



## **Repeal of Proposition 10 Tobacco Surtax. Initiative Statute.**

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### **Official Title and Summary Prepared by the Attorney General**

#### **REPEAL OF PROPOSITION 10 TOBACCO SURTAX. INITIATIVE STATUTE.**

- Repeals additional \$.50 per pack tax on cigarettes and equivalent increase in state tax on tobacco products previously enacted by Proposition 10 at November 3, 1998, election.
- Provides for elimination of funding for Proposition 10 early childhood development and smoking prevention programs.
- Prohibits imposition of additional surtaxes on distribution of cigarettes or tobacco products unless enacted by state legislature.
- Provides for termination of California Children and Families First Trust Fund once all previously collected taxes under Proposition 10 are appropriated and expended.

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

- Reduction in annual state special fund revenues of approximately \$670 million that would otherwise be allocated for early childhood development programs and activities.
  - Relatively small annual increases in Proposition 99 revenues of a few million dollars.
  - Annual decreases in state General Fund revenues of approximately \$7 million and local government sales tax revenues of about \$6 million.
  - Loss of potential long-term state and local governmental savings that could otherwise result from Proposition 10.
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### BACKGROUND

This measure repeals the excise tax imposed on cigarettes and other tobacco products by Proposition 10, adopted by the voters in November 1998. The measure also indirectly affects other programs funded by existing tobacco taxes—specifically, programs funded by Proposition 99 of 1988.

Proposition 10 created the California Children and Families First Program, in order to fund early childhood development programs and related activities. The program is funded by revenues generated by an increase in the excise taxes on cigarettes and other tobacco products.

Proposition 10 increased the excise tax on cigarettes by 50 cents per pack beginning January 1, 1999, bringing the total state excise tax on this product to 87 cents per pack. The measure also increased the excise tax on other tobacco products, such as cigars, chewing tobacco, pipe tobacco, and snuff, in two ways:

- It imposed a *new* excise tax on these products equivalent (in terms of the wholesale costs of these items) to the 50 cents per pack tax on cigarettes, effective January 1, 1999.
- It increased the *preexisting* excise tax on these products by the equivalent of a 50 cents per pack increase in the tax on cigarettes, effective July 1, 1999.

Thus, the measure ultimately increased the total excise tax on other tobacco products by the equivalent of a \$1 per pack increase in the tax on cigarettes.

Proposition 10 required that the revenues generated by the *new* excise taxes on cigarettes and other tobacco products be placed in a new special fund—the California Children and Families First Trust Fund. These revenues primarily fund early childhood development programs. In addition, small amounts are used to offset revenue losses to Proposition 99 health education and research programs and Breast Cancer Fund resulting from the Proposition 10 excise tax.

The revenues generated by the increase in the *preexisting* excise tax on other tobacco products are directed to the Cigarette and Tobacco Products Surtax Fund (for Proposition 99 programs).

Proposition 10 programs are carried out by state and county commissions.

### PROPOSAL

This measure eliminates certain provisions of Proposition 10. Specifically, it eliminates the California Children and Families First Trust Fund, once all previously collected taxes under Proposition 10 are appropriated and expended. It also eliminates the 50 cents per pack excise tax on cigarettes and the equivalent tax on other tobacco products imposed by Proposition 10, which were effective January 1, 1999. Finally, the measure would have the effect of eliminating the increase in the *preexisting* excise tax imposed on other tobacco products which took effect July 1, 1999. The measure does not specifically eliminate the state and county commissions authorized by Proposition 10, although it does eliminate their source of funding.

### FISCAL EFFECT

By repealing the provisions of Proposition 10, this

proposition will eliminate the cigarette and other tobacco product excise taxes used to fund the California Children and Families First Program. The measure may also lead to changes in revenues for Proposition 99 programs, the state's General Fund, and local governments. Below, we discuss these fiscal effects.

***Effect on California Children and Families First Trust Fund.*** We estimate that Proposition 10 will raise revenues of approximately \$680 million in 1999–00, and declining amounts thereafter, to fund early childhood development programs and activities. Thus, assuming this measure repealing Proposition 10 becomes effective the day following its passage, it would result in an estimated revenue reduction of approximately \$215 million for 1999–00 (a partial-year effect). The estimated revenue reduction for 2000–01 is approximately \$670 million, with declining annual amounts thereafter. There is some uncertainty surrounding these estimates, due to the difficulty of predicting the effects of recent increases in excise taxes, price increases for cigarettes, and the excise tax reduction being proposed.

***Effect on Cigarette and Tobacco Products Surtax Fund Revenues.*** This measure would have the overall effect of increasing revenues for Proposition 99 programs by a few million dollars annually. This revenue effect is due to an increase in the sale of cigarettes and other tobacco products caused by the price reduction in these products.

***Effect on Breast Cancer Fund Revenues.*** This measure would not lead to any change in revenues going to the Breast Cancer Fund. This is because the revenue increase generated by increased consumption stemming from the decline in the price of cigarettes and other tobacco products is approximately equal to the offset amounts estimated to be provided under Proposition 10, which will no longer occur under this measure.

