Tax”

To partially mitigate the property tax loss, the State Legislature placed on the November 1993 ballot a “new” ½ cent sales tax. The tax was called a “Public Safety Sales Tax,” to be used only for “public safety services of local agencies.” The full text of this legislation, Senate Constitutional Amendment No. 1 (SCA-1), is included as Exhibit 1. As defined in further implementing legislation, the term “public safety services” included but was not limited to “sheriffs, police, fire protection, county district attorneys, and county corrections.” Courts were specifically excluded from the definition of public safety services. Although public defenders were not specifically named in the legislation, a later legislative counsel opinion indicated the definition was intended to include public defender services.

The tax proposal became popularly known by its proposition number, “Proposition 172.” Proposition 172 was passed by the voters on November 3, 1993. In fact, this new tax continued a special short-term sales tax increase enacted in 1991 to help balance the state budget. This first increase, which was scheduled to expire in June of 1993, was extended by the legislature through December 1993 in anticipation of the November 1993 election. During the campaign to approve Proposition 172, it was emphasized that the tax was, in essence, a continuation of a level of sales tax already in place.

Impacts

Voter approval of Proposition 172 allowed the County to avert “a major financial crisis” in the FY 1993-94 budget year. In that year, the state took \$24.75 million in County General Fund property tax revenues and an additional \$2.1 million in property taxes was lost in other County funds, such as county service areas and the flood control district. Proposition 172 receipts provided \$15.24 million in FY 1993-94 so that the net General Fund revenue loss to the County amounted to “only” \$9.51 million as opposed to a potential \$24.75 million.

Table 1 shows the impact of the two major components, the General Fund property tax revenue loss and Proposition 172 revenue gain to Santa Barbara County in millions of dollars. The attached Exhibit 2 includes two additional components, property tax loss from non-General Fund sources and recent, one-time, state property tax rebates.

Table 1: Net General Fund Loss From Property Tax Loss and Prop. 172 Sales Tax Gain, in millions of dollars

Year	General Fund Property Tax Loss	Proposition 172 Revenue Gain	Net Loss Per Year
1992-93	(\$4.48)	\$0	(\$4.48)
1993-94	(\$24.75)	\$15.24	(\$9.51)
1994-95	(\$26.19)	\$16.50	(\$9.69)
1995-96	(\$26.30)	\$17.50	(\$8.80)
1996-97	(\$26.96)	\$18.24	(\$8.72)
1997-98	(\$27.94)	\$19.45	(\$8.49)
1998-99	(\$30.08)	\$20.29	(\$9.79)
1999-00	(\$32.50)	\$23.51	(\$9.00)
2000-01	(\$34.70)	\$25.00	(\$9.70)
2001-02 (Est.)	(\$36.78)	\$26.25	(\$10.53)
TOTAL:	(\$270.68)	\$181.99	(\$88.70)
Average	(\$27.07)	\$18.20	(\$8.87)

Impacts on Public Safety Departments

Approval of Proposition 172 allowed the county to avoid the reduction of certain services that had been scheduled for reduction as of December 31, 1993 if Proposition 172 had not passed and to restore services that had already been reduced. These avoided reductions and restored cuts are best displayed in terms of positions, and are shown in summary form, for public safety departments, in Table 2. In addition to the staffing reductions, Proposition 172 revenues allowed the county to avoid closing the Santa Maria Juvenile Hall and the Men's Honor Farm at the Main Jail, both of which had otherwise been scheduled for closure on December 31, 1993.

Table 2. Position Reductions Avoided and Positions Restored, November 1993.

Department	No. of Position Reductions Avoided	No. of Previously Deleted Positions Restored	Total Positions
Sheriff	8	24	32
District Attorney	4	4	8
Public Defender	4	3	7
Probation	16	7	23
Fire	0	1	1
Totals	32	39	71

Allocation of Proposition 172 Revenues

While Proposition 172 revenues that the County receives are related to county sales tax revenues, there is not a direct relationship.

1. **Statewide Allocation.** Although the amount of sales tax revenues collected within the County of Santa Barbara is the primary factor in determining how much Proposition 172 revenue the county will receive, the annual dollar allocation formula actually represents a mix of local and statewide receipts.

This is because each county's annual Proposition 172 allocation is based on the proportion of county sales tax revenues to total statewide sales tax revenues in the preceding year. So, for example, in fiscal year 2000-01, the county received 1.18244% of statewide receipts whereas, in the previous year, our share was 1.1253%.

2. **Allocation in Santa Barbara County Between Cities and the County.** Within Santa Barbara County, the county receives 97.4081562% of total Proposition 172 revenues and cities receive the balance or about 2.6%. These ratios vary from county to county based on proportionate property tax losses, but do not change over time. For example, since the new City of Goleta was not in existence when the property tax shift took place, it did not lose any property tax revenues and thus will not share in Proposition 172 revenues.
3. **Allocation of Proposition 172 Revenues Within the County**

Initial Allocations to Nondepartmental Revenue. For the first three fiscal years, 1993-94 through 1995-96 revenues were deposited in the nondepartmental revenue budget. Proposition 172 implementing legislation, known as AB-2788, requires annual reporting to ensure that county budgeted public safety appropriations meet or exceed a maintenance of effort amount based on fiscal year 1992-93 appropriations to public safety departments. There is no requirement that the Proposition 172 revenue be deposited directly to public safety departments.

Public Safety Departments Request to Change the Allocation Process. While the last national recession ended in 1993, in California the recession lasted longer due to defense industry cutbacks and consolidations. Locally, this meant budgets were still tight. Partly in response to this, the public safety departments, in March 1996, asked the Board to adopt a resolution revising its earlier policy regarding how the Proposition 172 revenues were allocated.

Instead of the revenue going into a single non-departmental revenue account, it was requested that, in the future, Proposition 172 revenues be allocated directly to department budgets following a formula "to be developed and agreed upon" by the public safety departments. This change meant that public safety departments would receive "categorical" revenue in exchange for "discretionary" revenue, reducing their exposure to any budget cuts based on shares of "General Fund contribution." In addition, the proposal would allow public safety departments to carry-over "unanticipated" Proposition 172 revenue, subject to certain conditions, from one year to the next.

The public safety departments also asserted that putting the revenue directly in department budgets would more easily demonstrate to the public that these tax revenues were being spent on local public safety activities.

A copy of the Board adopted resolution, Resolution, No. 96-91, is attached as Exhibit 3. Also attached, as Exhibit 4, is a County Counsel opinion which, in part, indicates that the resolution “does not supersede the authority and duty of the Board of Supervisors to consider and adopt a budget pursuant to the County Budget Act” and that the allocation of funds among the public safety agencies “can be revisited by the Board at any time.”

In April 1996 the public safety departments submitted a “Letter of Understanding” (attached as Exhibit 5) which included the allocation formula shown in Table 3. This formula was based on General Fund contribution amounts (then called Net County Cost and abbreviated as NCC) received by the departments for public safety activities in fiscal year 1994-95.

Table 3: Proposition 172 Revenue Allocation Formula

Department	Percent
District Attorney	13.41
Public Defender	9.76
Fire	2.25
Probation	24.33
Sheriff	50.13
Parks (lifeguards)	0.12
Totals	100.00

While the letter indicates that Proposition 172 funds are to be reallocated retroactively to the FY 1995-96 year, it appears from financial data that the actual reallocation did not occur until FY 1996-97.

Allocations to the Fire Department: A Special Case. As indicated, the Proposition 172 one-half cent sales tax was intended to offset the impact of local property tax revenue losses on local public safety departments. However, state legislation, specifically SB 844 of 1992-93, which implemented the initial shift of local property taxes to the Educational Revenue Augmentation Fund (ERAF), exempted certain special districts from property tax reductions and limited cuts for certain other districts.

Among the districts with special limits or exemptions are “fire districts that contract with the state to protect watershed land” called state responsibility areas or SRAs. Property

taxes and state payments for fire protection in SRAs are specifically exempted from any shift.

The County Fire Department (specifically the Fire Protection District Fund 2280) was one of six contract counties eligible for this exemption. The only non-exempt area was money from the state, provided for in AB 8 of 1978 which, for special districts, went into a local Special District Augmentation Fund (SDAF) for reallocation by the Board of Supervisors. The SDAF loss to the fire district, in 1993-94, amounted to only \$27,674. Zero property taxes were transferred to the ERAF from the district.

Thus, although the Fire Department lost no property taxes, the department did, and has annually received a share of Proposition 172 revenues, according to the agreement among public safety departments as ratified by the Board of Supervisors.

Pre- and Post Resolution Allocations of General Fund and Proposition 172 Revenues

Table 4 shows the pre- and post-resolution distribution of Proposition 172 revenues and General Fund contribution in FY 1995-96 and 1996-97 by department.

Department	Pre-Resolution (FY 1995-96) General Fund Contribution & 172 Revenues	Post-Resolution (FY 1996-97) General Fund Contribution & 172 Revenues	Net Change
District Attorney	5,921,522 + 0 = 5,921,522	3,779,448 + 2,455,710 = 6,235,158	313,636 (+5.3%)
Public Defender	4,067,990 + 0 = 4,067,990	2,475,831 + 1,838,846 = 4,316,377	248,387 (+6.1%)
Fire	671,720 + 0 = 671,720	847,441 + 7,375 = 854,816	183,096 (+27.3)
Probation	9,788,924 + 0 = 9,788,924	7,122,854 + 4,567,601 = 11,690,455	1,901,531 (+19.4%)
Sheriff	20,947,329 + 0 = 20,947,329	12,369,227 + 9,310,910 = 21,680,137	732,808 (+3.5%)
Parks (lifeguards)	2,394,426 + 0 = 2,394,426	2,274,061 + 21,480 = 2,295,541	98,885 (+4.1%)
Totals	43,791,911 + 0 = 43,791,911	28,868,862 + 18,201,922 = 47,070,784	3,278,873 (+7.5%)
Proposition 172 Revenue.	17,502,132	18,201,922	699,790 (4.0%)

Except for the Probation Department, dollar and percentage increases do not indicate substantial allocation gains by the public safety departments as a result of the revised allocation methodology. In Probation's case, during August 1996 budget hearings the Board, in three separate motions, allocated additional funds to the Probation Department in the amount of \$1,076,000. Without this increase, public safety combined General Fund and Proposition 172 revenue-based appropriations would have increased 5.0%.

The Fire Department's Proposition 172 amount in Table 4 reflects a negative carryover of \$411,766 from the prior year. Actual revenues credited were \$419,141 for a net of \$7,375.

Exhibit 6 shows Proposition 172 revenues by department for fiscal year 2000-01.

Proposition 172 Maintenance of Effort (MOE) Requirement

Another aspect of Proposition 172 is a requirement for the county to maintain a funding level of effort for public safety services. This funding level is based on county General Fund appropriations for fiscal year 1992-93, plus an annual growth amount minus money from grants and contract services (AB 2788 exclusions). The annual growth amount reflects growth in local Proposition 172 receipts from year to year. Table 5 compares fiscal year 1995-96 and 2000-01 calculations. For fiscal year 2000-01, the last year that figures are available, the county was \$23.9 million over its required MOE funding level.

Table 5: Proposition 172 MOE Calculations, in millions of dollars

Fiscal Year	MOE Level	Net Appropriations	Amount Over
1995-96	\$60.284	\$68.040	\$7.756
2000-01	\$66.991	\$90.906	\$23.915

List of Exhibits

1. Exhibit 1. Senate Constitutional Amendment (SCA) – 1 of 1993-94.
2. Exhibit 2. Ten Year Property Tax Loss and Proposition 172 Gain.
3. Exhibit 3. Board Resolution No. 96-91, Allocation of Public Safety Funds.
4. Exhibit 4. County Counsel Memo of February 22, 1996 Re: Proposition 172 Allocation Resolution.
5. Exhibit 5. Proposition 172 Letter of Understanding from Public Safety Departments.
6. Exhibit 6. Proposition 172 Revenues by Department, Fiscal Year 2000-01.

RESOLUTION CHAPTER 41
FILED WITH SECRETARY OF STATE JUNE 24, 1993
ADOPTED IN SENATE JUNE 24, 1993
ADOPTED IN ASSEMBLY JUNE 21, 1993
AMENDED IN ASSEMBLY JUNE 20, 1993
AMENDED IN SENATE JUNE 11, 1993
AMENDED IN SENATE APRIL 1, 1993
AMENDED IN SENATE FEBRUARY 25, 1993

INTRODUCED BY the Committee on Budget and Fiscal Review

DECEMBER 7, 1992

Senate Constitutional Amendment No. 1 A resolution to propose to the people of the State of California an amendment to the Constitution of the State, by adding Section 35 to Article XIII thereof, relating to taxation.

LEGISLATIVE COUNSEL'S DIGEST

SCA 1, Committee on Budget and Fiscal Review. Sales and use taxes.

The California Constitution imposes various taxes and authorizes the imposition of other taxes, but prohibits the imposition of any sales or use tax on the sale of, or the storage, use, or other consumption of, food products for human consumption, as specified.

This measure would impose a tax on the sale of, or the storage, use, or other consumption of, tangible personal property in this state at a rate of 1/2% beginning January 1, 1994. The measure would provide that the Sales and Use Tax Law applies to the sales and use taxes imposed by this measure, as specified. The measure would also require that the revenue derived from that tax be transferred to the Local Public Safety Fund for allocation by the Legislature, as prescribed by statute, to counties in which specified action is taken, as specified, for use exclusively for public safety services of local agencies.

Resolved by the Senate, the Assembly concurring, That the Legislature of the State of California at its 1993-94 Regular Session commencing on the seventh day of December 1992, two-thirds of the members elected to each of the two houses of the Legislature voting therefor, hereby proposes to the people of the State of California that the Constitution of the State be amended by adding Section 35 to Article XIII thereof, to read:

SEC. 35. (a) The people of the State of California find and declare all of the following:

(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.

(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 1/2 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 1/2 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.

Exhibit 2: Ten Year Property Tax Loss and Proposition 172 Sales Tax Gain
 In millions of dollars

Year	Discretionary \$	Discretionary \$	Discretionary \$	Add In	County's Net \$		
	Taken from County *General Fund Only* (ERAF Loss)	Taken from County *Other County Funds* (ERAF Loss)	Given back to County *All County Funds* (State ERAF Return)	Non- Discretionary \$ (By Voter Passage: Prop 172 Revenue)	Discretionary \$	Non- Discretionary \$	Total \$
1992-93	(\$4.48)	(\$0.89)	\$0	\$0	(\$5.37)	\$0	(\$5.37)
1993-94	(\$24.75)	(\$2.10)	\$0	\$15.24	(\$26.85)	\$15.24	(\$11.61)
1994-95	(\$26.19)	(\$1.05)	\$0	\$16.50	(\$27.24)	\$16.50	(\$10.74)
1995-96	(\$26.30)	(\$1.53)	\$0	\$17.50	(\$27.83)	\$17.50	(\$10.33)
1996-97	(\$26.96)	(\$1.73)	\$0	\$18.24	(\$28.68)	\$18.24	(\$10.44)
1997-98	(\$27.94)	(\$2.02)	\$0	\$19.45	(\$29.96)	\$19.45	(\$10.51)
1998-99	(\$30.08)	(\$1.63)	\$0	\$20.29	(\$31.72)	\$20.29	(\$11.43)
1999-00	(\$32.50)	(\$1.20)	\$1.00	\$23.51	(\$32.71)	\$23.51	(\$9.20)
2000-01 (Est.)	(\$34.70)	(\$1.87)	\$1.47	\$25.00	(\$35.10)	\$25.00	(\$10.10)
2001-02 (Est.)	(\$36.78)	(\$1.98)	\$1.80	\$26.25	(\$36.96)	\$26.25	(\$10.71)
TOTAL:	(\$270.68)	(\$16.00)	\$4.26	\$181.995	(\$282.42)	\$181.99	(\$100.43)
AVG/YEAR:	(\$27.07)	(\$1.60)	\$0.43	\$18.20	(\$28.24)	\$18.20	(\$10.04)

RESOLUTION OF THE BOARD OF SUPERVISORS
COUNTY OF SANTA BARBARA, STATE OF CALIF.

In the Matter of:
Public Safety Designation

Resolution No. 96- 91

WHEREAS, the people of Santa Barbara County have demonstrated that they consider public safety a funding priority for local government through passage of Proposition 172 in November 1993; and,

WHEREAS, the Board of Supervisors adopted Resolution No. 93-549 on October 12, 1993 committing all monies received to maintain critical public safety services;

WHEREAS, the provisions of Government Code §30051 - §30056 require that these funds be spent only on public safety services with appropriate accounting mechanisms in place; specifies criteria for qualification of Proposition 172 funds; and, details penalties imposed for failure to comply; and,

WHEREAS, the Santa Barbara County Board of Supervisors wish to protect qualification for these funds by revising the allocation methodology and budgetary policies in order to assure that Proposition 172 revenues are fully dedicated to public safety.

