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## **Executive Summary**

- California's position as a leader in tobacco control is under threat by the resurgence of the tobacco industry, the emergence of new unregulated tobacco products, and the decreasing spending power of the tobacco control program.
- Countering a resurging tobacco industry will require advocates to be much more visible and assertive in challenging politicians who take tobacco money.
- Progress on tobacco control has been concentrated at the local level where policymakers are relatively more sensitive to public support for public health and less susceptible to industry campaign contributions and lobbyists.

### **State Politics and Policymaking**

- The tobacco industry has dominated tobacco control policymaking at the state level in California between 2007 and 2014.
- Between 2007 and 2013, the tobacco industry spent \$64,428,254 on state-level political activity, including \$4,983,156 in campaign contributions to candidates and party committees, \$4,903,209 to non-party committees, \$8,567,268 on lobbying, and \$48,974,621 on initiatives.
- During 2003-2013, the tobacco industry contributed nearly eight times as much to Republicans (\$7,058,438) as to Democrats (\$903,750).
- Industry contributions to Democrats have been rising. During the 2011-2012 election cycle Democrats accepted \$176,200, nearly twice the \$101,800 they accepted in 2007-2008. In 2013, the Democratic Party accepted the first tobacco industry campaign contribution (\$100,900) since 2003-2004.
- State Democratic leadership including Governor Jerry Brown (\$55,500), Assembly Speaker John Pérez (\$36,300), and Assembly Government Organization Committee Chair Isadore Hall (\$39,700) accepted tobacco industry contributions.
- In the 2011-2012 election cycle, over three-fourths of all tobacco industry campaign funding was made to political parties and non-party campaign committees, which makes tracing it to specific candidates difficult.
- Seventeen bills to close loopholes in California's 1994 state smokefree law (AB13) were introduced, seven passed the Legislature. Governor Arnold Schwarzenegger vetoed bills that would have prohibited smoking on state beaches and in acute care hospitals. Governor Jerry Brown vetoed bills that would have restricted smoking in health facilities and nursing homes. Only three were signed into law. The three bills signed into law had little practical effect, simply permitting universities, multi-unit housing property owners, and state mental health facilities to implement smokefree policies, something they could do without the law.
- Despite the fact that California has the 33rd lowest cigarette tax in the nation and a concerted lobbying effort by health advocates, only 7 bills were introduced to increase the cigarette excise tax; none moved past the legislature.
- Enforcement activities under both the 1998 Master Settlement Agreement (that settled state litigation against the major cigarette companies) and state tobacco laws declined under both Attorneys General Jerry Brown and Kamala Harris.
- Public health advocates need to press politicians of all parties to refuse tobacco industry money and to support public health over the tobacco industry.

## **Electronic Cigarettes**

- Electronic cigarettes emerged as a new, unregulated threat to tobacco control and several unsuccessful attempts were made to restrict sales to minors and regulate public usage.
- The only state bill that became law was SB 882 in 2010 that prohibited the sale of e-cigarettes to minors, but lacked any enforcement measures.
- Despite the close linkages between cigarette smoking and e-cigarette use, the California Department of Public Health has not integrated e-cigarettes into its media campaign or other aspects of the California Tobacco Control Program.
- Attorney General Harris had taken no legal actions on e-cigarettes despite their rapid growth in sales to youth and undocumented health claims.
- In contrast to the state, local governments have been addressing the e-cigarette issue.
- As of August 2014, thirty-one cities and counties in California, including Los Angeles and San Francisco, included e-cigarettes in their clean indoor air laws, prohibiting use of electronic cigarettes in workplaces, restaurants, bars, and casinos.
- 15 cities and counties, including Los Angeles and San Francisco included e-cigarettes in local retail licensing legislation.
- The tobacco companies (which own e-cigarette companies) mounted a major campaign against the Los Angeles retail licensing and public usage e-cigarette ordinances, including hiring major lobbyists, paid media, and “Twitter bombs” directed at the City Council; even so the Council enacted strong e-cigarette regulations.

## **Local Policymaking**

- Local policymaking also filled loopholes in the state smokefree law, particularly by prohibiting smoking in multi-unit housing, declaring secondhand smoke a nuisance, and prohibiting smoking outdoors.
- California leads the nation on efforts to introduce multi-unit housing ordinances. By 2014, 37 localities had passed ordinances restricting smoking in multi-unit housing.
- Between 2007 and 2014, 14 strong local tobacco retail licensing ordinances passed due to efforts by the tobacco control community.
- California Tobacco Control Program facilitated local action through funding Local Lead Agencies and competitive grantees and through the use of effective media campaigns.

## **Proposition 29 Tobacco Tax Initiative**

- In 2012, the voters defeated Proposition 29 (No-50.2% to Yes-49.8%) an initiative that sought to increase the cigarette excise tax by \$1 per pack for medical research and reinvigorating the California Tobacco Control Program.
- The tobacco industry and third party allies spent \$47.7 million to defeat Proposition 29, 5 times what health advocates spent to support it (\$8.4 million).
- Health advocates, led by the American Cancer Society, spent \$8.4 million supporting Proposition 29.
- The narrow outcome of Proposition 29 makes it difficult to pinpoint one reason for the defeat, but one thing that was under control of the “yes” campaign that likely contributed was the soft media campaign that failed to engage the tobacco industry.
- The small margin by which Proposition 29 lost shows that a public health victory is within reach for a future tax initiative that is properly framed, particularly to give funding for

tobacco control efforts clear top priority to make the initiative easier to defend to the public and public opinion leaders.

- Overcoming tobacco industry opposition and increasing the tobacco tax to restore purchasing power to the California Tobacco Control Program and Tobacco Related Disease Research Program through legislation or the initiative process would pay rapid dividends in reduced tobacco use, youth initiation, and associated health care costs in both the short and long term.

### **The California Tobacco Control Program**

- The voters created the California Tobacco Control Program when they enacted Proposition 99 in 1988, which increased the cigarette tax by 25 cents and allocated 20 percent to be deposited in the Health Education Account and 5 percent in a Research Account.
- Between 1989, when the California Tobacco Control Program started, and 2012, adult smoking prevalence in California dropped from 22.7% to 12.6%. Between 2000 and 2012, smoking among California high school students dropped from 21.6% to 10.5%.
- Between 1989 and 2008 the California Tobacco Program cost \$2.4 billion and led to cumulative healthcare expenditure savings of \$134 billion.
- Smoking remained the leading cause of death in California, accounting for 14.8% of deaths and imposing an economic burden of \$18.1 billion. The California Tobacco Control Program media campaign has become increasingly muted and failed to engage the rapidly emerging problem of e-cigarettes.
- The purchasing power of funds for the California Tobacco Control Program was reduced by inflation, as of 2014 it was 53% of what it was when voters enacted Proposition 99.
- Revenue was also reduced due to increases in charges by the Board of Equalization to collect the tobacco tax (increasing twelvefold, from 0.3% in 2000-01 to 3.6% in 2014-15).
- The substantial decline in aggressiveness and spending capability of the California Tobacco Control Program is reflected in the declining effectiveness of the Program, particularly for the prevention of youth initiation.