***Effect on the State General Fund and Local Tax Revenues.*** This measure would result in a state General Fund revenue loss of approximately \$3 million in 1999–00 (partial year) and annual losses thereafter of about \$7 million. For local governments, the estimated sales tax revenue reductions are estimated to be \$2 million in 1999–00 (partial year) and approximately \$6 million annually thereafter. In general, these reductions occur because the increase in the General Fund's excise tax revenues (due to the increased sale of tobacco products) is not sufficient to compensate for the decline in sales tax revenue (due to the decline in the price of tobacco products).

***Other Potential Fiscal Effects.*** We identified two types of potential unknown long-term savings from the passage of Proposition 10. First, to the extent that Proposition 10 results in a decrease in the consumption of tobacco products, it will probably reduce state and local health care costs by an unknown amount over the long term. Second, the additional expenditures on early childhood development programs could result in state and local savings, over the long run, of unknown amounts in programs such as special education. Thus, this measure to repeal Proposition 10 would result in not realizing these potential savings.

**For text of Proposition 28 see page 145**



## Repeal of Proposition 10 Tobacco Surtax. Initiative Statute.

### Argument in Favor of Proposition 28

“What’s best for children?” That’s the essence of Prop 28. Prop 28 repeals Prop 10. It *stops a \$700,000,000 per year bureaucracy* that is supposed to work on “early childhood development.” Prop 28 *cuts taxes* on citizens who smoke. It sends the issues to the Legislature.

When can \$700,000,000 per year be bad for children?

1) When the money is wasted.

The Office of the Independent Legislative Analyst stated that neither county nor state officials oversee or control the spending. The Analyst concluded “it will be a challenge to ensure that the funds will be spent effectively”.

- *Not one penny has yet been spent on children.*
- *Not one penny has yet been spent on education.*
- *Not one penny has yet been spent on tobacco research or to prevent teen smoking.*

Prop 10 participants have been told that no idea is too expensive or too crazy. In Los Angeles County, agencies already spend \$3.8 billion annually on over 200 programs for children and parents outside of Prop 10.

2) When the money is spent to subsidize the rich and powerful.

The primary use for Prop 10 funds has been to publicize Rob Reiner. A political infrastructure is being built for his use. Local politicians fight over who gets to dispense this money.

3) When the money is used to drive people out of business.

Private child care providers can’t participate in Prop 10 deliberations. Socialized child care—along with loss of choice, more bureaucracy and rules, and a decline in quality—appears to be the goal of Prop 10 participants.

4) When the money is used in ways that do harm.

Prop 10 advocates talk about “new brain research” that enables bureaucrats to be better parents than parents. This *Brave New World* approach to raising children contradicts what loving parents know about babies. Babies need love and attention. Money can’t buy love and attention. Babies are best when parents find ways to shower them with love and attention.

Optimists believe Prop 10 money will be used to make \$700,000,000 per year in suggestions. Suggestions soon become rules. Do you want Hollywood and 58 commissions to make the rules for how to raise children?

The tax itself is also bad.

- The Boston Tea Party said “taxation without representation is tyranny.”
- The United States Constitution was designed to prevent tyranny by the majority.

Prop 10 violated both of those principles. Fewer than one out of four California adults smoke. They can’t win an election. Their legislators didn’t vote on this. Prop 10 passed because many voters thought they were taxing Big Tobacco. Actually, Big Tobacco doesn’t pay this tax. *California citizens pay it all.*

Prop 10 is a bad law. That’s why over 705,000 Californians signed petitions to place this initiative on the ballot.

*Big Tobacco hasn’t helped the effort to repeal Prop 10.*

*Who do you want to be your kids’ mom? You? Then vote YES! On Prop 28!*

**NED ROSCOE**

*President, Cigarettes Cheaper! stores*

### Rebuttal to Argument in Favor of Proposition 28

**TOBACCO COMPANIES DON’T CARE ABOUT OUR CHILDREN. THEY ONLY CARE ABOUT THEIR PROFITS.**

Prop 28 would repeal Prop 10. The tobacco companies are sponsoring, supporting and paying for Prop 28 for one reason and one reason only—to protect their profits.

Once again, the tobacco industry is trying to mislead the public. They lied when they said that smoking isn’t harmful. Now they’re lying about Prop 10.

*The facts about Prop 10:*

- Prop 10 hasn’t wasted money. In fact, Prop 10 has already generated more than \$600 million for healthcare and education for children and families in every California county.
- Prop 10 is funding a \$7 million anti-smoking campaign. That’s the real reason the tobacco interests want to kill Prop 10.

*The facts about Prop 28:*

- Prop 28 would slash \$680 million a year in vital programs for children and families, including healthcare and

immunizations, preschool education, and efforts to help children from families with drug and alcohol problems.