NOW, THEREFORE, BE IT RESOLVED that the Santa Barbara County Board of Supervisors, hereby establishes the Public Safety Designation in the General Fund with the following allocation and budgetary policies in place to track the use of the county's share of Local Public Safety Fund Proposition 172 sales tax revenues:

A) Revenues will be allocated monthly to the local public safety agencies (Sheriff, Fire, District Attorney, Probation, Public Defender and Parks/Ocean Lifeguards) by a formula to be developed and agreed upon by a Letter of Understanding among the public safety agencies;

B) Revenue estimates will be prepared jointly by the public safety agencies, utilizing conservative estimates to avoid budgetary shortfalls, for review and concurrence by the Auditor-Controller and County Administrator;

C) A positive revenue variance in Proposition 172 receipts at fiscal year-end will not reduce the annual General Fund contribution to the public safety agencies and unanticipated revenue that exceeds each departments' budgeted net cost shall be retained in the General Fund Designation Account and carried-over to the next fiscal year for future distribution according to the terms of the Letter of Understanding; and,

D) A negative variance in Proposition 172 receipts occurring at fiscal year-end will be handled according to the County's "Budgetary Control & Responsibility" policy, by agency.

Supervisors this 5th day of March, 1996, By the Following Vote:

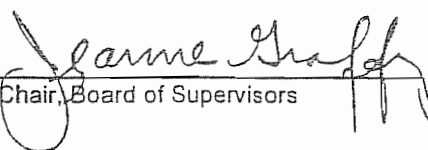
AYES: Supervisors Schwartz, Graffy, Staffel, Urbanske

NOES: None

ABSTAIN: Supervisor Wallace

ABSENT: None

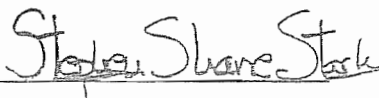
ATTEST:

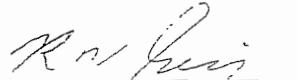

Chair, Board of Supervisors

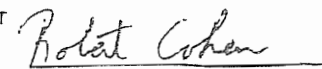
ATTEST:

Approved as to Form:
Stephen Shane Stark, County Counsel

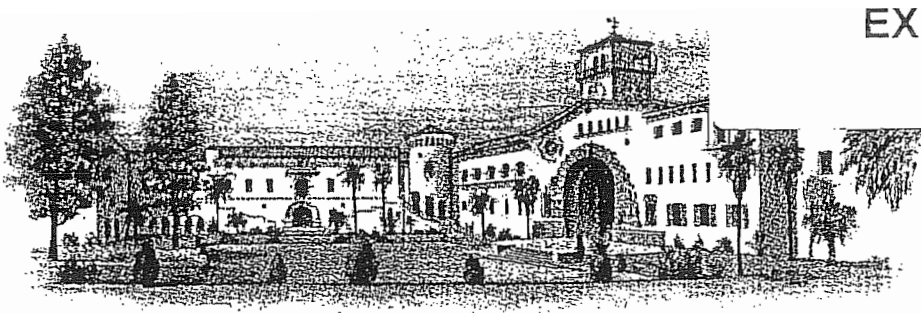
Approved as to Form:
Robert W. Geis, CPA, Auditor-Controller

By: 

By: 


ZANDRA CHOLMONDELEY
CLERK OF THE BOARD

THOMAS W. SNEDDON, JR.
District Attorney



PATRICK J. McKINI
Assistant District Attor
CHRISTIE SCHULZ
Assistant District Attor

COUNTY OF SANTA BARBARA
DISTRICT ATTORNEY

MEMORANDUM

DATE: April 27, 1996
TO: Kent Taylor, County Administrative Officer
FROM: Thomas W. Sneddon, Jr., District Attorney *Thomas W. Sneddon, Jr.*
RE: Proposition 172 Letter of Understanding

Attached please find the executed Letter of Understanding entered into by the Public Safety agencies participating in the distribution of Proposition 172 revenues. Departmental budgets have been prepared consistent with the formula allocation of this revenue. Future revenue will be distributed per the same formula.

cc: Jim Thomas, Sheriff & Fire Chief
Keith Simmons, Deputy Fire Chief
Sue Gionfriddo, Chief Probation Officer
Glen Mowrer, Public Defender
Jennifer Briggs, Parks Director

Santa Barbara Office
Courthouse
1105 Santa Barbara Street
Santa Barbara, California 93101
(805) 568-2200

Lompoc Office
115 Civic Center Plaza
Lompoc, California 93436
(805) 737-7760

Lompoc Office
401 E. Ocean
Lompoc, California 93436
(805) 737-7777

Santa Maria Office
312-D East Cook Street
Santa Maria, California 9345
(805) 346-7540

LETTER OF UNDERSTANDING
between Santa Barbara County and
the Santa Barbara County Designated Public Safety Agencies

This Letter of Understanding is hereby entered into between the County of Santa Barbara (hereafter called "County") and the Santa Barbara County Public Safety Agencies (hereafter called Agencies); to wit:

District Attorney
Fire
Parks/Ocean Lifeguards
Probation
Public Defender
Sheriff

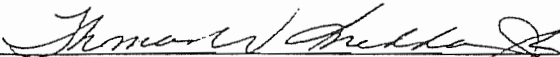
Whereas the County receives Proposition 172 Sales Tax revenues from the State of California monthly and deposits these revenues into the Local Public Safety Fund enacted by Board Resolution #93-549 on October 12, 1993, it is the purpose of this Letter of Understanding to establish a methodology to equitably allocate said funds to Agencies.

Distribution Methodology. Representatives of Agencies have come to agreement on the equitable distribution of Proposition 172 collections and agree upon the following distribution of all actual receipts received each fiscal year:

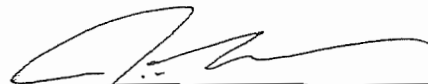
District Attorney	13.41%
Fire	2.25%
Parks/Ocean Lifeguards	0.12%
Probation Officer	17.57%
Probation Institutions	6.76%
Public Defender	9.76%
Sheriff-Coroner	17.64%
Sheriff-Custody	<u>32.49%</u>
Total	100.00%

This distribution formula applies to total budgeted and unanticipated collections. If at year end, individual Agencies are not in compliance with the Budgetary Control and Responsibility Policy, their formula share of the unanticipated Prop 172 receipts may first be applied to any financing deficit. The remaining balance will be transferred to the designation account for the department's use in the next fiscal year.

The terms of this Letter of Understanding commence on March 5, 1996 with Board approval of Resolution 96-91, retroactively applying to all funds collected in the 95-96 fiscal year and continue until amended in writing, as signed and authorized by the Agencies or at the conclusion of the collection of Proposition 172 receipts, or if the Board of Supervisors rescinds the Resolution; or if a new Letter of Understanding is drafted and signed by all participating agencies.


Thomas Sneddon, District Attorney

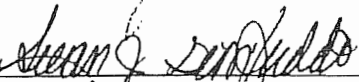
4-18-96
Date


Jim Thomas, Fire

4-23-96
Date


Jennifer Briggs, Parks/Ocean Lifeguards

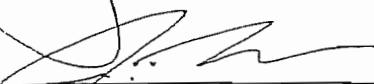
4/22/96
Date


Susan Gonfrido, Probation

4-26-96
Date


Glen Mowrer, Public Defender

4-17-96
Date


Jim Thomas, Sheriff

4-23-96
Date

REC'D
COUNTY ADMINISTRATOR
FILING INSTRUCTIONS:

FEB 22 1996

RETAIN:
TEM (1 YR) PERM TIME
DISPOSE DUPLICATE COPY TO



Memorandum

Date: February 22, 1996

To: Kent Taylor, County Administrator

From: Shane Stark, County Counsel *SSS*

Subject: Proposition 172 Allocation Resolution *SM*

CC: District Attorney, Sheriff/Fire Chief, Public Defender, Probation Officer, Auditor

The proposed Resolution, to be submitted at the March 5, 1996 Board of Supervisors meeting, has been referred to County Counsel for approval as to form. I briefly discussed the matter with you and Bob Geis, and have the following comments.

1. It is appropriate that the County establish an accounting mechanism to implement the legal requirement that Proposition 172 revenue be used for local public safety purposes. The resolution is intended to provide for a method of accounting for and allocating the County's share of revenue from the County Public Safety Augmentation Fund (Proposition 172 revenue) among County public safety agencies. The Auditor advised me that the accounting mechanisms in the resolution are an appropriate way of doing so.

2. The establishment of accounting methods and procedures in the resolution does not supersede the authority and duty of the Board of Supervisors to consider and adopt a budget pursuant to the County Budget Act (Government Code § 29000, et seq.) and to supervise the functions and duties of county officers, particularly as they "relate to the assessing, collecting, safekeeping, management or disbursement of public funds" (Government Code § 25303).

3. The mechanisms established by the proposed resolution (including allocation of funds among public safety agencies through a memorandum of understanding reached by the public safety agencies) are discretionary with the Board, are subject to the Board's exercise of regular budgetary controls, and can be revisited by the Board at any time.

4. County Counsel concurrence in the staff report and approval as to form of the resolution is based on the above understanding. To clarify this point, I suggest that the resolution be modified to add language recognizing the reserved powers of the Board of Supervisors as stated above. To facilitate the desired March 5 Board consideration, I have signed the resolution as written with the understanding that either the resolution will be replaced by one explicitly recognizing the Board's budgetary authority or that the Board will be separately advised of its reserved and non-delegable powers. I have transmitted the original staff report and resolution to the Auditor per normal procedure.

EXHIBIT 6

Proposition 172 Revenue by Department for Fiscal Year 2000-01

Department	Amount	Percent of Total
District Attorney	3,354,343	13.41
Public Defender	2,441,341	9.76
Fire	562,810	2.25
Probation	6,085,844	24.33
Sheriff	12,539,389	50.12
Parks	33,791	0.13
Totals	25,017,518	100.00

ATTACHMENT B

Reallocation of Future Local Public Safety Fund Proposition 172 Revenue
and Intent to Allocate Certain Future Capital Funds to the Fire Department

ATTACHMENT B

Reallocation of Future Local Public Safety Fund Proposition 172 Revenue
and Intent to Allocate Certain Future Capital Funds to the Fire Department

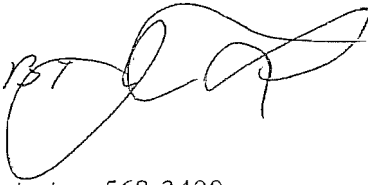
**SANTA BARBARA COUNTY
BOARD AGENDA LETTER**



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

Agenda Number:
Prepared on: 7/2/04
Department Name: County Administrator
Department No.: 012
Agenda Date: 7/13/04
Placement: Departmental
Estimate Time: 30 mins.
Continued Item: NO
If Yes, date from:

TO: Board of Supervisors

FROM: Michael F. Brown
County Administrator 

STAFF CONTACT: Jim Laponis
Deputy County Administrator, 568-3400

SUBJECT: Reallocation of Future Local Public Safety Fund Proposition 172 Revenue and Intent to Allocate Certain Future Capital Funds to the Fire Department

Recommendations:

That the Board of Supervisors:

- A. Adopt the resolution (attached) re-allocating future Local Public Safety Fund Proposition 172 monies by increasing Fire's prospective share from 2.25% to 9.75% over a five year period by adding 1.5% per year commencing in FY 2005-06; and, directing the County Administrator to recommend in each successive Proposed Budget, funds to the other public safety agencies sufficient to replace their forgone growth in Prop 172 revenue.
- B. Adopt the following Declaration of Board Intent: It is the intent of the Santa Barbara County Board of Supervisors to allocate \$4 million from non Fire Department sources to the FY 2005-06 Capital Outlay Fund for Fire Department Capital Facility needs as determined by the Board of Supervisors; and further, the County Administrator is directed to recommend such funding in the FY 2005-06 Proposed County Budget.

Alignment with Board Strategic Plan:

The recommendations are primarily aligned with Goal No. 2. A Safe and Healthy Community in Which to Live, Work, and Visit.

Executive Summary and Discussion:

During the board of Supervisors' June 22, 2004 meeting, the County Administrator was directed to work with County Fire employee groups and Public Safety agencies toward a reallocation of Local Public Safety Proposition 172 Funds. Such reallocation was to enhance Fire's share allowing the department to address

priority needs. During that process, Fire's priority needs were determined to be 5 separate firefighter post positions (approximately 18 total firefighter positions) and various fire facility related capital projects.

After numerous meetings concerning both the process by which this matter came into being as well as the relative fiscal needs and impacts to departments, the recommended actions were agreed to be presented to the Board.

The results of enacting the recommendations in this report can be summarized as follows.

The Board would declare its intent that:

- Fire's current share of Proposition 172 sales tax revenues (2.25%) would increase 1.5% per year for five continuous years starting in 2005-06, reaching 9.75% in FY 2009-10 and remaining at that level thereafter for the expressed purpose of adding 5 post (approximately 18 total) firefighter positions.
- The Capital Outlay Fund would be allocated \$4 million in FY 2005-06 for the express purpose of meeting Fire Department Capital Outlay needs as determined by the Board of Supervisors (it is intended that the \$4 million be debt financed, thereby costing the General Fund approximately \$360,000/year for 20 years)¹.
- All of the Public Safety Departments (District Attorney, Fire, Probation, Public Defender and Sheriff) would maintain their current levels of service as defined by the FY 2004-05 Adopted County Budget.

The dollar impact to the General Fund is estimated to be \$760,000 in FY 2005-06 and grow incrementally over the 5 year period to \$2,584,000 in FY 2009-10 (including both backfilling the Proposition 172 revenue impacts and providing the Fire Capital Outlay allocation). This impact could fall on the non-public safety departments if natural growth of local revenue is insufficient to offset the shift or if other costs such as salary are not kept at modest levels.

The attached resolution and letter of understanding signed by each of the Public Safety Department Directors and Parks Director (Parks provides ocean lifeguard services which receive a small portion of Proposition 172 revenues) contains language effecting the Proposition 172 revenue reallocation and the intent to keep public safety departments at their current levels of service. The recommended "Declaration of Board Intent" allows for the Fire Capital Outlay funding.

Mandates and Service Levels:

There are no mandates associated with the recommended actions. Future service levels would be affected in that Public Safety departments' service levels would be at least maintained which could impact non-safety departments' services levels.

Fiscal and Facilities Impacts:

A. The recommended Local Public Safety Fund Proposition 172 revenue reallocation to Fire combined with backfilling the related Public Safety departments could have the following potential General Fund impact on

¹ If the State were to repay the Vehicle License Fee or other take-aways as promised in the past years, there could be an opportunity to explore other financing mechanisms.