### **Opportunities to Reduce Revenue Diversions from Proposition 99**

- In FY 2013-14, the appropriation from Proposition 99 revenue to the Board of Equalization for administration costs was \$10 million, which cost Health Education Account funding for the tobacco control \$2 million and Research Account funding for TRDRP \$500,000.
- The 2014-2015 California State Budget Supplemental Reporting Language requires an examination of the Board of Equalization's funding from Proposition 99 collection of the retail licensing fee, which provides an opportunity for the tobacco control community to press the legislature to increase the tobacco retail license fees.
- The diversions from Proposition 99 programs (as well as other tobacco tax funded programs, such as First 5) could be ended by making the tobacco retail licensing fee an annual payment of \$249.
- The California Department of Public Health's Cancer Registry began using Prop 99 funds in 1996. While this diversion started out small at 6.1% in FY1997, by 2013 funding for the Cancer Registry had grown to 40.3% of the Research Account.
- Ending these diversions would increase funding for the California Tobacco Control Program by \$13.5 million (a 8.6% increase) and the Tobacco Related Disease Research Program by \$4.5 million (a 40% increase) compared to 2014-2015 funding levels.





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# CHAPTER 1 – TOBACCO USE AND THE CALIFORNIA TOBACCO CONTROL PROGRAM

- Voters created the California Tobacco Control Program when they enacted Proposition 99 in 1988, which increased the cigarette tax by 25 cents and allocated 20 percent to be deposited in the Health Education Account and 5 percent in the Research Account.
- Between 1989, when the California Tobacco Control Program started, and 2012, adult smoking prevalence in California dropped from 22.7% to 12.6%. Between 2000 and 2012, smoking among California high school students dropped from 21.6% to 10.5%.
- The purchasing power of funds for the California Tobacco Control Program was reduced by inflation; as of 2014 it was 53% of what it was when voters enacted Proposition 99.
- Revenue was also reduced due to increases in charges by the Board of Equalization to collect the tobacco tax (increasing twelvefold, from 0.3% in 2000-01 to 3.6% in 2014-15).
- The substantial decline in aggressiveness and spending capability of the California Tobacco Control Program is reflected in the declining effectiveness of the Program, particularly for the prevention of youth initiation.

## Introduction

This Report covers tobacco policymaking and tobacco industry political influence in California from 2007 to 2014. It is an update to a series of nine reports on tobacco policymaking in California. Major trends in tobacco policy in California during this period included a strengthening of tobacco industry influence through contributions to non-party campaign committees, many failed attempts to increase cigarette taxes by legislation, weak tobacco retail enforcement by the Attorney General's office, and a failed attempt to increase cigarette taxes through the initiative Proposition 29. In addition, inflation continued to erode California's state tobacco control program. At the same time, local activity to reduce tobacco use had remained vibrant.

## Tobacco Use

In the twenty five years of the California tobacco control programs, great success has been achieved in reducing tobacco use by Californians. Nearly 2.52 billion packs of cigarettes were sold in California in 1988, the year Proposition 99 was passed by voters; in 2012, only 951 million packs were sold, a decline of 62.2%<sup>5</sup>. Adult smoking prevalence continued its steady decline in California (Figure 1.1) along with per capita cigarette consumption (Figure 1.2).

Despite continuing progress, however, the rate of decline in consumption in California slowed compared with the national rate of decline; in the ten-year period 2004-2013 the consumption per capita in California dropped 28.2%, while nationwide the consumption per capita dropped 34.8%. In the earlier ten-year period 1994-2003 the reverse was true; California consumption per capita dropped 40.8% while the nationwide consumption declined 20.5%. In California,<sup>6</sup>

***Decline in consumption in California slowed compared with the national rate of decline; in the ten-year period 2004-2013***

**Table 1.1.** Effect of Change in Methodology on Smoking Prevalence by Age, 2010 v. 2011<sup>3</sup>

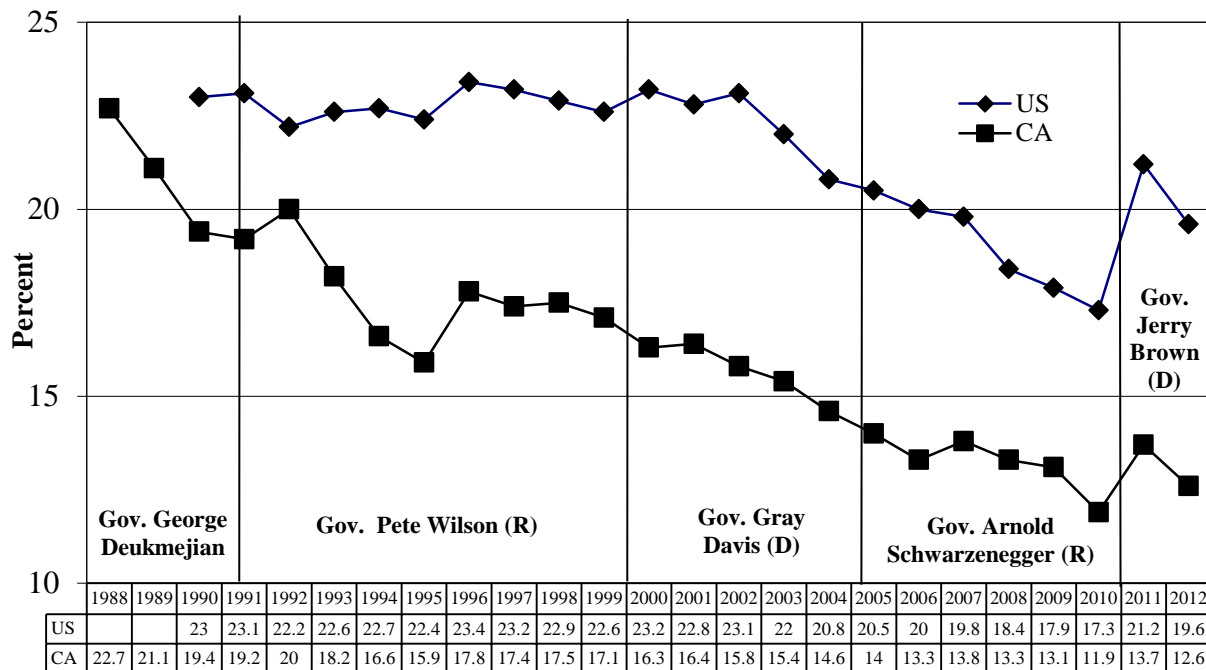
Age	2010	2011	Percent Change
18-24	19.9	24.0	20.6
25-34	23.4	29.2	24.8
35-44	18.3	22.8	24.6
45-54	19.5	23.8	22.1
55-64	16.0	18.8	17.5
65+	8.4	9.2	9.5