- Prop 28 would cut funding for anti-smoking efforts that will help prevent smoking by pregnant women and help avoid thousands of premature births per year.
- Prop 28 is strongly opposed by leading health, education and community groups, including the AARP; the American Cancer Society California Division; the California School Boards Association; and the Campaign for Tobacco Free Kids.

**ON MARCH 7<sup>TH</sup>, SAY NO TO TOBACCO. VOTE NO ON PROP 28.**

**JACQUELINE ANTEE**

*State President, AARP*

**ROSALYN BIENENSTOCK, R.R.T., M.P.H.**

*Chair, American Lung Association of California*

**MARY BERGAN**

*President, California Federation of Teachers*

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### Argument Against Proposition 28

**THE MOST IMPORTANT THING VOTERS SHOULD KNOW ABOUT PROPOSITION 28 IS THAT IT'S SPONSORED AND SUPPORTED BY TOBACCO COMPANIES.**

*When it comes to the health and welfare of California families, can you think of anyone you trust less?*

In 1998, California voters passed Proposition 10—The California Children and Families Initiative—which raised the tobacco tax to support a wide range of programs to protect children's health and help young children enter school ready to learn. The tobacco companies spent \$30 million to defeat Proposition 10, but failed. Now they are trying to thwart the will of the voters and repeal Proposition 10 by passing Proposition 28.

Time and again, the tobacco giants have shown that they'll do *anything* to protect their profits—including lying to Congress, covering up the health facts about tobacco, marketing cigarettes to children, and using false advertising. The tobacco interests don't care that the tobacco tax they want to eliminate with Prop 28 is already helping ensure a brighter future for our children.

*Proposition 28 will slash over \$680 million a year from critical programs that benefit our children, including:*

- Healthcare for children including immunizations and boosters;
- Preschool education opportunities and childcare;
- Smoking prevention aimed at pregnant women and parents of young children;
- Helping children from families with drug and alcohol problems; and
- Helping mothers care for themselves and their babies during pregnancy and infancy.

These programs prevent expensive and tragic health problems. For example, smoking during pregnancy causes thousands of babies to be born prematurely each year, and greatly increases the risk of sudden infant death syndrome. By cutting programs that prevent smoking by pregnant women, *Proposition 28 will increase premature births* and other health problems.

*Proposition 28 is strongly opposed by these leading health care, education, and community organizations:*

- AARP;
- American Cancer Society, California Division;
- American Heart Association of California;
- American Lung Association of California;
- California Medical Association;
- California Nurses Association;
- California School Boards Association;
- Campaign for Tobacco-Free Kids;
- Child Care Resource & Referral Network;
- Para Los Niños Child Development Center; and
- Wu Yee Children's Services.

Who do you think cares more about the health and well-being of our children—the tobacco companies or these nonprofit, independent groups asking you to

*Vote NO on Proposition 28?*

The tobacco companies have millions of dollars on the line—since Proposition 10's passage, tobacco sales in the state have been cut by 30 percent. That is why the tobacco companies will try every trick in the book to get you to vote for Prop 28. They'll try to scare you. They'll try to change the subject. Some will even spend hundreds of millions of dollars on "image" ads to convince you that they care about the health and welfare of your community.

You know better.

Say NO to the tobacco companies.

**VOTE NO on PROPOSITION 28.**

**PAUL MURATA, M.D.**

*President, American Cancer Society, California Division*

**WILLIAM D. NOVELLI**

*President, Campaign for Tobacco-Free Kids*

**KAY McVAY, R.N.**

*President, California Nurses Association*

### Rebuttal to Argument Against Proposition 28

*None of the money collected under Prop 10 has been spent. To say Prop 28 "slashes" spending is deceitful. Prop 10 hasn't helped a single child. Will Prop 10 ever help a child? No!*

Those who plan to receive the Prop 10 money are *shocked* that we want to derail this gravy train before it leaves the station.

Cigarettes Cheaper! started Prop 28 to stand up for our customers. Through Prop 28, we advance a basic American principle: *do good.*

Learn more at [www.voteprop28.com](http://www.voteprop28.com) or call us at 1-800-Cheaper!

Prop 10 has been a bonanza for Cigarettes Cheaper! because more customers came to us for a cheaper price. Prop 10 produces more than \$10,000 per week in extra profit for us. Financially, we may lose more from Prop 28 than some of the

grant-seeking associations who oppose it. Still, Prop 28 is *the right thing to do.*

What's best for children? It's too simple to decide that smoking is bad so taxes are good. *To repeal a fundamentally flawed program, to say parents must be responsible for raising their own children, to stop the seed money for a huge "government knows best" program, VOTE YES on Prop 28.*

Yes, this will lift a heavy tax burden from our customers. More important than that, please decide *what's best for children and taxpayers.* Prop 10 must be repealed before millions of dollars are wasted—and young lives are changed for the worse. Please study this carefully, then VOTE YES on Prop 28.

**NED ROSCOE**

*President, Cigarettes Cheaper! stores*