Non-Public Safety departments (assumes a growth rate in Prop 172 revenues of approximately 2.75% per year):

	<u>FY 2005-06</u>	<u>06-07</u>	<u>07-08</u>	<u>08-09</u>	<u>09-10</u>	Cumulative Total
	-----	\$400K	\$820K	\$1,256K	\$1,732K	
	<u>400K</u>	<u>+420K</u>	<u>+445K</u>	<u>+467K</u>	<u>+492K</u>	
TOTAL	\$400K	\$820K	\$1,265K	\$1,732K	\$2,224K	\$6,441K
	→	→	→	→	→	

B. The impact to the General Fund of providing Fire with \$4 million in Capital Outlay Funds in FY 2005-06 is estimated to be \$360,000/year.

cc: County Department Directors
County Employee Groups

Concurrence:

Jim Anderson, Sheriff
Tom Sneddon, District Attorney
John Scherrei, Fire Chief
Sue Gionfriddo, Chief Probation Officer
Jim Egar, Public Defender
Santa Barbara County Firefighters Union
Santa Barbara County Fire Department Chief Officers Association

RESOLUTION OF THE BOARD OF SUPERVISORS OF THE

COUNTY OF SANTA BARBARA, STATE OF CALIFORNIA

In the Matter of) RESOLUTION NO. 04-
)
)
LOCAL PUBLIC SAFETY FUND)
PROPOSITION 172)

WHEREAS, the people of Santa Barbara County have demonstrated that they consider public safety a funding priority for local government; and

WHEREAS, the State of California has diverted approximately \$44 billion of local property tax revenues to school districts in lieu of other state budget reductions; and

WHEREAS, without Proposition 172 revenue public safety departments would face drastic cuts at the local level; and

WHEREAS, the lack of adequate public safety protection will threaten the quality of life for every citizen of Santa Barbara County; and

WHEREAS, the preservation of sheriffs, fire protection, criminal prosecution, criminal defense and corrections is a major concern to residents of Santa Barbara County; and

WHEREAS, the County of Santa Barbara has experienced violent crime and fires which have placed demands on sheriffs, fire protection, criminal prosecution, criminal defense and corrections; and

WHEREAS, Proposition 172 provides that all revenues collected within all of Santa Barbara County from the dedicated 1/2 cent sales tax will be set aside for the purpose of funding local public safety services; and

WHEREAS, on July 27, 1993, the Santa Barbara County Board of Supervisors adopted a Resolution enabling the County of Santa Barbara to accept sales tax revenue resulting from the passage of Proposition 172, and on October 12, 1993, adopted a resolution placing such revenue into a Local Public Safety Fund; and

WHEREAS, the County of Santa Barbara is dedicated to the safety of its citizens and will continue to set priorities which will provide those basic needs; and

WHEREAS, on March 5, 1996 the Santa Barbara County Board of Supervisors adopted resolution 96-91 stating that Proposition 172 revenues be allocated to public safety agencies in accordance with a formula agreed upon through a Letter of Understanding signed by Public Safety Agencies; and

WHEREAS, it is the desire of the Santa Barbara County Board of Supervisors to increase the Fire Department's share of Proposition 172 revenues, for the sole purpose of additional staff and related costs, from 2.25% to 9.75% by increasing the Fire Department's share of Proposition 172 revenues by 1.5% each year commencing in fiscal year 2005-06 and continuing over the next five years; and

WHEREAS, the County of Santa Barbara will use the 1/2 cent sales tax revenue for Public Safety purposes in the proportions and in the manner set forth in the attached Letter of Understanding; and

WHEREAS, it is the Santa Barbara County Board of Supervisors' intent to assure the public's safety by replacing the forgone Proposition 172 revenue transferred to the Fire Department from other Public Safety Agencies with other funds for those Agencies at a level equal to the forgone growth in Proposition 172 revenue.

NOW, THEREFORE, BE IT RESOLVED that the Santa Barbara County Board of Supervisors, shall allocate monies received by the County of Santa Barbara and placed in the Local Public Safety Fund to maintain critical public safety services including the Sheriff, Fire, District Attorney, Probation, Public Defender, and Ocean Life Guards in the proportion and in the manner set out in the attached Letter of Understanding; and

FURTHER BE IT RESOLVED that the Santa Barbara County Board of Supervisors directs the County Administrator to recommend an allocation of replacement funds equal to the forgone Proposition 172 funds in each successive proposed annual operating budget and take such other actions as are necessary to replace the forgone growth in Proposition 172 funds described above; and

FURTHER BE IT RESOLVED that it is this Santa Barbara County Board of Supervisors' intent to maintain the current level of service as defined by the adopted 2004-05 County budget for all public safety departments through the use of General Fund or such other funds and savings as may be available; and

FURTHER BE IT RESOLVED that although the Santa Barbara County Board of Supervisors recognizes that it has no authority to bind future Boards as to the allocation of Proposition 172 funds, it is the Board's desire that future Boards would honor this agreement.

Passed and Adopted this ____ day of ____, 2004, BY THE FOLLOWING VOTE:

AYES:

NOES:

ABSTAIN:

ABSENT:

ATTEST:

JOSEPH CENTENO
CHAIR, BOARD OF SUPERVISORS

MICHAEL F. BROWN
CLERK OF THE BOARD

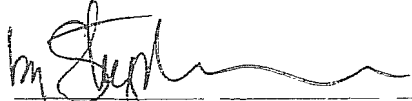
By _____
Deputy

APPROVED AS TO FORM:

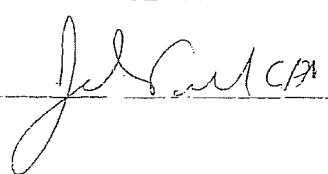
APPROVED AS TO FORM:

STEPHEN SHANE STARK
COUNTY COUNSEL

ROBERT W. GEIS
AUDITOR-CONTROLLER



County Counsel



CPA

LETTER OF UNDERSTANDING
between the Santa Barbara County Designated Public Safety Agencies
and ratified by Board of Supervisors Resolution 04-

This Letter of Understanding is hereby entered into between the County of Santa Barbara (hereafter called "County") and the Santa Barbara County Public Safety Agencies (hereafter called "Agencies"), to wit:

District Attorney
Fire
Parks/Ocean Lifeguards
Probation
Public Defender
Sheriff

Whereas, the County receives Proposition 172 Sales Tax revenues from the State of California monthly and deposits these revenues into the Local Public Safety Fund enacted by Board of Supervisors Resolution #93-549 on October 12, 1993, and

Whereas, it is the purpose of this Letter of Understanding to establish a methodology to equitably allocate said funds to the above Agencies.

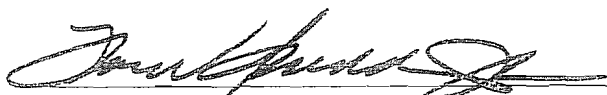
Distribution Methodology. Representatives of the Agencies have reached an agreement on the equitable distribution of Proposition 172 collections and agree upon the following distribution of all actual receipts received each fiscal year. Commencing in fiscal year 2005-06 and for each fiscal year thereafter until the Fire Department share reaches a total of 9.75%, the distribution to the Fire Department shall be increased by 1.5% of the Proposition 172 collections for that year. In each fiscal year that the Fire Department's distribution increases, the distribution to the remaining Public Safety Agencies shall be decreased proportionately. At the end of five years the distribution shall have changed from that described below as Current Distribution to that described below as Future Distribution:

	Current Distribution	Future Distribution
District Attorney	13.41%	12.38%
Fire	2.25%	9.75%
Parks/Ocean Lifeguards	0.12%	0.11%
Probation Officer	24.33%	22.46%
Public Defender	9.76%	9.01%
Sheriff-Coroner	50.13%	46.29%
Total	100.00%	100.00%

This distribution formula applies to total budgeted and unanticipated collections. If at fiscal year-end, an individual Agency is not in compliance with the Budgetary Control and Responsibility Policy, their formula

share of the unanticipated Prop 172 receipts may first be applied to any financing deficit. The remaining balance will be transferred to the designation account for that Agency's use.

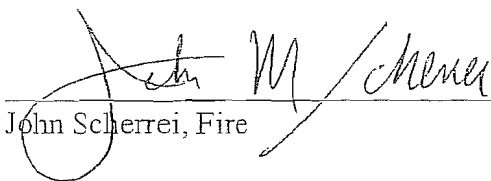
The terms of this Letter of Understanding shall commence on July 13, 2004 upon Board of Supervisors approval of Resolution 04-___, applying to all funds collected in the 2005-06 fiscal year and continue until amended in writing, as signed and authorized by the Agencies or at the conclusion of the collection of Proposition 172 receipts, or if the Board of Supervisors rescinds the Resolution, or if a new Letter of Understanding is drafted and signed by all participating agencies and approved by the Board of Supervisors.



Thomas Sneddon, District Attorney

7/6/04

Date



John Scherrei, Fire

7/7/04

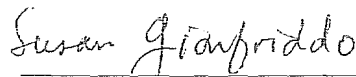
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Terri Maus-Nisich, Parks/Ocean Lifeguards

7/7/04

Date

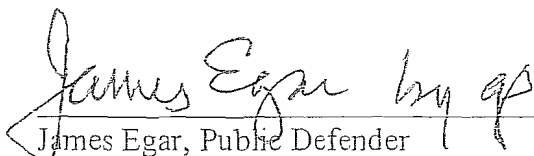


Susan Gianfriddo, Probation

7/7/04

Date

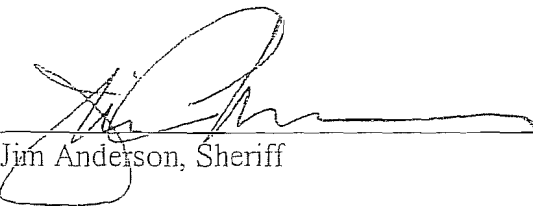
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James Egar, Public Defender

7/7/04

Date



Jim Anderson, Sheriff

7/7/04

Date



Public Information

Office of County Counsel MEMORANDUM

Date: June 28, 2004 -- For discussion at July 13, 2004 Board Meeting

To: Board of Supervisors

From: Shane Stark, County Counsel

Re: Proposed Ordinance – Fire Share of Public Safety Sales Tax – Legal Issues



The ordinance that the fire unions have requested the Board of Supervisors to put on the ballot is on the July 13, 2004 departmental agenda.¹ County Administrator, public safety departments, and others, will address potential fiscal effects and equity issues at the hearing.

Other public safety officers, e.g., District Attorney, Sheriff, Chief Probation Officer, Public Defender, believe the proposed ordinance is unfair and illegal, and might sue to keep the ordinance off the ballot or prohibit its enforcement if the voters approve it. (The Sheriff might first bring a motion for a court order declaring that county counsel has a conflict and authorizing the retention of independent counsel at county expense.²) This memo summarizes the proposed Fire Share of Public Safety Sales Tax Ordinance,³ discusses legal challenges to similar ordinances in Orange and Ventura counties, and generally estimates litigation costs.

I. Background.

In 1992, the Legislature, in order to meet the State's obligation to fund the schools under Proposition 98 (Cal. Const. Art. XVI § 8), created the Educational Revenue Augmentation Fund (ERAF). The State reduced the amount of property tax to local government by a specified formula and allocated an equal amount of revenue to ERAF. County auditors must shift property tax from counties and cities into ERAF and send it to the State. Revenue & Taxation Code § 97.2, 97.3. See *County of Sonoma v. Commission on State Mandates* (2000) 84 Cal.App.4th 1264 (state is not obligated to reimburse local government for change in allocation of property tax revenues). The Santa Barbara County Fire District was and continues to be exempt from the ERAF shift. See R&T Code § 97.2(c)(4)(B).⁴

¹ Under Elections Code § 9140, the Board would adopt an ordinance that puts the proposed ordinance on the ballot. See p.3 note 9 *infra*.

² See Gov. Code § 31000.6. The issue of independent counsel for the Sheriff and other county officers is discussed in context of the Ventura litigation, p.6 *infra*.

³ This is County Counsel's terminology. It is more descriptive and neutral than the proponents' title.

⁴ Originally, the statute excluded from the ERAF shift only the 6 counties, including Santa Barbara, that contract with the State to protect state responsibility areas. Section 97.2 was amended in 1999 to expand this exclusion to other fire protection agencies.

To partially compensate for the lost property tax, the Legislature authorized a ballot measure to approve a ½ cent sales tax dedicated to county and city public safety agencies. Jurisdictions had to opt into the sales tax by resolution; Santa Barbara County did so by Resolution 93-549. Proposition 172 passed in November 1993, and added Article XIII § 35 to the California Constitution. The constitutional provision imposes a statewide sales and use tax at the rate of 0.5%. Tax proceeds are placed into the State’s Local Public Safety Fund and must be used by local agencies to pay for public safety services. (§ 35(a)(2).)

Proposition 172 did not prohibit use of sales tax proceeds to replace existing general fund revenue. To address this, in 1994 the Legislature enacted Government Code § 30056(a), which imposes a “maintenance of effort” requirement on the expenditure of local public safety funds.⁵

In 1996, the Board of Supervisors adopted a resolution that provides that the auditor will allocate Proposition 172 sales tax revenue monthly to local public safety agencies⁶ by a formula the agencies develop and agree on by a memorandum of understanding. Resolution 96-91 “In re Public Safety Designation” and the MOU are attached. The Auditor has made such allocations regularly since the adoption of that resolution.

Resolution 96-91 may be rescinded or amended by the Board of Supervisors. Proposition 172 money may be reallocated through the county’s budget and fiscal process among eligible public safety departments in the board’s discretion, consistent with applicable law. See 86 Ops.Atty.Gen 38 (2003)⁷; Gov. Code § 25303 (board financial oversight of departments; oversight of sheriff and district attorney may not interfere with constitutional functions); County Budget Act, Gov. Code § 29000-29144 (budget process, appropriation and transfer of funds).

II. Summary of proposed ordinance.

The ordinance was drafted as an initiative, to be circulated and signed by voters and presented to the Elections Official and the Board.⁸ If the Board puts the ordinance on the ballot without the requisite certified voter signatures, the vote would be a referendum on the approval of the ordinance. Because the proposal is for a referendum, the Board has discretion to put it on the ballot as presented, to change the ordinance that is submitted to the voters, or to decline to put the measure on the ballot. (See Elections Code § 9140.)⁹

⁵ Each county and city must appropriate each year to its public safety agencies collectively an amount equal to the “base amount” plus or minus the difference between the previous year’s allocation from the public safety augmentation fund and the corresponding allocation for the year before that. That is, any increase in the county’s allocation must be given to the public safety agencies collectively in the following year. If the county does not comply with this mandate, its allocation of Proposition 172 funds will be reduced by the difference between the actual appropriation for all public safety agencies and the level required by the statute.

⁶ Sheriff, Fire, District Attorney, Probation, Public Defender, and Parks/Ocean Lifeguards. (Parks no longer provides ocean lifeguard services and receives no Proposition 172 tax revenue.)

⁷ The maintenance of effort requirement applies to public safety services collectively and can be allocated among agencies within a county. “We have examined in detail the legislative history of section 30056. While maintaining non-Proposition 172 funding for “each” public safety service was initially considered by the Legislature, such proposal was rejected in favor of having “all combined public safety services” subject to the requirement. Because the total “combined public safety services” funding level is the standard to be met, no allocation to a particular public safety service is subject to the maintenance-of-effort requirement.” Id. at 41.

⁸ County Counsel did not draft the ordinance. Rather, a law firm retained by Fire unions drafted the measure.

⁹ The rule prohibiting amendment of voter-approved ordinances without a vote of the people applies to initiatives. See Elections Code § 9125 “No ordinance proposed by initiative petition and adopted either by

The ordinance adds Article XX, §§ 2-120 – 2-121, to Chapter 2 of the County Code. It maintains the Fire Department's¹⁰ share (2.25%) of the "Base Year Amount", defined as the total county share of public safety sales tax revenue in fiscal year 2004-05. (§ 1-121(B)(1)) (The county share means the portion of the Public Safety Augmentation Fund that is not allocated to cities.)

Beginning July 1, 2005, if the county's share of public safety sales tax in any fiscal year exceeds the base year amount, § 2-121(B)(2) requires the auditor to allocate all of the increased revenue to the Fire Department until Fire's share is 25% of the county's share. The board of supervisors has discretion to allocate remaining sales tax revenue among all public safety departments. "Thereafter, the County Auditor shall allocate to the [Fire] Department in each fiscal year an amount not less than 25% of the county's share." (§ 2-121(B)(3))

If general fund allocations for non-fire protection activities, e.g., Emergency Services and Hazardous Materials, are reduced in any fiscal year, an equivalent amount of Proposition 172 funds shall be added to Fire's share "to the extent that such functions qualify as public safety services..." (§ 2-121(B)(4))

The ordinance "amends" Resolution 96-91. It may only be amended or repealed by majority vote of county voters. (Ordinance Section 6)

III. Legal challenges to similar ordinances.

The experience of other counties with legal challenges to ballot measures related to public safety financing is instructive.

the board of supervisors without submission to the voters or adopted by the voters shall be repealed or amended except by a vote of the people, unless provision is otherwise made in the original ordinance. In all other respects, an ordinance proposed by initiative petition and adopted shall have the same force and effect as any ordinance adopted by the board of supervisors." Compare § 9140 "The board of supervisors may submit to the voters, without a petition, an ordinance for the repeal, amendment, or enactment of any ordinance. The ordinance shall be voted upon at any succeeding regular or special election and, if it receives a majority of the votes cast, the ordinance shall be repealed, amended, or enacted accordingly." In our case, the proposed ordinance itself provides it cannot be amended without a vote of the people. We believe that an ordinance approved by voters by referendum on a board-submitted ordinance could not be amended without voter approval, even if the ordinance does not so provide.

An ordinance submitting an ordinance for voter consideration is an "ordinance relating to an election" which is immediately effective under Government Code § 25123 and does not require two hearings as do regular ordinances (see § 25131). For this reason, the text of the ordinance that is to be submitted to the voters can be changed by the board at the hearing on the ordinance putting the measure on the ballot, without the need for a second hearing.