Like the rest of the country, there were still major disparities in tobacco use in California: rural parts of the state still smoked at higher rates than urban areas; men still smoked at higher rates than women; less educated Californians smoked at higher rates than residents who were college graduates; and households with annual incomes of \$150,000 or more were less likely to smoke.<sup>6</sup>

Table 1.2 shows smoking prevalence among US and California youth, 2000-2012. While California youth smoking rates continued an overall decline, there was an uptick in prevalence in the 2006 survey and the gap between US and California prevalence shrunk between 2000 and 2011 as the percentage of decline in California youth prevalence (High School Students 36.1%) is lower than the percentage of decline in US youth smoking prevalence (High School Students 43.8%), especially among middle school students (28.4% vs. 60.9%). While California students had much lower smoking prevalence in 2000 compared to US students, by 2011 the gap had narrowed substantially. The substantial decline in spending on the California Tobacco Control

*The economic burden of smoking is high in California, amounting to \$18.1 billion in 2009.*

**Adult Cigarette Smoking Prevalence in the US and California, 1988-2012**



**Figure 1.1.** Adult Cigarette Smoking Prevalence in the US and California, 1988-2012<sup>3</sup> (The reason for the increase in cigarette smoking prevalence in 2011 was the result of a change in the methodology that the US Centers for Disease Control and Prevention uses to collect and weigh smoking data in its Behavioral Risk Factor Surveillance System (BRFSS) to include cell phones in its sampling frame (Table 1).<sup>3</sup>)

Program is showing up in declining success of the Program.

In 2009, 34,363 deaths (14.8% of all deaths) were attributed to smoking in California. The healthcare costs of smoking are \$9.23 per pack.<sup>7</sup> The indirect costs from smoking-caused productivity losses are an additional \$8.23 per pack. The economic burden of smoking is high in California, amounting to \$18.1 billion in 2009.<sup>7</sup> Tobacco control efforts in California have had a positive impact, resulting in fewer smoking attributable deaths, reduced real costs of smoking, and lower smoking prevalence rates.<sup>7</sup>

Year	US High School Students	California High School Students	US Middle School Students	California Middle School Students
2000	28.1%	21.6%	11.0%	6.7%
2002	22.5%	16.0%	9.8%	4.4%
2004	21.7%	13.2%	8.4%	3.9%
2006	19.7%	15.4%	6.3%	6.1%
2008		14.6%		6.0%
2009	17.2%		5.2%	
2010		13.8%		4.8%
2011	15.8%		4.3%	
2012		10.5%		3.8%
Percent Decline	43.8%	36.1%	60.9%	28.4%

Source: The US data and the 2000 California data are from the National Youth Tobacco Survey by the Centers for Disease and Prevention; the California data from 2002 through 2010 are from the California Student Tobacco Survey.

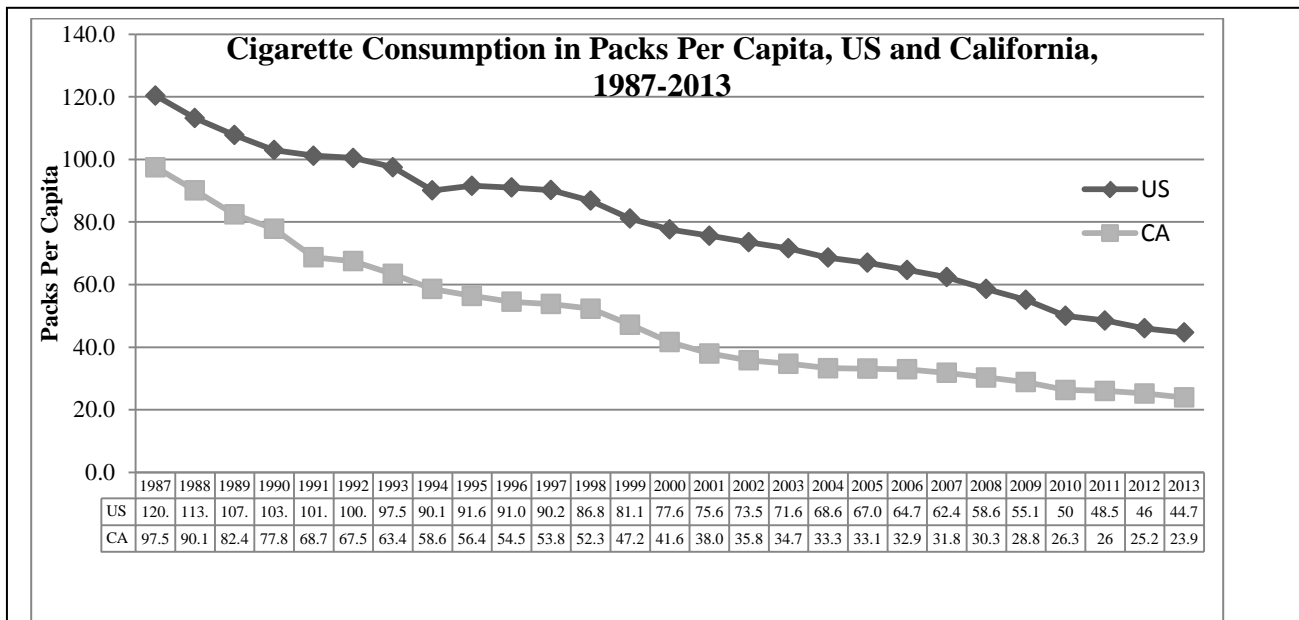
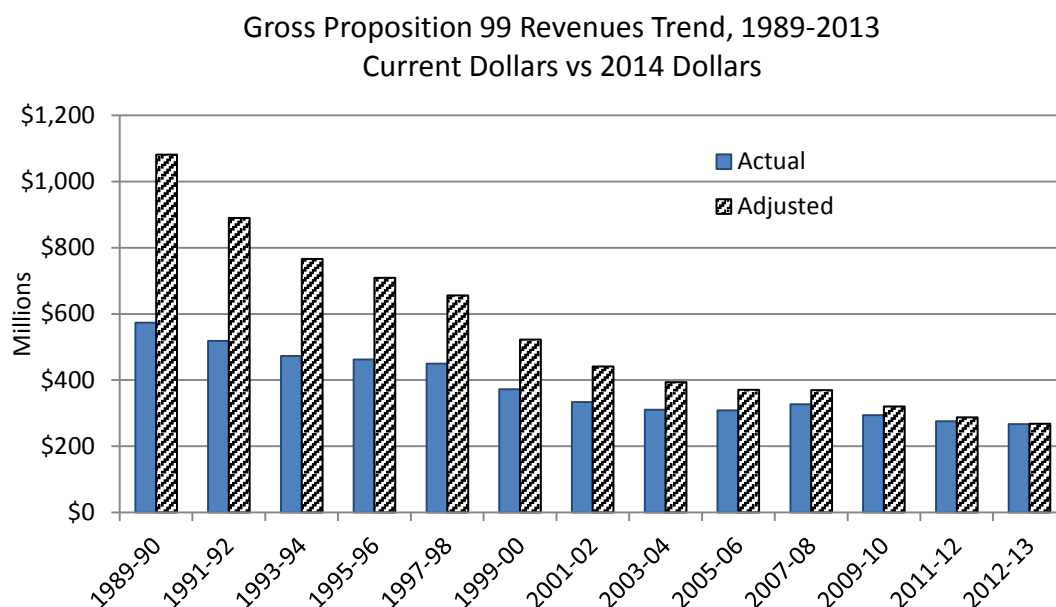