¹⁰ "Department" means the County Fire Department, or successor agency, including a joint powers agency. The Board of Supervisors formed the Santa Barbara County Fire Department in 1926 under the Shade Tree Law of 1909. The Santa Barbara County Fire Protection District was formed under the Fire Protection Law of 1939, went through several consolidations, and now operates under the Fire Protection Law of 1987, Health & Safety Code § 13800, et seq. The Fire Protection District is a dependent special district, governed by the board of supervisors, entitled to share in property tax revenues collected from property owners in the district. *Arbuckle-College City Fire Prot. Dist. v. County of Colusa* (105 Cal.App.4th 1155, 1158 (2003)) The County Fire Department has and continues to provide fire protection and suppression services to the County Fire Protection District. The Fire District has no employees.

a. Orange County.

The fire union in Orange County is circulating an initiative that is similar to Santa Barbara's. It would lock in a 10% share of public safety sales tax funds (the fire district now receives none). The Deputy Sheriffs' Association has threatened to sue to block the ordinance. There are three theories – (1) the ordinance interferes with a statewide scheme (distribution of public safety sales tax revenue) (2) the ordinance impedes essential government functions; (3) the measure is not a proper subject for voter initiative because the matter is administrative not legislative.¹¹

The legal challenge is based on a Court of Appeal decision invalidating another Orange County ballot measure, *Citizens for Jobs and the Economy v. County of Orange* (2002) 94 Cal.App.4th 1311.¹² The court of appeal held that Measure F, which required 2/3 voter approval before the board of supervisors could spend funds in support of a plan for the re-use of El Toro Airport, was not a proper exercise of the initiative power.¹³

On the other hand, in a third Orange County ballot measure case, the trial court allowed a measure dividing tobacco settlement funds between the health department and the sheriff to go on the ballot. The ruling was based on the well-accepted principle that pre-election challenges are disfavored. The measure passed and the county did not pursue the legal challenge.

As the measure is still circulating, suit has yet to be filed regarding the proposed Orange County initiative on Fire's Public Safety Sales Tax share.

b. Ventura County.

In 1995, Ventura County adopted an ordinance instead of putting a "Public Safety Services" initiative measure on the ballot. Ordinance No. 4088 establishes minimum annual appropriation levels for five designated public safety agencies, with a "base year budget" equal to each agency's actual budget for FY 1995-96. Section 4 provides "for subsequent years the budget for each public safety agency shall, at a minimum, be 100% of the base year budget plus any associated inflationary costs." Section 5 requires minimum appropriations to public safety agencies from the general fund and the Proposition 172 tax.¹⁴

¹¹ County Counsel has reviewed an "independent analysis" of the Orange County measure we believe a lawyer for a public safety union prepared that articulates these arguments.

¹² The court may have been influenced by the complex and tortuous history of the El Toro reuse controversy. Measure A, a 1994 ballot measure that allowed future operation of El Toro as a civilian airport if approved by county bodies, was upheld by the Court of Appeal in 1997. Measure S, which would have repealed Measure A and required proposed commercial airport use to be submitted to the voters, was defeated at the polls. The Court of Appeal rejected a challenge to the EIR for the reuse plan in 1999.

¹³ The court "found Measure F to be clearly beyond the power of the electorate and defective in these three major respects: It interferes with the essential government functions of fiscal planning and land use planning; it impermissibly interferes with administrative or executive acts; and it is unconstitutionally vague in its provisions.... Additional [preemption arguments, although not reached], point in the same direction: Measure F is an unworkable and excessive exercise of the initiative power." 94 Cal.App.4th at 1325.

¹⁴ Section 5 requires the general fund portion of an agency's base year budget, plus any associated inflationary costs, to continue to be funded by general fund appropriations. It defines the minimum Proposition 172 allocation for each agency, and requires that such revenues must be used before general fund revenues to fund "any additional appropriations, allocations, and equipment approved by the Board subsequent to the base year."

In 2001, the Board of Supervisors changed the way it implements the “associated inflationary costs” requirement in sections 4 and 5, by deciding to measure inflation by changes in the consumer price index. The Sheriff, later joined by the District Attorney, sued.¹⁵ They claimed that the Board’s decision to change the method of calculation of inflationary costs has led it to approve appropriations for the District Attorney and the Sheriff that are less than the minimum appropriations required by sections 4 and 5 of Ordinance 4088.

The Board and County raised affirmative defenses that Section 4 and 5 were invalid and unconstitutional, and filed a cross-complaint for declaratory relief. The County’s arguments are similar to the grounds advanced in *Citizens for Jobs* -- Sections 4 and 5 conflict with the Board’s duties and discretion under the County Budget Act¹⁶; neither the Board nor the voters can enact provisions that set a ceiling or floor for budgetary appropriations in future fiscal years; the statutory scheme implementing Proposition 172 (§ 30056) preempts additional maintenance of effort requirements.¹⁷

The petitioners claim the ordinance should be upheld as a valid exercise of the initiative power. They rely on judicial decisions upholding initiatives amending a county general plan (*DeVita v. County of Napa* (1995) 9 Cal.4th 793), repealing a tax (*Rossi v. Brown* (1995) 9 Cal.4th 688), and limiting general assistance cash grants (*Pettye v. City and County of San Francisco* (2004) 118 Cal.App.4th 233¹⁸). The principle that forms the basis of the Sheriff and District Attorney’s argument is a statement in *Rossi v. Brown*:

The people’s power of initiative is greater than the power of the legislative body. The latter may not bind future Legislatures but by constitutional and charter mandate, unless an initiative measure expressly provides otherwise, an initiative measure may be amended or repealed only by the electorate. Thus, through exercise of the initiative power the people may bind future legislative bodies other than the people themselves. 9 Cal.4th at 715-16.¹⁹

¹⁵ There are three actions pending. *Totten v. Board of Supervisors* is the petition by the District Attorney and Sheriff. In *City of Thousand Oaks v. County of Ventura* and *Citizens for a Safe Ventura County v. Board of Supervisors*, the city and proponents of the original measure raise essentially the same claims.

¹⁶ Government Code §§ 29000-29144. Regarding the board’s discretion to change budget requests and adopt a budget, see §§ 29063, 29064(b), 29088(a).

¹⁷ See *McCafferty v. Board of Supervisors* (1969) 3 Cal.App.3d 190 (board cannot adopt tax ordinance that made appropriations in future years); *Peoples Advocate Inc. v. Superior Court* (1986) 181 Cal.App.3d 316 (board cannot impose ceiling or floor on future appropriations); *Committee of Seven Thousand v. Superior Court* (1988) 45 Cal.3d 491 (strong inference that authority granted by Legislature cannot be delegated where there is reference in statute to local legislature and delegation involves a statewide concern).

¹⁸ *Pettye* involved a local initiative known as “Care Not Cash” that authorized San Francisco to substitute service of equal value for a large portion of its cash grants for general assistance programs. The County’s arguments distinguish *Pettye* because the provisions upheld have a practical impact on future budgets but do not impose legal restrictions on future budgets. The Care Not Cash initiative also contains provisions controlling future appropriations. These provisions were not challenged in *Pettye* but in a related lawsuit, *McMahan v. City and County*. San Francisco aggressively defended the right of the electorate to adopt the substantive general assistance policies in *Pettye*. In *McMahan* San Francisco argued that the financial provisions were non-binding declarations of policy; it did not argue that the electorate could compel future minimum budget appropriations. The trial court agreed. This point is being vigorously argued in the Ventura litigation.

¹⁹ See Manheim and Howard *Symposium on the California Initiative Process: A Structural Theory of the Initiative Power in California* 31 Loy. L.A. L.Rev. 1165 (1998). The authors examine the roots and history of

Hearing on the County's motion for summary adjudication is pending in Ventura Superior Court; the hearing is expected to conclude July 12.

IV. Litigation Costs and Risks.

A. Separate Counsel for Sheriff and District Attorney. In the Ventura litigation, the Sheriff made an application under Government Code § 31000.6 to declare that County Counsel had a conflict of interest and authorize retention of independent counsel to sue the county and the board of supervisors.²⁰ The Sheriff also sought an order requiring the County to pay for his counsel. The County Counsel opposed the motion. It argued that challenging the Board's interpretation of an ordinance was not within the Sheriff's independent authority (see 80 Ops.Atty.Gen. 127 (1997)), the Board's action did not prevent the Sheriff from carrying out his duties, and the County Counsel had no conflict of interest; thus the Sheriff was not entitled to counsel at taxpayer expense (see *County of Butte v. Superior Court* (1985) 176 Cal.App.3d 693). The Superior Court found there was a conflict and authorized retention of independent counsel, but refused to sign the proposed order requiring the County to pay. The District Attorney joined the suit, and the petitioners' counsel is being paid from the Sheriff and District Attorney's budgets. If there is a challenge to the proposed Safety Tax Share Ordinance, the County can expect a similar tactic. If successful, the cost of litigation will at least double because County funds will be paying for both sides' lawyers and there will be little or no incentive for plaintiffs to keep litigation costs down.²¹

the initiative power and conclude that "just as the judiciary will defer to an exercise of the initiative power whenever possible, it will also defer to the exercise of the legislative power over the power of direct legislation when the constitution – the embodiment of political power – so demands it."

²⁰ In re Application of Sheriff Bob Brooks for Independent Counsel. Section 31000.6 applies to assessors and sheriffs. It provides that "(a) Upon request of the assessor or the sheriff of the county, the board of supervisors shall contract with and employ legal counsel to assist the assessor or the sheriff in the performance of his or her duties in any case where the county counsel or the district attorney would have a conflict of interest in representing the assessor or the sheriff.

(b) In the event that the board of supervisors does not concur with the assessor or the sheriff that a conflict of interest exists, the assessor or the sheriff, after giving notice to the county counsel or the district attorney, may initiate an ex parte proceeding before the presiding judge of the superior court. ...

(c) The presiding superior court judge that determines in any ex parte proceeding that a conflict actually exists, must, if requested by one of the parties, also rule whether representation by the county counsel or district attorney through the creation of an "ethical wall" is appropriate.

(d) If a court determines that the action brought by the assessor or sheriff is frivolous and in bad faith, the assessor's office or sheriff's office shall pay their own legal costs and all costs incurred in the action by the opposing party....

(e) If the presiding judge determines that a conflict of interest does exist, and that representation by the county counsel or district attorney through the creation of an ethical wall is inappropriate, the board of supervisors shall immediately employ legal counsel to assist the assessor or the sheriff....

f) As used in this section, "conflict of interest" means a conflict of interest as defined in Rule 3-310 of the Rules of Professional Conduct of the State Bar of California, as construed for public attorneys."

²¹ The Sheriff's right to independent counsel is based on statute. The other public safety officers are not specified in § 31000.6 and would have to maintain a right to independent counsel based on common law principles. Such a "right" is questionable. See *Municipal Court v. Bloodgood* (1982) 137 Cal.App.3d 29, 39-45 (Judges could properly retain outside counsel under Gov. Code § 27648, and the county was obligated to reimburse the judges for attorney's fees, where budget as proposed by the county threatened to erode the

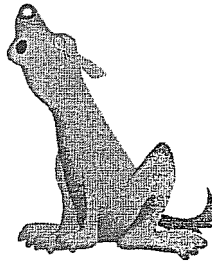
- B. Pre-election challenge. Opponents could sue to keep the ordinance off the ballot. If the ordinance was circulated and signed by the required number of voters, we would advise the board that it is not so patently illegal as to allow the board to refuse to put the measure on the ballot. Rather, the Board has a ministerial duty to do so. A suit to keep a measure off the ballot is an uphill battle. Courts give great deference to the reserved initiative power and are reluctant to interfere with the electoral process. Judges are also aware of the practical consideration that if a measure loses at the polls the case will become moot and go away. (This deference and restraint might not be as great where the measure is a referendum on a board-sponsored ordinance.)

Usually, pre-election challenges involve intense legal work over a relatively short period of time. Live witnesses are few and discovery is usually not done. The administrative record is relatively manageable. County Counsel can defend the suit at modest cost (\$20,000 or less).

- C. Post-election challenge. If the measure passes, and someone sues to invalidate the ordinance, the county counsel is bound to defend the ordinance approved by the voters.²² Post-approval litigation is likely to involve some discovery and potentially protracted proceedings, and is thus likely to be considerably more expensive. Costs could escalate to hundreds of thousands of general fund dollars, particularly if the county retains outside counsel or must pay for plaintiffs' counsel as well as its own attorneys. [This type of litigation cost is not covered by insurance.]

CAUTION: One would think that a challenge to an initiative ordinance could be litigated efficiently and relatively inexpensively – the issue is whether the ordinance is valid as a matter of law. However, the Ventura litigation has been bitterly fought and proven very expensive for the county – paying both sides – there are multiple claims and suits and hundreds of thousands of dollars in attorneys fees and expert costs. (The county has expensive outside counsel, as well as attorneys from the county counsel's office; a senior partner of a large Ventura law firm represents the sheriff and district attorney.)²³

C: County Administrator
Chief Probation Officer
District Attorney
Fire Chief
Public Defender
Sheriff



ability of the municipal courts to guarantee basic constitutional rights; the right is based on statute, the court did not reach “inherent” right to counsel).

²² See *Bldg. Indus. Ass'n v. City of Camarillo* (1986) 41 Cal. 3d 810, 822. The extent of county counsel's duty to defend an adopted voter measure is not precisely defined. The Board of Supervisors has control of County litigation (Gov. Code § 25207); the duty to defend where the Board opposes or is neutral on a particular initiative depends on circumstances including whether there is a real party in interest who will advocate for the measure.

²³ The Ventura litigation goes well beyond the legal disputes over the validity and interpretation of the ordinance. The Sheriff alleges that the County has misappropriated and “diverted” funds in violation of Proposition 172 and Ordinance 4088. This has required an examination of the implementation of public safety sales tax funding over 8-9 years. Both sides hired expensive experts; a ballpark estimate of costs to date is \$600,000 for each side, roughly equally divided between attorneys and experts. In addition to the dollar cost, internecine litigation has a human cost on all concerned that cannot be measured but is severely destructive of organizational cohesion and morale.

RESOLUTION OF THE BOARD OF SUPERVISORS OF THE
COUNTY OF SANTA BARBARA, STATE OF CALIFORNIA

In the Matter of:
Public Safety Designation

Resolution No. 96- 91

WHEREAS, the people of Santa Barbara County have demonstrated that they consider public safety a funding priority for local government through passage of Proposition 172 in November 1993; and,

WHEREAS, the Board of Supervisors adopted Resolution No. 93-549 on October 12, 1993 committing all monies received to maintain critical public safety services;

WHEREAS, the provisions of Government Code §30051 - §30056 require that these funds be spent only on public safety services with appropriate accounting mechanisms in place; specifies criteria for qualification of Proposition 172 funds; and, details penalties imposed for failure to comply; and,

WHEREAS, the Santa Barbara County Board of Supervisors wish to protect qualification for these funds by revising the allocation methodology and budgetary policies in order to assure that Proposition 172 revenues are fully dedicated to public safety.

NOW, THEREFORE, BE IT RESOLVED that the Santa Barbara County Board of Supervisors, hereby establishes the Public Safety Designation in the General Fund with the following allocation and budgetary policies in place to track the use of the county's share of Local Public Safety Fund Proposition 172 sales tax revenues:

A) Revenues will be allocated monthly to the local public safety agencies (Sheriff, Fire, District Attorney, Probation, Public Defender and Parks/Ocean Lifeguards) by a formula to be developed and agreed upon by a Letter of Understanding among the public safety agencies;

B) Revenue estimates will be prepared jointly by the public safety agencies, utilizing conservative estimates to avoid budgetary shortfalls, for review and concurrence by the Auditor-Controller and County Administrator;

C) A positive revenue variance in Proposition 172 receipts at fiscal year-end will not reduce the annual General Fund contribution to the public safety agencies and unanticipated revenue that exceeds each departments' budgeted net cost shall be retained in the General Fund Designation Account and carried-over to the next fiscal year for future distribution according to the terms of the Letter of Understanding; and,

D) A negative variance in Proposition 172 receipts occurring at fiscal year-end will be handled according to the County's "Budgetary Control & Responsibility" policy, by agency.

Supervisors this 5th day of March, 1996, By the Following Vote:

AYES: Supervisors Schwartz, Graffy, Staffel, Urbanske

NOES: None

ABSTAIN: Supervisor Wallace

ABSENT: None

ATTEST:

Approved as to Form:
Stephen Shane Stark, County Counsel

By: Stephen Shane Stark

Jaime Graffy
Chair, Board of Supervisors

Approved as to Form:
Robert W. Geis, CPA, Auditor-Controller

By: Robert W. Geis

ATTEST:

Robert Cohen
ZANDRA CHOLMONDELEY
CLERK OF THE BOARD

LETTER OF UNDERSTANDING
between Santa Barbara County and
the Santa Barbara County Designated Public Safety Agencies

This Letter of Understanding is hereby entered into between the County of Santa Barbara (hereafter called "County") and the Santa Barbara County Public Safety Agencies (hereafter called "Agencies"); to wit:

District Attorney
Fire
Parks/Ocean Lifeguards
Probation
Public Defender
Sheriff

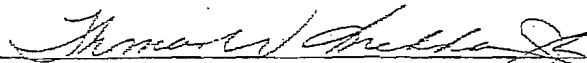
Whereas the County receives Proposition 172 Sales Tax revenues from the State of California monthly and deposits these revenues into the Local Public Safety Fund enacted by Board Resolution #93-549 on October 12, 1993, it is the purpose of this Letter of Understanding to establish a methodology to equitably allocate said funds to Agencies.