Figure 1.2 - Cigarette Consumption in Packs Per Capita US and California, 1987-2013{Orzechowski and Walker, 2013 #12}

## Overview

A central finding of this report is the erosion of the California's Tobacco Control Program's revenue. The California Tobacco Control Program was created with 20% of the revenues from a \$.25 tobacco tax increase the voters enacted in 1988 when they passed Proposition 99. In its first year of operation, the fiscal year 1989-99 the California Tobacco Control Program's budget was \$255.3 million (\$456.9 million in 2014 dollars). By 2014, the Program's success in reducing tobacco use, combined with the effects of inflation, had reduced the real purchasing power of the revenues from Proposition 99 in 2014 to about 25% of what it was in the first year of the Program in 1989 (Figure 1.3; the \$573 million<sup>8</sup> in revenues in 1989 was worth \$1.081 billion in 2014 dollars). Figure 1.3 shows a comparison of actual revenues with revenues adjusted for inflation to reflect in 2014 dollars what would be required to achieve the purchasing power of the original tobacco control program. Exacerbating the decline in revenue, inflation eroded the purchasing power of a 1989 dollar in 2014 to 53% of what it was in 1989.



**Figure 1.3.** Comparison of Actual Revenues to Revenues Adjusted to 2014 Dollars. (The slight increase in revenue after 2005-06 was a result of the new tobacco retailer licensing law that allowed the state to identify all tobacco retailers and collect the tobacco taxes from all sellers of tobacco.) Source: California Department of Finance

## The Tobacco Control Program

California's tobacco control program started as a world leader in its size and scope, and though the state's Tobacco Education and Research Oversight Committee continually recommended tobacco tax increases to offset inflation, attempts between 2007 and 2014 to increase the tax by legislation or by initiative all failed (discussed in detail in Chapter 3: State Tobacco Control Policy, 2007-2014, and Chapter 5: Proposition 29).

In the California Tobacco Control Program's first year of operation, FY 1990, its budget was \$255.3 million (\$456.9 million in 2014 dollars), making it the largest tobacco control program ever mounted.

The program is guided by three-year Master Plans developed by the Tobacco Education and Research

Oversight Committee, and implemented by the California Tobacco Control Program (CTCP) in the California Department of Public Health, the Tobacco Use Prevention Education (TUPE) program in the California Department of Education, and the Tobacco-Related Disease Research Program (TRDRP) of the Office of the President, University of California.<sup>9</sup>

***A central finding of this report is the erosion of California's Tobacco Control Program's revenue.***

### ***Tobacco Education and Research Oversight Committee***

The initial legislation implementing Proposition 99 (AB75, 1989) created the Tobacco Education and Research Oversight Committee (TEROC) as a legislatively-mandated oversight committee to monitor the use of Proposition 99 tobacco tax revenues for tobacco control and prevention education and for tobacco-related research, and to make programmatic and budgetary recommendations pertaining to the Proposition 99 programs to the California legislature. The thirteen members of the Committee are appointed by the Governor (8 members), the Speaker of the Assembly (2), the Senate Rules Committee (2), and the Superintendent of Public Education (1). TEROC members are appointed to two year terms and can be reappointed by the appointing authority. One of TEROC's primary responsibilities is to develop periodic Master Plans to guide future implementation of tobacco control policy, education and research in California.<sup>9-11</sup>

(Master Plans from 2000 to 2014 were available online in 2014 at

<http://www.cdph.ca.gov/programs/tobacco/Pages/TEROCMasterPlan.aspx>.) In addition to making Recommendations for future programmatic actions, the Master Plans assess, evaluate and report the outcomes of the implementation of Recommendations made in the immediate past Master Plan.

Beginning with the 2006-2008 Master Plan,<sup>10</sup> each TEROC Master Plan called for an increase in the California tobacco excise tax to offset Proposition 99 tobacco control funding resources lost to declining cigarette sales and the decrease in purchasing power of Proposition 99 revenue due to inflation.<sup>9,11</sup> Prior to that, increases in the tobacco tax were proposed by TEROC as a means of increasing prices to discourage smoking initiation and promote smoking cessation.

Proposition 86 (2006), covered in detail in our 2007 California report,<sup>12</sup> was a failed attempt to increase the tobacco tax to provide new funding for the Proposition 99 programs, as was the unsuccessful Proposition 29 in 2012, covered elsewhere in this report. Eight unsuccessful legislative attempts to increase tobacco taxes were also made in the period 2006-2013: SB 24 and SCA 13 in 2007, AB 89, SB 600, ABX3 2 and ABX3 39 in 2009, and SB 600 in 2009 and SB 768 in 2013 covered later in this report; not all of them would have provided new funding for Proposition 99 programs.

In the first eleven years of the 21<sup>st</sup> century, the Master Plans emphasized the need to strengthen the Proposition 99 programs, eliminate disparities and achieve parity in all aspects of tobacco control, decrease exposure to secondhand smoke, increase the availability of smoking cessation services, and limit and regulate the products, activities, and influence of the tobacco industry. The 2012-2014 Master Plan<sup>9</sup> added two new specific Objectives: Increase the tobacco tax, and

prevent youth initiation of tobacco use. Increasing the tobacco tax had previously been one of the recommendations in the objective to strengthen the California Tobacco Control Program, and youth smoking had been woven into several of the Objectives. Now those recommendations had the standing of individual Master Plan Objectives.

The new prevention of youth initiation Master Plan Objective called for collaborative community-school programs; community-based participants could include not only tobacco control programs and coalitions, but also youth organizations, sports and recreation departments, agencies serving young adults, those working with school dropouts, and specialized training programs. Youth and their families were to be included in meaningful tobacco control activities. The Master Plan also recommended that community mobilization be combined with community-wide education, policies that restrict retail sales of tobacco products, and enforcement of policies against youth purchase, possession, and use of tobacco. This approach represented an important change in emphasis because it moved from treating school programs as a separate arm of the program to one in which the schools were meant to be well-integrated into the other community activities.