Distribution Methodology. Representatives of Agencies have come to agreement on the equitable distribution of Proposition 172 collections and agree upon the following distribution of all actual receipts received each fiscal year:


District Attorney	13.41%
Fire	2.25%
Parks/Ocean Lifeguards	0.12%
Probation Officer	17.57%
Probation Institutions	6.76%
Public Defender	9.76%
Sheriff-Coroner	17.64%
Sheriff-Custody	32.49%
Total	100.00%

This distribution formula applies to total budgeted and unanticipated collections. If at year end, individual Agencies are not in compliance with the Budgetary Control and Responsibility Policy, their formula share of the unanticipated Prop 172 receipts may first be applied to any financing deficit. The remaining balance will be transferred to the designation account for the department's use in the next fiscal year.

The terms of this Letter of Understanding commence on March 5, 1996 with Board approval of Resolution 96-91, retroactively applying to all funds collected in the 95-96 fiscal year and continue until amended in writing, as signed and authorized by the Agencies or at the conclusion of the collection of Proposition 172 receipts, or if the Board of Supervisors rescinds the Resolution; or if a new Letter of Understanding is drafted and signed by all participating agencies.


Thomas Sneddon, District Attorney

4-18-96
Date


Jim Thomas, Fire


4-23-96
Date


Jennifer Briggs, Parks/Ocean Lifeguards

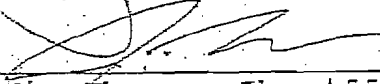
4/22/96
Date


Susan Gonfrido, Probation

4-26-96
Date


Glen Mowrer, Public Defender

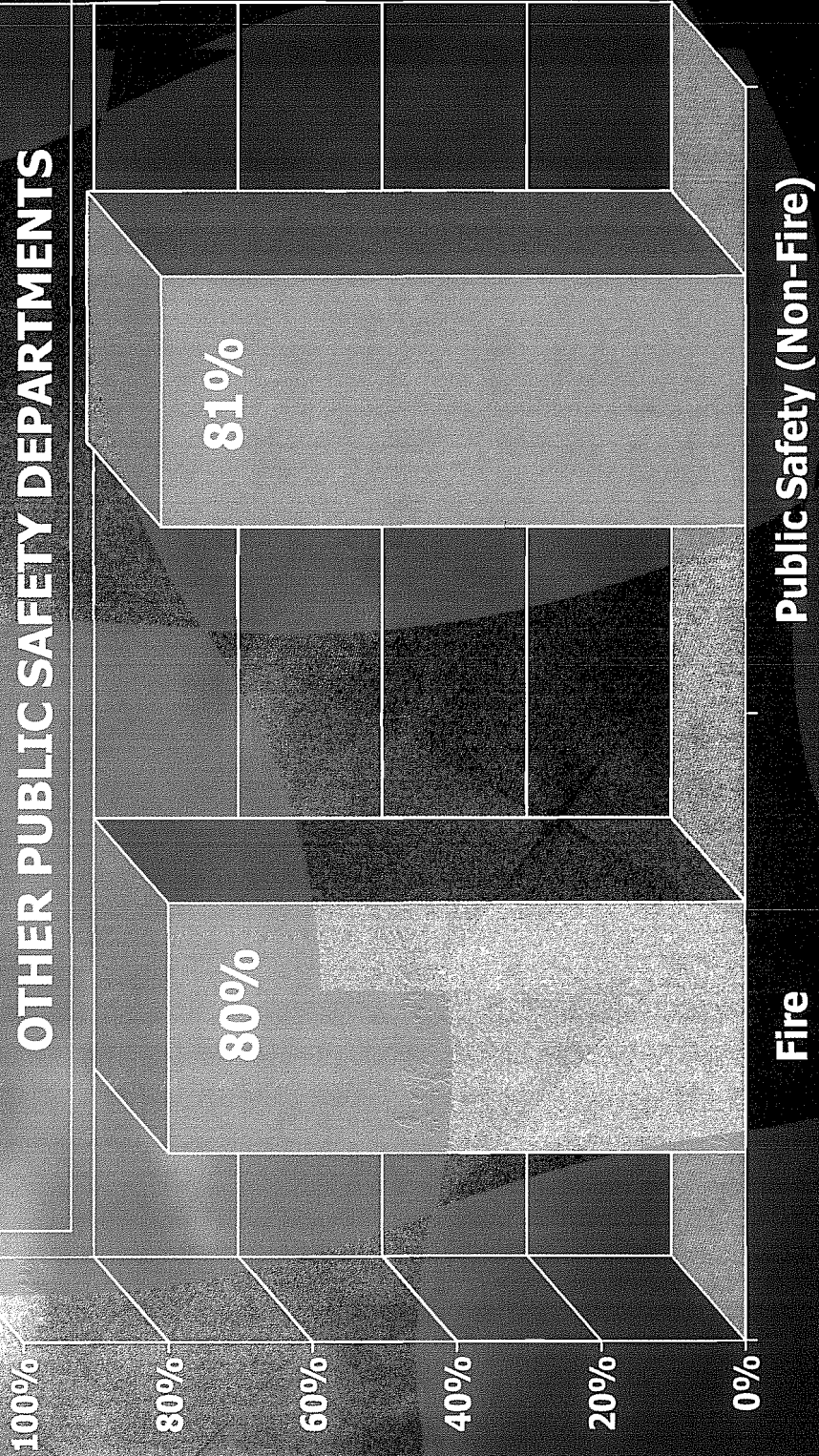
4-17-96
Date


Jim Thomas, Sheriff

4-23-96
Date

Total % Growth Fire vs. Public Safety (Non-Fire) 94-95 To 04-05

FIRE HAS EXPERIENCED RELATIVELY THE SAME %
GROWTH AS THE AVERAGE TOTAL GROWTH OF THE
OTHER PUBLIC SAFETY DEPARTMENTS



ATTACHMENT B

Percentage Compensation Increases by Bargaining Group Compared to Consumer Price Index 1989-90 to 2003-04

Does not include non-unitwide equity increases or lost time incentives

	<u>CPI</u>	<u>SEIU 620</u>	<u>SEIU 535</u>	<u>ETA</u>	<u>DDA</u>	<u>UAPD</u>	<u>PPOA</u>	<u>FF 2046</u>	<u>DSA</u>	<u>SMA</u>	<u>Exec/Mgmt</u>
1989-90	4.8	5.0	5.0	5.0	5.0	5.0	5.0	5.0	7.0	5.0	5.0
1990-91	6.7	4.5	4.5	4.5	4.5	4.5	4.5	5.0	5.0	4.5	4.5
1991-92	3.0	4.0	6.0	6.0	4.0	5.8	6.0	0.0	6.0	4.0	4.0
1992-93	3.8	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
1993-94	1.7	2.0	2.0	2.0	2.0	2.0	2.0	11.0	2.0	2.0	2.0
1994-95	1.7	2.5	2.5	2.5	2.0	2.0	2.5	2.5	2.0	2.0	2.0
1995-96	1.2	2.5	2.5	2.5	2.5	2.5	2.5	2.5	4.0	2.5	2.5
1996-97	2.3	2.0	2.0	2.0	2.0	2.0	2.0	2.0	2.0	5.0	2.0
1997-98	1.4	2.0	2.0	2.0	2.0	2.0	2.0	2.0	3.8	4.0	2.0
1998-99	1.3	4.4	4.4	4.0	3.5	8.6	5.6	7.2	3.0	3.2	3.2
1999-2000	2.5	3.5	3.6	3.1	3.0	3.0	3.3	3.0	3.0	5.0	3.0
2000-01	3.9	4.2	4.2	4.2	4.2	4.2	4.2	7.2	4.2	5.7	4.2
2001-02	2.6	4.4	4.4	4.4	4.4	4.4	4.4	7.2	4.4	5.9	1.4
2002-03	3.0	4.7	4.8	4.2	4.5	5.0	5.2	6.2	3.0	3.0	3.5
2003-04	2.2	4.7	4.7	4.7	4.7	3.7	3.7	6.7	5.7	5.7	3.7
15-Year Total	42.1	50.4	52.6	51.1	48.3	54.7	52.9	67.5	55.1	57.5	46.0
Compounded	51.5	58.5	61.8	61.0	61.1	71.3	61.6	88.6	68.1	71.7	56.7

Notes

CPI	All Urban Consumers for Los Angeles-Riverside-Orange County region measured October to October
1994-95	2% for classes under \$70,000; 2.5% for classes over \$70,000
1996-97	Plus additional 2% for classes under \$26,000
1998-99	Began property tax formula
UAPD/FF	Higher percentages partly attributable to unitwide equity increases (less common in other, less homogeneous groups)
PPOA	Represented by SEIU 535 prior to 1997; JIO's received additional 33% during this period
DSA	Increases vary significantly by classification; Deputy classes received additional 25% during this period
SMA	Unrepresented prior to 1996

ATTACHMENT 2

Cumulative Impact of 3% Annual Increases for All Employees over Five Years

	2004-05	2005-06	2006-07	2007-08	2008-09
<u>Estimated Total Cost/All Funds</u>	\$8,511,642	\$8,511,642 8,766,991	\$8,511,642 8,766,991 9,030,001	\$8,511,642 8,766,991 9,030,001 9,300,901	\$8,511,642 8,766,991 9,030,001 9,300,901 9,579,928
Cumulative All Funds Total Annual Cost	\$8,511,642	\$17,278,633	\$26,308,634	\$35,609,535	\$45,189,463
<u>Estimated General Fund Cost (34.3%)</u>	\$2,919,493	\$2,919,493 3,007,078	\$2,919,493 3,007,078 3,097,290	\$2,919,493 3,007,078 3,097,290 3,190,209	\$2,919,493 3,007,078 3,097,290 3,190,209 3,285,915
Cumulative GF Total Annual Cost	\$2,919,493	\$5,926,571	\$9,023,862	\$12,214,071	\$15,499,986

HISTORICAL ALLOCATION
Comparison of Existing Allocation to Proposed Allocation
Fire Receives An Increase of 1.5% Annually Beginning In FY 05-06

Net Dollar Impact Per Department

Fiscal Year	Gross	Dist Atty		Fire			Parks		Probation		Pub Def		Sheriff		Annual GF Contribution
		13.41%	Net Change	Total	2.25%	Net Change	Total	0.12%	Net Change	24.33%	Net Change	9.76%	Net Change	50.13%	
1995	16,504,253	2,213,220			371,346			19,805		4,015,485		1,610,815		8,273,582	
1996	17,499,103	2,346,630			393,730			20,999		4,257,532		1,707,912		8,772,300	
1997	18,288,182	2,452,445			411,484			21,946		4,449,515		1,784,927		9,167,866	
1998	19,302,420	2,588,455			434,304			23,163		4,696,279		1,883,916		9,676,303	
1999	20,497,869	2,748,764			461,202			24,597		4,987,132		2,000,592		10,275,582	
2000	23,226,405	3,114,661			522,594			27,872		5,650,984		2,266,897		11,643,397	
2001	25,038,512	3,357,664			563,367			30,046		6,091,870		2,443,759		12,551,806	
2002	23,660,238	3,172,838			532,355			28,392		5,756,536		2,309,239		11,860,877	
2003	25,187,674	3,377,667			566,723			30,225		6,128,161		2,458,317		12,626,581	
04 05	25,889,517	3,471,784	(0)		582,514	-		31,067	-	6,298,919	-	2,526,817	-	12,978,415	(0)
05 06	26,599,032	3,566,930	(54,736)	3,512,195	598,478	398,985	997,464	31,919	(490)	6,471,544	(99,308)	2,596,066	(39,837)	13,334,095	(398,985)
06 07	27,370,404	3,670,371	(112,646)	3,557,725	615,834	821,112	1,436,946	32,844	(1,008)	6,659,219	(204,375)	2,671,351	(81,985)	13,720,783	(821,112)
07 08	28,109,405	3,769,471	(173,531)	3,595,941	632,462	1,264,923	1,897,385	33,731	(1,553)	6,839,018	(314,840)	2,743,478	(126,298)	14,091,245	(1,264,923)
08 09	28,868,359	3,871,247	(237,621)	3,633,626	649,538	1,732,102	2,381,640	34,642	(2,126)	7,023,672	(431,121)	2,817,552	(172,944)	14,471,708	(1,732,102)
09 10	29,647,804	3,975,771	(305,046)	3,670,724	667,076	2,223,585	2,890,661	35,577	(2,730)	7,213,311	(553,451)	2,893,626	(222,017)	14,862,444	(2,223,585)
10 11	30,448,295	4,083,116	(313,283)	3,769,834	685,087	2,283,622	2,968,709	36,538	(2,803)	7,408,070	(568,394)	2,971,754	(228,012)	15,263,730	(2,283,622)
11 12	31,270,399	4,193,360	(321,741)	3,871,619	703,584	2,345,280	3,048,864	37,524	(2,879)	7,608,088	(583,741)	3,051,991	(234,168)	15,675,851	(2,345,280)
12 13	32,114,700	4,306,581	(330,428)	3,976,153	722,581	2,408,602	3,131,183	38,538	(2,957)	7,813,506	(599,502)	3,134,395	(240,491)	16,099,099	(2,408,602)
13 14	32,981,797	4,422,859	(339,350)	4,083,509	742,090	2,473,635	3,215,725	39,578	(3,037)	8,024,471	(615,688)	3,219,023	(246,984)	16,533,775	(2,473,635)
14 15	33,872,305	4,542,276	(348,512)	4,193,764	762,127	2,540,423	3,302,550	40,647	(3,119)	8,241,132	(632,312)	3,305,937	(253,652)	16,980,187	(2,540,423)
15 16	34,786,857	4,664,918	(357,922)	4,306,996	782,704	2,609,014	3,391,719	41,744	(3,203)	8,463,642	(649,384)	3,395,197	(260,501)	17,438,652	(2,609,014)
16 17	35,726,103	4,790,870	(367,586)	4,423,284	803,837	2,679,458	3,483,295	42,871	(3,289)	8,692,161	(666,918)	3,486,868	(267,535)	17,909,495	(2,679,458)
17 18	36,690,707	4,920,224	(377,511)	4,542,713	825,541	2,751,803	3,577,344	44,029	(3,378)	8,926,849	(684,924)	3,581,013	(274,758)	18,393,052	(2,751,803)
18 19	37,681,356	5,053,070	(387,704)	4,665,366	847,831	2,826,102	3,673,932	45,218	(3,469)	9,167,874	(703,417)	3,677,700	(282,176)	18,889,664	(2,826,102)
19 20	38,698,753	5,189,503	(398,172)	4,791,331	870,722	2,902,406	3,773,128	46,439	(3,563)	9,415,407	(722,410)	3,776,998	(289,795)	19,399,685	(2,902,406)
20 21	39,743,619	5,329,619	(408,922)	4,920,697	894,231	2,980,771	3,875,003	47,692	(3,659)	9,669,623	(741,915)	3,878,977	(297,620)	19,923,476	(2,980,771)
21 22	40,816,697	5,473,519	(419,963)	5,053,556	918,376	3,061,252	3,979,628	48,980	(3,758)	9,930,702	(761,946)	3,983,710	(305,655)	20,461,410	(3,061,252)
22 23	41,918,748	5,621,304	(431,302)	5,190,002	943,172	3,143,906	4,087,078	50,302	(3,860)	10,198,831	(782,519)	4,091,270	(313,908)	21,013,868	(3,143,906)
23 24	43,050,554	5,773,079	(442,947)	5,330,132	968,637	3,228,792	4,197,429	51,661	(3,964)	10,474,200	(803,647)	4,201,734	(322,384)	21,581,243	(3,228,792)
Cumulative 5 Year GF Impact		18,853,790	(883,579)	17,970,210	3,163,388	6,440,708	9,604,095	168,714	(7,907)	34,206,764	(1,603,094)	13,722,072	(643,082)	70,480,275	(3,303,045)
5 Year Percentage Change			-4.69%			203.60%			-4.69%		-4.69%		-4.69%		-4.69%
Cumulative GF Impact			(6,128,922)	81,089,167		44,675,774	59,309,682		(54,845)		(11,119,812)		(4,460,722)		(22,911,474)

Santa Barbara County Fire Department
Proposed Long-term Capital Plan

Fiscal Year	2005-2006	2006-2007	2007-2008	2008-2009	2009-2010	2010-2011	2011-2012	2012-2013	2013-2014	2014-2015	2015-2016	2016-2017	2017-2018	2018-2019	2019-2020	2020-2021	2021-2022	Totals
Capital Planning Year	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	
1 Construction Land & Warehouse																3,000,000		3,000,000
2 South BC Quarters Re-build									600,000									600,000
3 Station 11 Re-build													3,490,000					3,490,000
4 Station 13 Re-model ***					300,000													300,000
5 Station 14 Re-model ***					400,000													400,000
6 Station 19 Refurbish						50,000												50,000
7 Station 19 Warehouse Relocation						300,000												300,000
8 Station 23 Re-build								2,950,000										2,950,000
9 Station 24 Re-build									2,000,000	1,130,000								3,130,000
10 Station 25 Apparatus/Equip										1,000,000								1,000,000
11 Station 25 Construct BC Qtrs **										600,000								600,000
12 Station 41 Re-build															3,595,000			3,595,000
13 Station 51 Re-build		2,490,000																2,490,000
14 Training Facility			750,000			150,000					3,000,000							3,900,000
15 Type II D-6 Dozer Replacement											350,000							350,000
16 Water Tender Replace - 18 & 23										300,000		300,000						600,000
Sub-total	0	2,490,000	750,000	0	700,000	500,000	0	2,950,000	2,600,000	3,030,000	3,350,000	300,000	3,490,000	0	3,595,000	3,000,000	0	26,755,000
17 Station 10 Construction **							2,887,000											2,887,000
18 Station 25 Construct **	300,000								3,039,000									3,339,000
Total																		32,981,000

** Stn 10 construction funded by developer mit fees. Stn 25 funded by developer mit fees; BC quarters funded by District revenues.

Stn 10 Construction project formerly titled Station 11 Relocation. Includes Apparatus, Equip & Svc/Sup Costs

*** Needed only if station staffing increases to 4. Also, at Stn 21, funding may come from SM Airport District.

Stn 11 rebuild schedule = purch land 07/08, build classroom 2010-11, build tower & trng facility 2015

Cost unknown - timeframe unknown

Cost estimates are derived from department and union numbers

Projects eliminated from estimates

EOC/Offices/Classrm/Exp Dspitch	200,000	1,922,000	2,000,000	200,000														4,322,000
Station 10 Apparatus/Equip						1,000,000												1,000,000
Station 11 Re-model						150,000												150,000
Station 19 Type II & III Engines						645,000												645,000
Station 21 Re-model ***					125,000													125,000
Station 24 Re-model ***			105,000															105,000
Upgrade Helicopter Program													1,530,000					1,530,000
USAR Vehicle Purch						350,000												350,000

TABLE C

HISTORICAL ALLOCATION

Comparison of Existing Allocation to Proposed Allocation

Fire Receives All Growth Unit Allocation Equals 25% of Total

Net Dollar Impact Per Department

Fiscal Year	Gross	Dist Atty		Fire		Parks		Probation		Pub Def		Sheriff		Annual GF Contribution	
		13.41%	Net Change	2.25%	Net Change	0.12%	Net Change	24.33%	Net Change	9.76%	Net Change	50.13%	Net Change		
1995	16,504,253	2,213,220		371,346		19,805		4,015,485		1,610,815		8,273,582			
1996	17,499,103	2,346,630		393,730		20,999		4,257,532		1,707,912		8,772,300			
1997	18,288,182	2,452,445		411,484		21,946		4,449,515		1,784,927		9,167,866			
1998	19,302,420	2,588,455		434,304		23,163		4,696,279		1,883,916		9,676,303			
1999	20,497,869	2,748,764		461,202		24,597		4,987,132		2,000,592		10,275,582			
2000	23,226,405	3,114,661		522,594		27,872		5,650,984		2,266,897		11,643,397			
2001	25,038,512	3,357,664		563,367		30,046		6,091,870		2,443,759		12,551,806			
2002	23,660,238	3,172,838		532,355		28,392		5,756,536		2,309,239		11,860,877			
2003	25,187,674	3,377,667		566,723		30,225		6,128,161		2,458,317		12,626,581			
2004 est.	25,889,517	3,471,784	(0)	582,514	-	31,067	-	6,298,919	-	2,526,817	-	12,978,415	-	(0)	
2005 est	26,599,032	3,566,930	(52,911)	598,478	385,686	984,164	31,919	(473)	6,471,544	(95,997)	2,596,066	(38,509)	13,334,095	(197,795)	(385,686)
2006 est	27,370,404	3,670,371	(108,276)	615,834	807,427	1,423,261	32,844	(969)	6,659,219	(196,447)	2,671,351	(78,805)	13,720,783	(404,763)	(789,260)
2007 est	28,109,405	3,769,471	(167,741)	632,462	1,250,869	1,883,330	33,731	(1,501)	6,839,018	(304,336)	2,743,478	(122,085)	14,091,245	(627,060)	(1,222,724)
2008 est	28,868,359	3,871,247	(230,339)	649,538	1,717,667	2,367,205	34,642	(2,061)	7,023,672	(417,908)	2,817,552	(167,644)	14,471,708	(861,067)	(1,679,020)
2009 est	29,647,804	3,975,771	(296,195)	667,076	2,208,761	2,875,837	35,577	(2,651)	7,213,311	(537,392)	2,893,626	(215,575)	14,862,444	(1,107,252)	(2,159,064)
2010 est	30,448,295	4,083,116	(304,192)	685,087	2,268,398	2,953,485	36,538	(2,722)	7,408,070	(551,901)	2,971,754	(221,396)	15,263,730	(1,137,148)	(2,217,359)
2011 est	31,270,399	4,193,360	(312,405)	703,584	2,329,645	3,033,229	37,524	(2,796)	7,608,088	(566,803)	3,051,991	(227,373)	15,675,851	(1,167,851)	(2,277,228)
2012 est	32,114,700	4,306,581	(320,840)	722,581	2,392,545	3,115,126	38,538	(2,871)	7,813,506	(582,106)	3,134,395	(233,512)	16,099,099	(1,199,383)	(2,338,713)
2013 est	32,981,797	4,422,859	(329,503)	742,090	2,457,144	3,199,234	39,578	(2,949)	8,024,471	(597,823)	3,219,023	(239,817)	16,533,775	(1,231,766)	(2,401,858)
2014 est	33,872,305	4,542,276	(338,400)	762,127	2,523,487	3,285,614	40,647	(3,028)	8,241,132	(613,964)	3,305,937	(246,292)	16,980,187	(1,265,024)	(2,466,708)
2015 est	34,786,857	4,664,918	(347,536)	782,704	2,591,621	3,374,325	41,744	(3,110)	8,463,642	(630,541)	3,395,197	(252,942)	17,438,652	(1,299,180)	(2,533,309)
2016 est	35,726,103	4,790,870	(356,920)	803,837	2,661,595	3,465,432	42,871	(3,194)	8,692,161	(647,566)	3,486,868	(259,772)	17,909,495	(1,334,257)	(2,601,709)
2017	36,690,707	4,920,224	(366,557)	825,541	2,733,458	3,558,999	44,029	(3,280)	8,926,849	(665,050)	3,581,013	(266,785)	18,393,052	(1,370,282)	
2018	37,681,356	5,053,070	(376,454)	847,831	2,807,261	3,655,092	45,218	(3,369)	9,167,874	(683,007)	3,677,700	(273,989)	18,889,664	(1,407,280)	
2019	38,698,753	5,189,503	(386,618)	870,722	2,883,057	3,753,779	46,439	(3,460)	9,415,407	(701,448)	3,776,998	(281,386)	19,399,685	(1,445,277)	
2020	39,743,619	5,329,619	(397,057)	894,231	2,960,900	3,855,131	47,692	(3,553)	9,669,623	(720,387)	3,878,977	(288,984)	19,923,476	(1,484,299)	
2021	40,816,697	5,473,519	(407,777)	918,376	3,040,844	3,959,220	48,980	(3,649)	9,930,702	(739,837)	3,983,710	(296,786)	20,461,410	(1,524,375)	
2022	41,918,748	5,621,304	(418,787)	943,172	3,122,947	4,066,119	50,302	(3,748)	10,198,831	(759,813)	4,091,270	(304,800)	21,013,868	(1,565,533)	
2023	43,050,554	5,773,079	(430,094)	968,637	3,207,266	4,175,904	51,661	(3,849)	10,474,200	(780,328)	4,201,734	(313,029)	21,581,243	(1,607,803)	
Cumulative 5 Year GF Impact			(855,463)		6,370,410	9,533,798		(7,655)		(1,552,081)		(622,618)		(3,197,937)	
Cumulative GF Impact			(5,948,603)		44,350,576	58,984,484		(53,231)		(10,792,655)		(4,329,483)		(22,237,394)	

THE SANTA BARBARA COUNTY FIRE PROTECTION
AND FIREFIGHTER SAFETY FUNDING ORDINANCE

The People of the County of Santa Barbara, State of California, do ordain and enact as follows:

Section 1. Title. This initiative measure shall be known and may be cited as "The Santa Barbara County Fire Protection and Firefighter Safety Funding Ordinance."

Section 2. Intent of Ordinance. Pursuant to the California Constitution and the Government Code, certain sales tax revenues are specifically allocated to local governments for the funding of public safety services. It is the intent of this Ordinance to guarantee that the Santa Barbara County Fire Department receives an appropriate and fair share of such revenues allocated to the County of Santa Barbara.

Section 3. Legislative Purpose and Findings. The People of the County of Santa Barbara find and declare the following:

A. The People of the County of Santa Barbara find that it is necessary and appropriate to provide a legislative guarantee that fire protection services in Santa Barbara County are adequately funded.

B. In 1993, California voters passed Proposition 172, which earmarked one-half cent of the existing sales tax for local public safety services, including law enforcement, prosecutors, and fire protection.

C. The County of Santa Barbara has received more than 200 million dollars in Proposition 172 money since the passage of that measure. However, less than 6 million dollars has been allocated to the Santa Barbara County Fire Department.

D. In 1996, the County of Santa Barbara and various public safety agencies of the County of Santa Barbara, including the Santa Barbara County Fire Department, entered into a Letter of Understanding, confirmed by Santa

Barbara County Board of Supervisors Resolution No. 96-91, to establish a distribution formula for the allocation of Proposition 172 money received by the County of Santa Barbara pursuant to Government Code section 30054, subdivision (b)(5). In accordance with this Resolution, 2.25% of Proposition 172 money received by the County is to be allocated to the Santa Barbara County Fire Department. Proposition 172 money is also allocated to the District Attorney, the Sheriff, Probation, the Public Defender, and others. The People of the County of Santa Barbara, by this Ordinance, desire to codify the portion of the distribution formula for the amount of Proposition 172 money allocated to the Fire Department. The People of the County of Santa Barbara also desire to provide for an additional allocation to the Fire Department in the event of increases in the amount of Proposition 172 money received by the County of Santa Barbara after the 2004-05 fiscal year.

E. The People of the County of Santa Barbara desire that Proposition 172 money be fairly apportioned so that the Santa Barbara County Fire Department can receive an increased phased-in level of funding while minimizing the impact on other eligible public safety service providers in the County.

F. The People of the County of Santa Barbara desire that no new taxes be imposed and that no existing taxes be increased or extended for the funding of public safety services in the County, including fire protection services.

G. The Santa Barbara County Fire Department is currently responsible for providing fire protection services to the unincorporated area of the County and 25% of our cities and urban areas. The Fire Department is further responsible for responding to regional fire protection incidents in addition to providing for specialized services, life safety needs, and emergency situations for the benefit of all cities and residents of the County. Also, the Fire Department currently administers vital non-fire protection services, such as the Office of Emergency Services and the Hazardous Materials Unit.

H. The Santa Barbara County Fire Department is a first responder to major wildfires, hazardous materials incidents, and major disasters

occurring within the County, and the Department needs the resources to better respond to such potentially devastating situations.

I. The Santa Barbara County Fire Department will be among the first to respond to protect the lives and property of County residents in the event of a terrorist incident, including chemical and biological weapons.

J. The Santa Barbara County Fire Department is currently responsible for providing paramedic services, and the Department needs the resources to better and more quickly respond to major medical emergencies.

K. Due to lack of funding, the Santa Barbara County Fire Department cannot keep its helicopter on duty 7 days a week; cannot reopen, relocate, or add fire stations; cannot replace aging apparatus and equipment (for example, Vietnam-era "Huey" rescue/water-dropping helicopters); cannot add needed office/warehouse space; and cannot develop a long-needed training facility. The Fire Department does not meet national staffing standards for the currently operated fire engines. While the staffing of most public safety service providers in the County has grown since the passage of Proposition 172, the Fire Department has been forced to reduce the number of firefighters. Also, the Fire Department has been forced to close one fire station.

L. Firefighters put their lives on the line for our safety. Government has the responsibility to ensure that they have the best fire apparatus, equipment, and staffing to enable them to do their work safely, effectively, and efficiently.

M. The People of the County of Santa Barbara, through the enactment of this Ordinance, intend to guarantee that the Santa Barbara County Fire Department receives an appropriate and fair share of the Proposition 172 money that is allocated to the County for funding of public safety services in order to supplement the public safety services provided by the Fire Department. This Ordinance is not intended to replace funding for existing Fire Department programs.

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Section 4. Amendment of Santa Barbara County Code. Article XX, commencing with Section 2-120, is hereby added to Chapter 2 ("Administration") of the Santa Barbara County Code to read in its entirety as follows:

Article XX. Allocation of County's Share of Public Safety Augmentation Fund

Section 2-120. Definitions. For the purposes of this Article, the following definitions shall apply:

- A. "Base Year" means the 2004-05 fiscal year.
- B. "Base Year Amount" means the total amount of the County's Share for the 2004-05 fiscal year.
- C. "County's Share" means the portion of the Fund that is not allocated to cities under the Law.
- D. "Department" means the Santa Barbara County Fire Department, or a successor department or public agency, including but not limited to a joint powers authority.
- E. "Fund" means the Public Safety Augmentation Fund created in the County pursuant to the terms and provisions of the Law.
- F. "Law" means the Local Public Safety Fund Law (Chapter 6.5, commencing with Section 30051, of Division 3 of Title 3 of the California Government Code), as may be amended from time to time, and as intended as the legislative implementation of Section 35 of Article XIII of the California Constitution.

Section 2-121. Public Safety Funding.

A. The County has created the Fund, which consists of revenues received by the County pursuant to the Law. The revenues in the Fund can be expended only for the purposes and subject to the limitations provided in the Law. The Law requires the County Auditor to make specified allocations to the cities in the County, and all revenues in the Fund not so distributed to the cities are allocated to the County as the County's Share.

B. Commencing on July 1, 2005, for the 2005-06 fiscal year and each fiscal year thereafter, the County Auditor shall allocate the County's Share as follows:

(1) The County Auditor shall allocate to the Department two and one-quarter percent (2.25%) of the Base Year Amount. The remaining portion of the Base Year Amount for each fiscal year shall be allocated to eligible public safety providers, including the Department, at the discretion of the County in the manner provided under the Law.

(2) Subject to the provisions of paragraph (3), the County Auditor shall allocate to the Department the entirety of the amount by which the County's Share exceeds the Base Year Amount in any fiscal year.

(3) Once the amount of the County's Share allocated by the County Auditor to the Department in accordance with the provisions of paragraphs (1) and (2) equals twenty-five percent (25%) of the County's Share, then, notwithstanding paragraph (2), the remaining portion of the County's Share in excess of the Base Year Amount

for each affected fiscal year shall be allocated to eligible public safety providers, including the Department, at the discretion of the County in the manner provided ~~under the Law. Thereafter, the County Auditor shall allocate to the Department in each following fiscal year an amount not less than twenty-five percent (25%) of the County's Share.~~

(4) The Department currently performs certain non-fire protection functions - including but not limited to the Office of Emergency Services and the Hazardous Materials Unit - for which the Department is allocated revenues from the County's general fund. In the event that the amount of the general fund allocation for such functions required to be performed by the Department is reduced in any fiscal year, then an equivalent amount shall be allocated to the Department from the County's Share in excess of the Base Year Amount to the extent that such functions qualify as public safety services under Section 35 of Article XIII of the California Constitution and the Law. ~~This equivalent amount shall be in addition to any allocation of the County's Share as provided in paragraphs (1), (2), and (3).~~

C. To the extent necessary, Santa Barbara County Board of Supervisors Resolution No. 96-91 is hereby amended pursuant to the terms and provisions of this Article.