The prevention of youth initiation objective also called for increasing the number of tobacco-free schools, engaging youth and young adults in tobacco control, providing training and technical assistance to personnel in schools and community-based organizations to prevent tobacco use among youth, particularly those youth at high risk for using tobacco, banning flavored tobacco products, and getting smoking out of youth-rated films. Also recommended was increasing the number of Local Education Agencies participating in the California Healthy Kids Survey to provide more data for evaluating the outcomes of TUPE and identifying what works and does not work in the program.

### ***California Tobacco Control Program***

State tobacco control efforts, as of 2014, included the comprehensive California Tobacco Control Program dedicated to statewide countermarketing and support of local health department tobacco control programs, The Tobacco Use Prevention Education program in schools, and the Tobacco Related Disease Research Program dedicated to scientific research on tobacco issues in California.

***The creation of the California Tobacco Control Program (CTCP) in 1989 marked a first in tobacco control in the United States***

The creation of the California Tobacco Control Program (CTCP) in 1989 marked a first in tobacco control in the United States – a multifaceted tobacco control effort funded by a dedicated revenue stream from a tobacco tax. The positive impact of the CTCP has been widely studied. In its early days, it was weakened by both the political actions of the tobacco industry and reduced funding that resulted from illegal diversions of monies by the Governor and the Legislature. Despite these hurdles, the CTCP reduced exposure to secondhand tobacco smoke, cigarette consumption and smoking prevalence among adults in California,<sup>13-14</sup> and resulted in an almost immediate decline in deaths from heart disease.<sup>15</sup> As the Program matured, studies looked at how the secondhand tobacco smoke media campaign impacted smoking behaviors, including increased home smoking bans,<sup>16-17</sup> and favorable attitudes toward regulation of smoking.<sup>18</sup> Later

studies looked at the effect of the CTCP on reducing cigarette consumption<sup>19-20</sup> and lowering smoking prevalence rates.<sup>21</sup> Long-term effects have also been examined. Significant reductions in the percentage of youth aged 12-17 experimenting with smoking were achieved;<sup>22</sup> healthcare cost savings due to reduced smoking prevalence rates and cigarette consumption were substantial;<sup>23</sup> positive smoking cessation outcomes were profoundly affected;<sup>24</sup> overall economic benefits were substantial;<sup>25</sup> and smoking-related cancer, particularly lung cancer, declined much more rapidly in California than in the rest of the nation.<sup>26-28</sup>

Nearly 2.52 billion packs of cigarettes were sold in California in 1988, the year Proposition 99 was passed by voters; in 2012, only 951 million packs were sold, a decline of 62.2%. During the same period the population in California grew from 28.3 million in 1988 to 37.8 million in 2012, an increase of 33.5%,<sup>29</sup> which makes the reductions in smoking in California over the life of the program even more impressive.

While the declining revenues due to declining smoking was anticipated by the people who designed Proposition 99 in the 1980s, they did not anticipate the problem caused by inflation eroding the purchasing power of the tax dollars that were generated. Additional problems faced CTCP as a result of the Great Recession that began in 2007. California faced major budget shortfalls over several years that were dealt with in three ways that impacted CTCP: employees were furloughed for 3 days or 14% of their time to reduce labor costs, hiring was frozen, and new outside contracts for technical support services were delayed.<sup>30</sup> The hiring freeze meant that when an employee left, no one could be hired to replace him or her. As a result of that and the reduction in hours worked, serious staffing issues arose that meant fewer employees were expected to do more work.<sup>30</sup>

In 2009, the CTCP sought funding from the federal government to augment declining state funding. The CTCP successfully obtained \$13.2 million in federal funding from the CDC to decrease barriers to access to smoking cessation services, particularly among populations with high rates of smoking. CTCP collaborated with the Department of Health Care Services to obtain a grant for \$10 million over five years between 2011 and 2016<sup>31</sup> from the Centers for Medicare and Medicaid Services to expand utilization of the California Smokers' Helpline by incentivizing Medi-Cal beneficiaries, a population with high rates of smoking, to call the Helpline and to enroll in cessation counseling services.<sup>9</sup> Additionally, in 2014, CTCP finalized a reimbursement contract with DHCS to annually reimburse CDPH up to \$999,999 per year for providing cessation coverage through the Helpline to Medi-Cal recipients.<sup>31</sup>

### *Media Campaign*

CTCP has had success in reducing Second Hand Smoke (SHS) exposure through implementing SHS laws locally and exposing the predatory marketing practices of the tobacco industry through comprehensive media campaigns.<sup>32</sup> At the core of these media messages has been to use social norm change to facilitate public policy and individual behavior changes.<sup>32</sup>

Despite ever-declining revenues, the California Tobacco Control Program continued to produce award-winning media messages,<sup>9, 11</sup> CTCP has been known since its inception in 1989 as innovative in its media campaign and its support of local tobacco control activity. By the late 2000s, the impact of the media campaign suffered decreases in recall by the public reflecting



decreased public exposure to it.<sup>11</sup> In FY 2005-06, the CTCP media budget was \$15.7 million and in FY 2012-13 it was \$11.9 million, a 25% decline in just seven years and only 27.7% of the \$43 million (adjusted for inflation to 2014 dollars) spent in 1989-90, when it first aired.

As a result of the substantial decline in Proposition 99 revenue, CTCP was forced to change its media mix. Between 2000 and 2009, Ground Zero, an advertising firm in Los Angeles produced the CDPH media campaign. In 2009, the RPA in Santa Monica, who had done advertising for companies including Honda, won the new contract.<sup>33</sup>

The decision was made after the department had found there continued to be significant disparities in smoking behavior. Colleen Stevens, the CTCP's media spokesperson, stated "After re-examining what the department was doing through steps like convening focus groups and rounds of test ads, a decision was made to continue addressing three topics on which the campaign has been concentrating."<sup>35</sup>

***At the core of these media messages has been to use social norm change to facilitate public policy and individual behavior changes***

Stevens listed those topics as educating people about secondhand smoke, countering pro-smoking messages that the tobacco industry disseminates, and cessation.<sup>33</sup> At the time the CTCP thought that the messaging would be a positive step forward for the program, however some members of the tobacco control community found the ads lacked the powerful messaging they had in the 1990s, including Dr. Stanton Glantz, co-author of this report.