Section 5. No New or Increased Taxes. Nothing in this Ordinance is intended or should be construed to authorize the creation, increase, or extension of any tax.

Section 6. Amendment of Ordinance. This Ordinance shall not be modified, amended, or repealed, except by a majority vote of the voters.

Section 7. Conflicts and Competing Measures.

A. In the event this Ordinance conflicts with the terms of any other ordinance, resolution, or policy of the County of Santa Barbara, this Ordinance shall control.

B. In the event that another measure ("competing measure") appears on the same ballot as this Ordinance which seeks to adopt or impose provisions or requirements that differ in any regard to, or supplement, the provisions or requirements contained in this Ordinance, the voters hereby expressly declare their intent that if both the competing measure and this Ordinance receive a majority of votes cast, and if this Ordinance receives a greater number of votes than the competing measure, this Ordinance shall prevail in its entirety over the competing measure without regard to whether specific provisions of each measure directly conflict with each other.

C. In the event that both the competing measure and this Ordinance receive a majority of votes cast, and the competing measure receives a greater number of votes than this Ordinance, this Ordinance shall be deemed complementary to the competing measure. To this end, and to the maximum extent permitted by law, the provisions of this Ordinance shall be fully adopted except to the extent that specific provisions contained in each measure are deemed to be in direct conflict with each other on a "provision-by-provision" basis pursuant to *Yoshisato v. Superior Court* (1992) 2 Cal.4th 978.

Section 8. Effective Date. This Ordinance and all provisions hereof, unless otherwise expressly herein provided, shall take effect and become operative on the date of certification of the results of the election at which this Ordinance was approved.

Section 9. Severability. If any section, subsection, subdivision, sentence, clause, phrase, or portion of this Ordinance is, for any reason, declared to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance. The People of the County of Santa Barbara hereby declare that they would have adopted this Ordinance and each section, subsection, subdivision, sentence, clause, phrase, or portion hereof, regardless of the fact that any one or more sections, subsections,

subdivisions, sentences, clauses, phrases, or portions hereof be declared
invalid or unconstitutional.

SANTA BARBARA COUNTY
BOARD AGENDA LETTER



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

Agenda Number:
Prepared on: 6/15/04
Department Name: Fire
Department No.: 031
Agenda Date: 6/22/04
Placement: Administrative
Estimate Time:
Continued Item: NO
If Yes, date from:

TO: Board of Supervisors

FROM: Naomi Schwartz
Supervisor, First District

STAFF CONTACT: Michael T. Bennett, Battalion Chief
805-331-2956

SUBJECT: Fire Department Funding

Recommendation(s):

That the Board of Supervisors: Set a public hearing for July 13, 2004 to consider adopting a resolution placing an ordinance re-allocating increases in future public safety funding from Proposition 172 on the ballot for the November 2004 countywide election for submission to the voters.

Alignment with Board Strategic Plan:

The recommendation(s) are primarily aligned with Goal No. 4. A Community that is Economically Vital and Sustainable and with Goal No. 5. A High Quality of Life for All Residents.

Executive Summary and Discussion:

At the request of the Santa Barbara County Firefighters and the Santa Barbara County Fire Department Chief Officers' Association, who have drafted an initiative ordinance regarding public safety funding, it is requested that the Board hold a hearing on July 13, 2004 to discuss placing this measure on the ballot for voter consideration. The Board would not adopt the ordinance.

Although the ordinance is called an "initiative," if the Board puts it on the ballot it is really a referendum on an ordinance that the board would submit to the voters under Elections Code § 9140.

The proposed ordinance adds an article to the County Code directing the Auditor, beginning July 1, 2005, to allocate sales tax funds in the Public Safety Augmentation Fund, created in the County under the Local Public Safety Fund Law (Proposition 172). Under the proposal, the Fire Department shall receive an additional allocation of Local Public Safety Funds in the event the County of Santa Barbara receives increases in the amount of Proposition 172 money after fiscal year 2004-05.

The Board of Supervisors has since 1996 allocated Proposition 172 funds to the District Attorney, Sheriff, Public Defender, Probation, and Fire Department, in accordance with a distribution formula agreed to in a memorandum of understanding among the public safety services departments and confirmed in Board of Supervisors Resolution 96-91. This formula provides that the Fire Department shall receive 2.25% of Local Public Safety Funds.

The ordinance establishes the 2004-05 fiscal year as the base year and the County's total share of Local Public Safety Funds in 2004-05 as the base year amount. It requires the Auditor, each fiscal year beginning 2005-06, to allocate to the Fire Department 2.25% of the base year amount. If the County receives Local Public Safety Funds greater than the base year amount, the Fire Department shall receive the whole increase above the base year amount until its total share of Local Public Safety Funds equals 25%. (The remaining 75% is to be allocated among all public safety providers in the Board of Supervisors' discretion.) In ensuing fiscal years, the Fire Department's allocation shall be not less than 25% of the County's share.

The ordinance "amends" Resolution 96-91 to the extent necessary. If passed by the voters, the initiative ordinance cannot be modified, amended or repealed except by majority vote of the voters.

The Board of Supervisors may submit to the voters, without a petition, an ordinance for the repeal, amendment, or enactment of any ordinance. The ordinance shall be voted upon at any succeeding regular or special election and, if it receives a majority of the votes cast, the ordinance shall be repealed, amended, or enacted accordingly. According to the Elections Division, the resolutions for the election should be considered by the Board at the July 13, 2004 meeting.

Mandates and Service Levels:

According to the proponents, this funding would allow the fire department to meet minimum safety requirements mandated by law and improve safety levels in the areas served by the fire department.

Fiscal and Facilities Impacts:

According to the proponents, minimal fiscal impacts and would allow the fire department to improve and construct public safety facilities to better serve the citizens.

Special Instructions:


Chalon

Memorandum



Date: December 31, 2001

To: Honorable Board of Supervisors

From:  Michael F. Brown, County Administrator

Subject: History of Proposition 172, the Public Safety Sales Tax

CC: Each Department Head, Public Safety Departments
Bob Geis, County Auditor-Controller
Shane Stark, County Counsel

During your Board's November 13 Budget Workshop, Supervisor Rose asked for information regarding Proposition 172, particularly its early history and decisions regarding the local allocation of Proposition 172 revenues. A report on the subject is attached. Please contact Ken Masuda at 568-3411 if you have any questions about the report.

Attachment

Proposition 172 Background and History

Introduction

In the early 1990's, state government revenues declined as both the national and California state economies slid into a recession. This revenue shortfall, coupled with the earlier passage of Proposition 98, which established a constitutionally guaranteed minimum level of state funding for public K-12 school districts and community colleges, created a state level budget crisis—not the first nor the last.

In 1992, in response to the funding crisis, the State began transferring local property tax revenues primarily from counties, and also from cities and most special districts, to schools. This reallocation authority was, until this time, one of the unused features of Proposition 13 of 1978.

Proposition 172, the "Public Safety Sales Tax"

To partially mitigate the property tax loss, the State Legislature placed on the November 1993 ballot a "new" ½ cent sales tax. The tax was called a "Public Safety Sales Tax," to be used only for "public safety services of local agencies." The full text of this legislation, Senate Constitutional Amendment No. 1 (SCA-1), is included as Exhibit 1. As defined in further implementing legislation, the term "public safety services" included but was not limited to "sheriffs, police, fire protection, county district attorneys, and county corrections." Courts were specifically excluded from the definition of public safety services. Although public defenders were not specifically named in the legislation, a later legislative counsel opinion indicated the definition was intended to include public defender services.

The tax proposal became popularly known by its proposition number, "Proposition 172." Proposition 172 was passed by the voters on November 3, 1993. In fact, this new tax continued a special short-term sales tax increase enacted in 1991 to help balance the state budget. This first increase, which was scheduled to expire in June of 1993, was extended by the legislature through December 1993 in anticipation of the November 1993 election. During the campaign to approve Proposition 172, it was emphasized that the tax was, in essence, a continuation of a level of sales tax already in place.

Impacts

Voter approval of Proposition 172 allowed the County to avert "a major financial crisis" in the FY 1993-94 budget year. In that year, the state took \$24.75 million in County General Fund property tax revenues and an additional \$2.1 million in property taxes was lost in other County funds, such as county service areas and the flood control district. Proposition 172 receipts provided \$15.24 million in FY 1993-94 so that the net General Fund revenue loss to the County amounted to "only" \$9.51 million as opposed to a potential \$24.75 million.

Table 1 shows the impact of the two major components, the General Fund property tax revenue loss and Proposition 172 revenue gain to Santa Barbara County in millions of dollars. The attached Exhibit 2 includes two additional components, property tax loss from non-General Fund sources and recent, one-time, state property tax rebates.

Table 1: Net General Fund Loss From Property Tax Loss and Prop. 172 Sales Tax Gain, in millions of dollars

Year	General Fund Property Tax Loss	Proposition 172 Revenue Gain	Net Loss Per Year
1992-93	(\$4.48)	\$0	(\$4.48)
1993-94	(\$24.75)	\$15.24	(\$9.51)
1994-95	(\$26.29)	\$16.50	(\$9.69)
1995-96	(\$26.30)	\$17.50	(\$8.80)
1996-97	(\$26.96)	\$18.24	(\$8.72)
1997-98	(\$27.94)	\$19.45	(\$8.49)
1998-99	(\$30.08)	\$20.29	(\$9.79)
1999-00	(\$32.50)	\$23.51	(\$9.00)
2000-01	(\$34.70)	\$25.00	(\$9.70)
2001-02 (Est.)	(\$36.78)	\$26.25	(\$10.53)
TOTAL:	(\$270.68)	\$181.99	(\$88.70)
Average	(\$27.07)	\$18.20	(\$8.87)

Impacts on Public Safety Departments

Approval of Proposition 172 allowed the county to avoid the reduction of certain services that had been scheduled for reduction as of December 31, 1993 if Proposition 172 had not passed and to restore services that had already been reduced. These avoided reductions and restored cuts are best displayed in terms of positions, and are shown in summary form, for public safety departments, in Table 2. In addition to the staffing reductions, Proposition 172 revenues allowed the county to avoid closing the Santa Maria Juvenile Hall and the Men's Honor Farm at the Main Jail, both of which had otherwise been scheduled for closure on December 31, 1993.

Table 2. Position Reductions Avoided and Positions Restored, November 1993.

Department	No. of Position Reductions Avoided	No. of Previously Deleted Positions Restored	Total Positions
Sheriff	8	24	32
District Attorney	4	4	8
Public Defender	4	3	7
Probation	16	7	23
Fire	0	1	1
Totals	32	39	71

Allocation of Proposition 172 Revenues

While Proposition 172 revenues that the County receives are related to county sales tax revenues, there is not a direct relationship.

1. **Statewide Allocation.** Although the amount of sales tax revenues collected within the County of Santa Barbara is the primary factor in determining how much Proposition 172 revenue the county will receive, the annual dollar allocation formula actually represents a mix of local and statewide receipts.

This is because each county's annual Proposition 172 allocation is based on the proportion of county sales tax revenues to total statewide sales tax revenues in the preceding year. So, for example, in fiscal year 2000-01, the county received 1.18244% of statewide receipts whereas, in the previous year, our share was 1.1253%.

2. **Allocation in Santa Barbara County Between Cities and the County.** Within Santa Barbara County, the county receives 97.4081562% of total Proposition 172 revenues and cities receive the balance or about 2.6%. These ratios vary from county to county based on proportionate property tax losses, but do not change over time. For example, since the new City of Goleta was not in existence when the property tax shift took place, it did not lose any property tax revenues and thus will not share in Proposition 172 revenues.

3. Allocation of Proposition 172 Revenues Within the County

Initial Allocations to Nondepartmental Revenue. For the first three fiscal years, 1993-94 through 1995-96 revenues were deposited in the nondepartmental revenue budget. Proposition 172 implementing legislation, known as AB-2788, requires annual reporting to ensure that county budgeted public safety appropriations meet or exceed a maintenance of effort amount based on fiscal year 1992-93 appropriations to public safety departments. There is no requirement that the Proposition 172 revenue be deposited directly to public safety departments.

Public Safety Departments Request to Change the Allocation Process. While the last national recession ended in 1993, in California the recession lasted longer due to defense industry cutbacks and consolidations. Locally, this meant budgets were still tight. Partly in response to this, the public safety departments, in March 1996, asked the Board to adopt a resolution revising its earlier policy regarding how the Proposition 172 revenues were allocated.

Instead of the revenue going into a single non-departmental revenue account, it was requested that, in the future, Proposition 172 revenues be allocated directly to department budgets following a formula "to be developed and agreed upon" by the public safety departments. This change meant that public safety departments would receive "categorical" revenue in exchange for "discretionary" revenue, reducing their exposure to any budget cuts based on shares of "General Fund contribution." In addition, the proposal would allow public safety departments to carry-over "unanticipated" Proposition 172 revenue, subject to certain conditions, from one year to the next.

The public safety departments also asserted that putting the revenue directly in department budgets would more easily demonstrate to the public that these tax revenues were being spent on local public safety activities.

A copy of the Board adopted resolution, Resolution, No. 96-91, is attached as Exhibit 3. Also attached, as Exhibit 4, is a County Counsel opinion which, in part, indicates that the resolution “does not supersede the authority and duty of the Board of Supervisors to consider and adopt a budget pursuant to the County Budget Act” and that the allocation of funds among the public safety agencies “can be revisited by the Board at any time.”

In April 1996 the public safety departments submitted a “Letter of Understanding” (attached as Exhibit 5) which included the allocation formula shown in Table 3. This formula was based on General Fund contribution amounts (then called Net County Cost and abbreviated as NCC) received by the departments for public safety activities in fiscal year 1994-95.

Table 3: Proposition 172 Revenue Allocation Formula

Department	Percent
District Attorney	13.41
Public Defender	9.76
Fire	2.25
Probation	24.33
Sheriff	50.13
Parks (lifeguards)	0.12
Totals	100.00

While the letter indicates that Proposition 172 funds are to be reallocated retroactively to the FY 1995-96 year, it appears from financial data that the actual reallocation did not occur until FY 1996-97.

Allocations to the Fire Department: A Special Case. As indicated, the Proposition 172 one-half cent sales tax was intended to offset the impact of local property tax revenue losses on local public safety departments. However, state legislation, specifically SB 844 of 1992-93, which implemented the initial shift of local property taxes to the Educational Revenue Augmentation Fund (ERAF), exempted certain special districts from property tax reductions and limited cuts for certain other districts.

Among the districts with special limits or exemptions are “fire districts that contract with the state to protect watershed land” called state responsibility areas or SRAs. Property

taxes and state payments for fire protection in SRAs are specifically exempted from any shift.

The County Fire Department (specifically the Fire Protection District Fund 2280) was one of six contract counties eligible for this exemption. The only non-exempt area was money from the state, provided for in AB 8 of 1978 which, for special districts, went into a local Special District Augmentation Fund (SDAF) for reallocation by the Board of Supervisors. The SDAF loss to the fire district, in 1993-94, amounted to only \$27,674. Zero property taxes were transferred to the ERAF from the district.

Thus, although the Fire Department lost no property taxes, the department did, and has annually received a share of Proposition 172 revenues, according to the agreement among public safety departments as ratified by the Board of Supervisors.

Pre- and Post Resolution Allocations of General Fund and Proposition 172 Revenues

Table 4 shows the pre- and post-resolution distribution of Proposition 172 revenues and General Fund contribution in FY 1995-96 and 1996-97 by department.

Department	Pre-Resolution (FY 1995-96) General Fund Contribution & 172 Revenues	Post-Resolution (FY 1996-97) General Fund Contribution & 172 Revenues	Net Change
District Attorney	5,921,522 + 0 = 5,921,522	3,779,448 + 2,455,710 = 6,235,158	313,636 (+5.3%)
Public Defender	4,067,990 + 0 = 4,067,990	2,475,831 + 1,838,846 = 4,316,377	248,387 (+6.1%)
Fire	671,720 + 0 = 671,720	847,441 + 7,375 = 854,816	183,096 (+27.3)
Probation	9,788,924 + 0 = 9,788,924	7,122,854 + 4,567,601 = 11,690,455	1,901,531 (+19.4%)
Sheriff	20,947,329 + 0 = 20,947,329	12,369,227 + 9,310,910 = 21,680,137	732,808 (+3.5%)
Parks (lifeguards)	2,394,426 + 0 = 2,394,426	2,274,061 + 21,480 = 2,295,541	98,885 (+4.1%)
Totals	43,791,911 + 0 = 43,791,911	28,868,862 + 18,201,922 = 47,070,784	3,278,873 (+7.5%)
Proposition 172 Revenue.	17,502,132	18,201,922	699,790 (4.0%)

Except for the Probation Department, dollar and percentage increases do not indicate substantial allocation gains by the public safety departments as a result of the revised allocation methodology. In Probation's case, during August 1996 budget hearings the Board, in three separate motions, allocated additional funds to the Probation Department in the amount of \$1,076,000. Without this increase, public safety combined General Fund and Proposition 172 revenue-based appropriations would have increased 5.0%.