Historically, the CTCP had used television, radio and billboards to get its messages out; by 2013, radio and billboards were out, and the new emphasis was on television and digital communications and social media.<sup>30</sup> CTCP created its Facebook page in September 2010 (<https://www.facebook.com/TobaccoFreeCA>), and a YouTube channel in June 2012 (<http://www.youtube.com/user/TobaccoFreeCA>). The CTCP main website, TobaccoFreeCA.com, underwent a major overhaul in October 2010, and a new Spanish language website, CASinTabaco.com, went online in December 2012 to strengthen the outreach to the Hispanic community.<sup>30</sup>

### *Local Tobacco Control Programs*

The CTCP support of local tobacco control activity comes in two principal forms: funding of Local Lead Agencies (LLA) (58 county and 3 city health departments) and the local Competitive Grant Program; well over half of the CTCP appropriation went to the LLAs and the Competitive Grant program each year. The LLAs are responsible for coordinating tobacco control information, outreach and education and fostering action through a local coalition. Local coalitions engage in grassroots efforts to promote social norm change through policy development, enforcement of tobacco control laws and local cessation services.<sup>11</sup> LLAs are funded out of the Proposition 99 Health Education Account; minimum funding is mandated at \$150,000 per year (Health and Safety Code §104380(b)). The Competitive Grant Program complements and works with LLAs and

***Support of local tobacco control activity comes in two principal forms: Funding of Local Lead Agencies (LLA)... and the local Competitive Grant Program***

their coalitions through interventions to address tobacco control priorities or priority-population focused efforts. The nonprofit agencies funded were community-based organizations, voluntary health organizations, health clinics, ethnic organizations, alcohol and drug centers, labor organizations, youth organizations, and universities.<sup>11</sup> Supporting these two programs for local action are the technical assistance and training provided by CTCP,<sup>34</sup> and evaluation technical assistance provided by the Tobacco Control Evaluation Center funded by CTCP.<sup>35</sup>

The scope of work of LLAs in the period 2007-2014 was broad and deep.<sup>36</sup> The LLAs played an important role in assuring timely and effective action at the local level. This was done through the local coalitions, in local community policy development, and in the facilitation of enforcement of tobacco control laws through surveillance of tobacco retailer activity;<sup>11</sup> LLAs have been at the heart of the localized policy adoption process that drove tobacco control policy adoption in California for decades.<sup>37</sup> They played a major role in the growing adoption of local tobacco retailer licensing ordinances to aid in enforcing prohibitions on sales of tobacco products to minors even before the state passed a tobacco retailer licensing law in 2003,<sup>38-39</sup> and in gaining better control of tobacco marketing and promotional materials in retail tobacco outlets.<sup>40</sup> Work on smokefree multi-unit housing was carried out between 2004 and 2014 by a combination of LLAs and Competitive Grant awardees.<sup>41</sup> Chapter 4, Local Tobacco Control Policymaking, 2007-2014, describes how California's 61 LLA's involve community coalitions to engage in grassroots community mobilization activities that promote social norms and changes to local tobacco control policies.

### *Environmental Impact of Cigarette Waste*

In 2011, CTCP took on the problem of the environmental impact of cigarette waste.<sup>42</sup> It began airing a television ad called "Thrown Away" which follows a cigarette butt, as though the camera were riding on it, from the hand of the smoker onto a sidewalk and then into a storm drain and out of the drain into the ocean from which it washes onto a beach.<sup>43</sup>

Narrator: Cigarettes are not just dangerous when they are smoked. They're dangerous long after. Cigarette butts are toxic. They release chemicals that poison our water and harm wildlife. And millions are polluting our environment.

CTCP also called a Tobacco Waste Summit for March 8-9, 2012, which brought together tobacco control and environmental experts to brainstorm ideas on dealing with the tobacco waste problem.<sup>44</sup> In April 2013, the Tobacco Control Program published the Tobacco Product Waste Reduction Toolkit<sup>45</sup> to guide advocates in developing policies to deal with the issue. The Program continued in 2013 to look for new creative strategies in using media to advance the tobacco waste issue as a part of the overall strategy of denormalizing tobacco use.<sup>46</sup>

### *Marketing*

Another new priority for CTCP beginning in 2009 was decreasing marketing where tobacco is sold.<sup>42</sup> Beginning in 2001 the CTCP conducted the California Tobacco Advertising Study (CTAS) every 2-3 years to monitor tobacco retail trends, including pricing, advertising, and product availability to inform tobacco use prevention strategies that aim to limit youth exposure to tobacco product marketing in neighborhood stores.<sup>31, 47</sup>

In 2009, CTCP funded a study that expanded on the CTAS 2000-2005 data to look at the extent of marketing materials in stores and how they had changed over time, along with pricing strategies on selected brands of cigarettes, and to assess community influences (SES, racial makeup, percentage of population under 18, population density and proximity to schools) on cigarette marketing in stores.<sup>48</sup> The authors recommended several strategies to restrict cigarette company marketing practices in retail stores, including pursuing a minimum price law in California, continued efforts to increase retailer compliance with youth access and retailer licensing laws and continued encouragement of local programs to adopt local sign laws to limit tobacco material in retail stores, and zoning restrictions on the density and location of new stores selling tobacco.<sup>48</sup>

In 2012, CTCP announced its Retail Environment Campaign in which Local Lead Agencies were to develop and implement policy interventions to address tobacco marketing and advertising in the retail environment; the first step in the process was to develop base-line data in each Local Lead Agency geographic area, which began in early 2013.<sup>47</sup> As of the writing of this report there were not yet outcomes data available on this campaign.

### *Failure to Address Electronic Cigarettes*

Electronic cigarettes, or e-cigarettes, are unregulated devices that deliver an aerosol, usually containing nicotine that is inhaled by the user.<sup>49</sup> E-cigarettes are widely marketed on the Internet, and on television and radio, with claims of helping smokers quit, a healthier alternative to tobacco smoking, and no secondhand smoke, just harmless water vapor. The vapor is not harmless water, but rather contains nicotine, fine particles and propylene glycol that is used in anti-freeze. Cotinine levels (a biomarker of nicotine) in persons exposed to the vapor exhaled by the e-cigarette user were the same as for a passive smoker.<sup>49</sup> As of August 2014 e-cigarettes remained unregulated by the US Food and Drug Administration and were not covered under California's statewide clean indoor air law.

Youth uptake of e-cigarettes has been rapid. Nationally, from 2011 to 2012, youth current and ever use doubled to 1.1% and 10.0% respectively; 7.2% of high school youth who had tried an e-cigarette had not tried a conventional tobacco cigarette yet. By 2014, school administrators across the U.S. had become increasingly concerned about the use of e-cigarettes among students.<sup>50</sup>

On May 22, 2013 TEROC, the committee that oversees the CTCP adopted an official position on e-cigarettes which stated: "TEROC opposes the use of e-cigarettes in all areas where other tobacco products are banned."<sup>51</sup> Restricting indoor e-cigarette use would protect individuals from harmful SHS effects and also work to denormalize the product. Denormalizing tobacco use, a core component of CTCP, influences all aspects of smoking behavior and is broadly responsible for much of the program's success.<sup>52</sup> One aspect of that success is the more stringent local regulation of tobacco sales.<sup>52</sup> While the California Department of Public Health submitted a

***CTCP has not helped build the local infrastructure needed to... address the rapidly growing problem of e-cigarette promotion and use.***

strongly worded public comment to the US Food and Drug Administration urging the FDA to regulate e-cigarettes, as of August 2014, CTCP had not made restricting e-cigarette use in public a priority and done nothing to facilitate e-cigarette regulations in California.