The Fire Department's Proposition 172 amount in Table 4 reflects a negative carryover of \$411,766 from the prior year. Actual revenues credited were \$419,141 for a net of \$7,375.

Exhibit 6 shows Proposition 172 revenues by department for fiscal year 2000-01.

Proposition 172 Maintenance of Effort (MOE) Requirement

Another aspect of Proposition 172 is a requirement for the county to maintain a funding level of effort for public safety services. This funding level is based on county General Fund appropriations for fiscal year 1992-93, plus an annual growth amount minus money from grants and contract services (AB 2788 exclusions). The annual growth amount reflects growth in local Proposition 172 receipts from year to year. Table 5 compares fiscal year 1995-96 and 2000-01 calculations. For fiscal year 2000-01, the last year that figures are available, the county was \$23.9 million over its required MOE funding level.

Table 5: Proposition 172 MOE Calculations, in millions of dollars

Fiscal Year	MOE Level	Net Appropriations	Amount Over
1995-96	\$60.284	\$68.040	\$7.756
2000-01	\$66.991	\$90.906	\$23.915

List of Exhibits

1. Exhibit 1. Senate Constitutional Amendment (SCA) – 1 of 1993-94.
2. Exhibit 2. Ten Year Property Tax Loss and Proposition 172 Gain.
3. Exhibit 3. Board Resolution No. 96-91, Allocation of Public Safety Funds.
4. Exhibit 4. County Counsel Memo of February 22, 1996 Re: Proposition 172 Allocation Resolution.
5. Exhibit 5. Proposition 172 Letter of Understanding from Public Safety Departments.
6. Exhibit 6. Proposition 172 Revenues by Department, Fiscal Year 2000-01.

RESOLUTION CHAPTER 41
FILED WITH SECRETARY OF STATE JUNE 24, 1993
ADOPTED IN SENATE JUNE 24, 1993
ADOPTED IN ASSEMBLY JUNE 21, 1993
AMENDED IN ASSEMBLY JUNE 20, 1993
AMENDED IN SENATE JUNE 11, 1993
AMENDED IN SENATE APRIL 1, 1993
AMENDED IN SENATE FEBRUARY 25, 1993

INTRODUCED BY the Committee on Budget and Fiscal Review

DECEMBER 7, 1992

Senate Constitutional Amendment No. 1 A resolution to propose to the people of the State of California an amendment to the Constitution of the State, by adding Section 35 to Article XIII thereof, relating to taxation.

LEGISLATIVE COUNSEL'S DIGEST

SCA 1, Committee on Budget and Fiscal Review. Sales and use taxes.

The California Constitution imposes various taxes and authorizes the imposition of other taxes, but prohibits the imposition of any sales or use tax on the sale of, or the storage, use, or other consumption of, food products for human consumption, as specified.

This measure would impose a tax on the sale of, or the storage, use, or other consumption of, tangible personal property in this state at a rate of 1/2% beginning January 1, 1994. The measure would provide that the Sales and Use Tax Law applies to the sales and use taxes imposed by this measure, as specified. The measure would also require that the revenue derived from that tax be transferred to the Local Public Safety Fund for allocation by the Legislature, as prescribed by statute, to counties in which specified action is taken, as specified, for use exclusively for public safety services of local agencies.

Resolved by the Senate, the Assembly concurring, That the Legislature of the State of California at its 1993-94 Regular Session commencing on the seventh day of December 1992, two-thirds of the members elected to each of the two houses of the Legislature voting therefor, hereby proposes to the people of the State of California that the Constitution of the State be amended by adding Section 35 to Article XIII thereof, to read:

SEC. 35. (a) The people of the State of California find and declare all of the following:

(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.

(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 1/2 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 1/2 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.

Exhibit 2: Ten Year Property Tax Loss and Proposition 172 Sales Tax Gain

In millions of dollars

Year	Discretionary \$ Taken from County *General Fund Only*	Discretionary \$ Taken from County *Other County Funds*	Discretionary \$ Given back to County *All County Funds*	Add In Non- Discretionary \$ (By Voter Passage: Prop 172 Revenue)	County's Net \$ (Loss) / Gain		
	(ERAF Loss)	(ERAF Loss)	(State ERAF Return)	Discretionary \$	Non- Discretionary \$	Total	
1992-93	(\$4.48)	(\$0.89)	\$0	\$0	(\$5.37)	\$0	(\$5.37)
1993-94	(\$24.75)	(\$2.10)	\$0	\$15.24	(\$26.85)	\$15.24	(\$11.61)
1994-95	(\$26.19)	(\$1.05)	\$0	\$16.50	(\$27.24)	\$16.50	(\$10.74)
1995-96	(\$26.30)	(\$1.53)	\$0	\$17.50	(\$27.83)	\$17.50	(\$10.33)
1996-97	(\$26.96)	(\$1.73)	\$0	\$18.24	(\$28.68)	\$18.24	(\$10.44)
1997-98	(\$27.94)	(\$2.02)	\$0	\$19.45	(\$29.96)	\$19.45	(\$10.51)
1998-99	(\$30.08)	(\$1.63)	\$0	\$20.29	(\$31.72)	\$20.29	(\$11.43)
1999-00	(\$32.50)	(\$1.20)	\$1.00	\$23.51	(\$32.71)	\$23.51	(\$9.20)
2000-01 (Est.)	(\$34.70)	(\$1.87)	\$1.47	\$25.00	(\$35.10)	\$25.00	(\$10.10)
2001-02 (Est.)	(\$36.78)	(\$1.98)	\$1.80	\$26.25	(\$36.96)	\$26.25	(\$10.71)
TOTAL:	(\$270.68)	(\$16.00)	\$4.26	\$181.995	(\$282.42)	\$181.99	(\$100.43)
AVG/YEAR:	(\$27.07)	(\$1.60)	\$0.43	\$18.20	(\$28.24)	\$18.20	(\$10.04)

RESOLUTION OF THE BOARD OF SUPERVISORS
COUNTY OF SANTA BARBARA, STATE OF CALIF.

In the Matter of:
Public Safety Designation

Resolution No. 96- 91

WHEREAS, the people of Santa Barbara County have demonstrated that they consider public safety a funding priority for local government through passage of Proposition 172 in November 1993; and,

WHEREAS, the Board of Supervisors adopted Resolution No. 93-540 on October 12, 1993 committing all monies received to maintain critical public safety services;

WHEREAS, the provisions of Government Code §30051 - §30056 require that these funds be spent only on public safety services with appropriate accounting mechanisms in place; specifies criteria for qualification of Proposition 172 funds; and, details penalties imposed for failure to comply; and,

WHEREAS, the Santa Barbara County Board of Supervisors wish to protect qualification for these funds by revising the allocation methodology and budgetary policies in order to assure that Proposition 172 revenues are fully dedicated to public safety.

NOW, THEREFORE, BE IT RESOLVED that the Santa Barbara County Board of Supervisors, hereby establishes the Public Safety Designation in the General Fund with the following allocation and budgetary policies in place to track the use of the county's share of Local Public Safety Fund Proposition 172 sales tax revenues:

- A) Revenues will be allocated monthly to the local public safety agencies (Sheriff, Fire, District Attorney, Probation, Public Defender and Parks/Ocean Lifeguards) by a formula to be developed and agreed upon by a Letter of Understanding among the public safety agencies;
- B) Revenue estimates will be prepared jointly by the public safety agencies, utilizing conservative estimates to avoid budgetary shortfalls, for review and concurrence by the Auditor-Controller and County Administrator;
- C) A positive revenue variance in Proposition 172 receipts at fiscal year-end will not reduce the annual General Fund contribution to the public safety agencies and unanticipated revenue that exceeds each departments' budgeted net cost shall be retained in the General Fund Designation Account and carried-over to the next fiscal year for future distribution according to the terms of the Letter of Understanding; and,
- D) A negative variance in Proposition 172 receipts occurring at fiscal year-end will be handled according to the County's "Budgetary Control & Responsibility" policy, by agency.

Supervisors this 5th day of March, 1996, By the Following Vote:

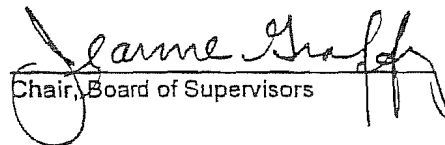
AYES: Supervisors Schwartz, Graffy, Staffel, Urbanske

NOES: None

ABSTAIN: Supervisor Wallace

ABSENT: None

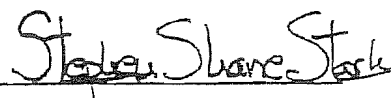
ATTEST:

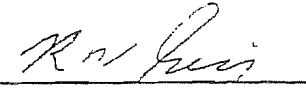

Chair, Board of Supervisors

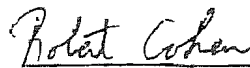
ATTEST:

Approved as to Form:
Stephen Shane Stark, County Counsel

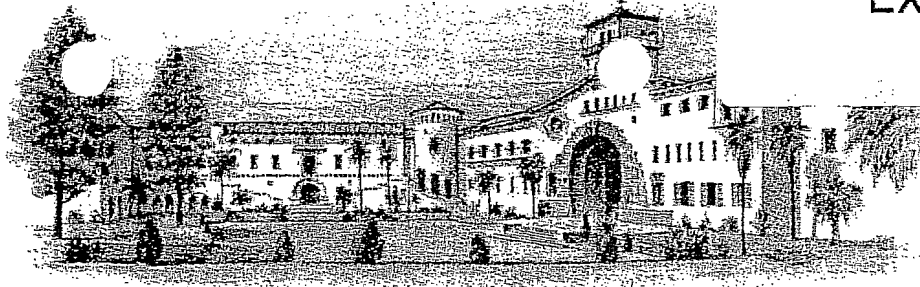
Approved as to Form:
Robert W. Geis, CPA, Auditor-Controller

By: 

By: 


ZANDRA CHOLMONDEL
CLERK OF THE BOARD

THOMAS W. SNEDDON, JR.
District Attorney



PATRICK J. McKI
Assistant District At
CHRISTIE SCHU
Assistant District At

COUNTY OF SANTA BARBARA
DISTRICT ATTORNEY

MEMORANDUM

DATE: April 27, 1996
 TO: Kent Taylor, County Administrative Officer
 FROM: Thomas W. Sneddon, Jr., District Attorney *Thomas W. Sneddon*
 RE: Proposition 172 Letter of Understanding

Attached please find the executed Letter of Understanding entered into by the Public Safety agencies participating in the distribution of Proposition 172 revenues. Departmental budgets have been prepared consistent with the formula allocation of this revenue. Future revenue will be distributed per the same formula.

cc: Jim Thomas, Sheriff & Fire Chief
 Keith Simmons, Deputy Fire Chief
 Sue Gionfriddo, Chief Probation Officer
 Glen Mowrer, Public Defender
 Jennifer Briggs, Parks Director

Santa Barbara Office
 Courthouse
 1105 Santa Barbara Street
 Santa Barbara, California 93101
 (805) 529-2200

Lompoc Office
 115 Civic Center Plaza
 Lompoc, California 93436
 (805) 737-7760

Lompoc Office
 401 E. Ocean
 Lompoc, California 93436
 (805) 737-7777

Santa Maria Office
 312-D East Cook Street
 Santa Maria, California 93456
 (805) 346-7540

REC'D
COUNTY ADMINISTRATOR
FILING INSTRUCTIONS:

FEB 22 1996

RETAIN:
TEM (1 YR) PERM TIME
DISPOSE ROUTE COPY



Memorandum

Date: February 22, 1996

To: Kent Taylor, County Administrator

From: Shane Stark, County Counsel *SSS*

Subject: Proposition 172 Allocation Resolution *STC*

CC: District Attorney, Sheriff/Fire Chief, Public Defender, Probation Officer, Auditor

The proposed Resolution, to be submitted at the March 5, 1996 Board of Supervisors meeting, has been referred to County Counsel for approval as to form. I briefly discussed the matter with you and Bob Geis, and have the following comments.

1. It is appropriate that the County establish an accounting mechanism to implement the legal requirement that Proposition 172 revenue be used for local public safety purposes. The resolution is intended to provide for a method of accounting for and allocating the County's share of revenue from the County Public Safety Augmentation Fund (Proposition 172 revenue) among County public safety agencies. The Auditor advised me that the accounting mechanisms in the resolution are an appropriate way of doing so.

2. The establishment of accounting methods and procedures in the resolution does not supersede the authority and duty of the Board of Supervisors to consider and adopt a budget pursuant to the County Budget Act (Government Code § 29000, et seq.) and to supervise the functions and duties of county officers, particularly as they "relate to the assessing, collecting, safekeeping, management or disbursement of public funds" (Government Code § 25303).

3. The mechanisms established by the proposed resolution (including allocation of funds among public safety agencies through a memorandum of understanding reached by the public safety agencies) are discretionary with the Board, are subject to the Board's exercise of regular budgetary controls, and can be revisited by the Board at any time.

4. County Counsel concurrence in the staff report and approval as to form of the resolution is based on the above understanding. To clarify this point, I suggest that the resolution be modified to add language recognizing the reserved powers of the Board of Supervisors as stated above. To facilitate the desired March 5 Board consideration, I have signed the resolution as written with the understanding that either the resolution will be replaced by one explicitly recognizing the Board's budgetary authority or that the Board will be separately advised of its reserved and non-delegable powers. I have transmitted the original staff report and resolution to the Auditor per normal procedure.

EXHIBIT 6

Proposition 172 Revenue by Department for Fiscal Year 2000-01

Department	Amount	Percent of Total
District Attorney	3,354,343	13.41
Public Defender	2,441,341	9.76
Fire	562,810	2.25
Probation	6,085,844	24.33
Sheriff	12,539,389	50.12
Parks	33,791	0.13
Totals	25,017,518	100.00

LETTER OF UNDERSTANDING
between Santa Barbara County and
the Santa Barbara County Designated Public Safety Agencies

This Letter of Understanding is hereby entered into between the County of Santa Barbara (hereafter called "County") and the Santa Barbara County Public Safety Agencies (hereafter called Agencies); to wit:

District Attorney
Fire
Parks/Ocean Lifeguards
Probation
Public Defender
Sheriff

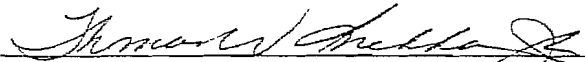
Whereas the County receives Proposition 172 Sales Tax revenues from the State of California monthly and deposits these revenues into the Local Public Safety Fund enacted by Board Resolution #93-549 on October 12, 1993, it is the purpose of this Letter of Understanding to establish a methodology to equitably allocate said funds to Agencies.

Distribution Methodology. Representatives of Agencies have come to agreement on the equitable distribution of Proposition 172 collections and agree upon the following distribution of all actual receipts received each fiscal year:


District Attorney	13.41%
Fire	2.25%
Parks/Ocean Lifeguards	0.12%
Probation Officer	17.57%
Probation Institutions	6.76%
Public Defender	9.76%
Sheriff-Coroner	17.64%
Sheriff-Custody	<u>32.49%</u>
Total	100.00%

This distribution formula applies to total budgeted and unanticipated collections. If at year end, individual Agencies are not in compliance with the Budgetary Control and Responsibility Policy, their formula share of the unanticipated Prop 172 receipts may first be applied to any financing deficit. The remaining balance will be transferred to the designation account for the department's use in the next fiscal year.

The terms of this Letter of Understanding commence on March 5, 1996 with Board approval of Resolution 96-91, retroactively applying to all funds collected in the 95-96 fiscal year and continue until amended in writing, as signed and authorized by the Agencies or at the conclusion of the collection of Proposition 172 receipts, or if the Board of Supervisors rescinds the Resolution; or if a new Letter of Understanding is drafted and signed by all participating agencies.


Thomas Sneddon, District Attorney


4-18-96
Date


Jim Thomas, Fire

4-23-96
Date


Jennifer Briggs, Parks/Ocean Lifeguards

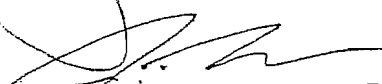
4/22/96
Date


Susan Gronfrido, Probation

4-26-96
Date


Glen Mowrer, Public Defender

4-17-96
Date


Jim Thomas, Sheriff

4-23-96
Date