In 2010, local governments concerned with e-cigarette use and sales began to add them into their own ordinances, despite the lack of federal and state regulatory action. As explained in Chapter 4, Local Tobacco Control, by August 2014, 31 localities in California (covering 41% of the state's population) had restricted the use of electronic cigarettes in places where smoking is prohibited.

In 2012, CTCP updated its Communities of Excellence indicators to include local and state-wide tobacco to include e-cigarettes. This provided non-explicit authority for local agencies to address e-cigarettes.<sup>31</sup> However, given the growing magnitude of the emergence of the problem CTCP was not helping build the local infrastructure needed to educate the public or change policy. This includes developing statewide media campaigns and building local coalitions of support to address the rapidly growing problem of e-cigarette promotion and use. Part of the problem has centered around whether or not e-cigarettes are considered tobacco products, an important part of the scope of Proposition 99. CDPH's Office of Legal Services (OLS) was opposing CTCP pursuing e-cigarette control measures.<sup>53</sup>

### *Addressing Health Disparities*

Overall smoking prevalence in Californian is low compared to the rest of the United States. However, there are differences in smoking rates among different groups in California, with higher rates among certain American Indians/Alaska Natives, African Americans, Native Hawaiians/Pacific Islanders, Hispanics, men, lesbian/gay/bisexual/transgender individuals, some youth populations, people with lower levels of education, and individuals with low socio-economic status.<sup>31, 54</sup>

In June 2013, the CTCP held a Health Equity Summit to address the disparities in tobacco use. More than 50 tobacco control partners and other stakeholders from around the state attended, including major health voluntaries, the educational community, and minority advocacy groups, and contributed to the development of the tobacco health equity strategy elements. The goal of the summit was to reduce smoking rates amongst priority populations. The summit resulted for the first time in a consensus document on how to create a collective action to reduce tobacco-related disparities, including 11 strategies which address both policy and foundational issues.<sup>31, 54</sup>

1. Adopt & enforce smokefree policies in alternative settings (e.g., hospitals, behavioral health, prisons)
2. Fund priority populations advocacy & leadership alliances
3. Investment in community and capacity building
4. Minimum price on tobacco products & tobacco tax
5. Flavored product sales ban
6. Tobacco-free colleges (e.g., community, tech, and trade)
7. Convene health equity oversight committee
8. Commercial tobacco-free workplaces (outdoors) (e.g., construction sites)
9. Environmental design framework inclusive of tobacco-free considerations

- 10. Sustained comprehensive media campaign to promote cessation benefits to providers, medical patients, and behavioral health
- 11. Healthy/clean housing policies that integrate smokefree multi-unit housing

The plan was the first report in the 25 year existence of the CTCP to tackle disparities in smoking. The summit worked as a starting point to begin addressing some of the smoking related disparities, but was not an exhaustive blue-print for addressing disparities.<sup>54</sup> CTCP developed a Health Equity report card to hold CTCP accountable for reducing high rates of smoking among priority populations.<sup>31</sup>

***Tobacco Use Prevention Education Program***

The Tobacco Use Prevention Education (TUPE) program is a state funded school-based educational program aimed at decreasing smoking prevalence among K-12 students. It is conducted by the California Department of Education (CDE), through its Coordinated School Health and Safety Office by funding school-based TUPE programs in school districts. By law, only those County Offices of Education and school districts that adopt and enforce tobacco-free policies are eligible for TUPE funding.<sup>55</sup> Those qualifying tobacco-free policies must include a prohibition on the use of tobacco products at any time in district buildings and vehicles, on district property; the policy must be clearly communicated to school personnel, parents, pupils and the larger community; signs stating “Tobacco use is prohibited” displayed at all entrances to

***In FY 2001, the TUPE funding per student was about \$4.30 and in FY2010 it had dropped to a little over \$2.00.***

school property; and information about smoking cessation support programs must be made available and encouraged for pupils and staff.<sup>55</sup> In October 2012, all 58 County Offices of Education and 75% of California’s 1,037 school districts were certified by the Department of Education to be tobacco-free.<sup>56</sup>

Originally, TUPE funding was provided to all schools that served students in grades K through 12. Between 1994 and 2009, TUPE funding was allocated using two different mechanisms: For grades 4 through 8, schools in tobacco-free districts received funding based on average daily attendance; for grades 9 through 12 a competitive grant program was used. As of July 1, 2009, grades 4 to 8 no longer received entitlement funding. Instead funding was focused on grades 6 through 12 through a competitive grants program to make better use of dwindling resources.<sup>57</sup> In FY2001, the TUPE funding per student was about \$4.30 and in FY2010 it had dropped to a little over \$2.00.<sup>57</sup> The 2007 CDC recommendation was for per capita funding of \$4-\$6 per student.<sup>58</sup> School population increased from 6,050,895 in FY2001 to 6,190,425 in FY2010,<sup>59</sup> so most of the decrease in per capita funding was due to the revenue decline, not a population increase.

One study covering the TUPE program 2003-2006 found some benefit from the TUPE program despite an increase in the smoking prevalence rate among high school students over the study period.<sup>60</sup> The legislatively mandated evaluation of TUPE for 2007-2008 noted that California smoking prevalence rates among youth were declining at a slower rate than the national rate, concluding that the two prevalence rates will converge if the trend continued: “Beliefs and attitudes reported by California youth, relative to the beliefs of U.S. students, are now less strongly anti-tobacco than they once were, reinforcing the perception that tobacco use prevention in California is slipping relative to tobacco use prevention in other states.”<sup>61</sup> The evaluation

compared grant-funded school programs with those receiving no TUPE funding, and found students in the grant-funded programs did much better at avoiding tobacco use. Evaluator recommendations included using resources other than TUPE grant funding, such as federal drug-free schools funds, to augment state funding, and to tap voluntary health organization smoking prevention programs and community programs as additional resources. This recommendation is in line with that of the CDC for school prevention activities to be integrated into broader community prevention activities.<sup>58</sup>

Table 1.3 shows the expenditures for each grant cohort of TUPE, 2009-2016, reflecting the 2009 change to competitive grants providing the only funding for TUPE activities. They ranged in amount from a low of \$1,332 (Washington Union Elementary School District, Monterey County, Cohort H) to a high of \$2,684,802 (San Diego Unified School District, San Diego County, Cohort E). While a great deal of money was involved, only a few of more than 1,000 school districts were funded. The change to a competitive Grant Program gave no consideration in its funding to high risk/low capacity schools. This makes it so the CDE has no technical assistance and training infrastructure to build the capacity of prevention programs.

In the legislatively mandated evaluation for 2009-2010, the evaluators found that TUPE teachers perceived decreases in TUPE funding were associated with increased student cigarette use and decreased likelihood of students reporting ease of cigarette refusal and perception of peer smoking norms.<sup>57</sup> There was also new evidence that punitive, no-cost school policies toward student violators of the no-use tobacco policy were associated with decreased smoking prevalence and increased endorsement of anti-tobacco attitudes, while costly supportive policies such as Saturday health education classes and on-campus cessation resources were associated with increased student smoking prevalence. The evaluators warned against opting for the no-cost solutions, such as suspension for smoking violations, which might result in an increase in the dropout rate.<sup>57</sup> Recommended instead was strong school district and administrator support for TUPE that would yield teachers more committed to teaching TUPE lessons and students more receptive to adopting anti-tobacco sentiments and avoiding tobacco use. Also recommended was additional TUPE training of teachers to emphasize referral of students to the California 800-NO-BUTTS helpline for students who wanted help quitting tobacco use.<sup>57</sup> These results reflect the continuing unwillingness to accept the fact that these school programs do not work very well.

Cohort	Grant Term	Recipients	Number of Grantees	Total Budget
E	2009-13	County Offices of Education	1	\$9,519,631
		School Districts	8	
F	2010-13	County Offices of Education	7	\$8,349,746
		School Districts	11	
G	2011-14	County Offices of Education	18	\$7,988,828
		School Districts	39	
H	2012-15	County Offices of Education	16	\$5,893,386
		School Districts	21	
I	2013-16	County Offices of Education	14	\$12,675,275
		School Districts	24	

Source: California Department of Education, Coordinated School Health and Safety Office

## ***Tobacco-Related Disease Research Program***

The Tobacco-Related Disease Research Program (TRDRP) supports scientific research on tobacco use and related disease in California. It is funded from the Research Account which receives 5% of the Proposition 99 revenue, and is administered by the University of California Office of the President. Like all of the Proposition 99 agencies, TRDRP saw its funding drop substantially over the years and its purchasing power eroded by inflation. In September 2011, TRDRP identified and announced new research priorities, reflecting an evolving scientific and regulatory context resulting from the FDA's new authority to regulate tobacco products, as well as the need to target the program's limited resources. The new research priorities resulted from an extensive input and consensus process involving a broad range of program stakeholders as well as tobacco-related disease and tobacco control investigators. Effective in 2012, TRDRP's new research priorities were in the areas of Environmental Exposure, Early Diagnosis, Regulatory Science, Disparities and Equity, and Industry Influence.<sup>9</sup>

Environmental Exposure research was directed at advancing policies to reduce environmental exposure to secondhand and thirdhand tobacco smoke, cigarette butts and other tobacco products. Early Detection research was focused on innovative research in the early pathogenesis and detection, and secondary prevention, of tobacco-related diseases, while earlier research funded by TRDRP had focused on tobacco-related disease therapeutics. Regulatory Science research would expand the scientific basis for the regulation of nicotine and tobacco products at the local, state and national levels. Disparities and Equity research was aimed at prevention and reduction of tobacco use and tobacco related health disparities in disproportionately impacted populations and at advancing knowledge on the neuroscience of addiction. Industry Influence research was to advance the ability of communities to assess and limit tobacco industry influence.<sup>62</sup>

## **California Tobacco Control Spending**

The decline in inflation-adjusted Proposition 99 revenues (Figure 1.1) has had a profound effect on tobacco control. By 2014, the Program's success in reducing tobacco use, combined with the effects of inflation, had reduced the real purchasing power of the revenues from Proposition 99 in 2014 to about 25% of what it was in the first year of the Program in 1989. In addition to problems with inflation, Proposition 99 funds have been reduced due to declining cigarette tax revenue and a diversions of funds to the BOE for enforcement costs and the Cancer Registry program. The Proposition 99 revenues available for tobacco control spending are appropriated from the Proposition 99 Health Education Account and the Research Account; Tables 1.4, 1.5 and 1.6 set forth the allocation of Proposition 99 revenues to, and appropriations from, those two Accounts from FY2000 through FY2015.

***The decline in inflation-adjusted Proposition 99 revenue... reduced the real purchasing power of the revenues from Proposition 99 in 2014 to about 25% of what it was ... in 1989.***

Increased appropriations from Proposition 99 revenue to the Board of Equalization for collecting the Proposition 99 tax (Table 1.2) reduced the funds available for the Department of Public Health's Tobacco Control Program; it was \$1.3 million (0.3% of revenues) in FY 2000. Proposition 99, and the other laws imposing tobacco taxes, require that the BOE's cost of collecting the tobacco tax be paid out of the revenues of the tobacco tax. In FY 2006, the appropriation jumped to \$4.7 million (1.5% of revenues). The reason for the sharp increase was the passage of AB 71 by the Legislature in 2003 creating the California Cigarette and Tobacco Products Licensing Act of 2003.<sup>63</sup>

That Act required retailers to obtain a license to sell tobacco products, but only imposed a onetime fee of \$100 to cover administration, which raised only a little more than \$1 million annually, while the cost of administration was over \$9 million annually. To cover the shortfall in AB 71 revenue for the cost of BOE administration the Legislature drew funds proportionately from Proposition 99, Proposition 10, the Breast Cancer Research Fund and the General Fund accounts.<sup>63</sup>

The Legislature passed AB 2344 in 2008 to impose annual renewal fees to eliminate this AB 71 shortfall, but Gov. Arnold Schwarzenegger vetoed the bill, as described in Chapter 3, State Tobacco Control Legislation, 2007-2014.<sup>64</sup> In FY 2014, the appropriation from Proposition 99 gross revenue to BOE for administration costs was \$10 million; it reduced Health Education Account funding for the tobacco control programs by \$2 million and reduced Research Account funding for TRDRP by \$0.5 million. Table 1.4 illustrates how the rising percentage of funds being used for BOE administration, and how it has contributed to the decline in spending power of the CTCP.

While the Research Account also bears the Board of Equalization charge for the AB 71 funding shortfall, a significant diversion of Research Account money began in FY 1996, to fund the Department of Public Health Cancer Registry. The Cancer Registry was created by the Legislature in the late 1980's to collect data on a statewide basis for all cancers diagnosed and treated in California.<sup>65</sup> This 1996 funding decision, of unknown origin, shifted funding for the Cancer Registry from the Department of Health Services (DHS) budget to the Research Account which funds TRDRP, reducing the money available for tobacco-related research. While this diversion started out small at 6.1% in FY1997, in FY2014 funding the Cancer Registry had grown to 40.3% of the Research Account (Table 1.5). Across the same period, Research Account funds appropriated to TRDRP declined from \$60.4 million to \$11.2 million (-81.5%).

On July 1, 2007, the Department of Health Services was split into the Department of Health Services and the Department of Public Health, which houses the CTCP (SB 162, 2006).<sup>30</sup> DHS reports this appropriation as being for the Cancer Registry program, which may not actually be

***Increased appropriations...to the Board of Equalization... reduced the funds available for the... Tobacco Control Program... In FY 2006, the appropriation jumped to \$4.7 million (1.5% of revenues)***

***It is unclear from data from DHS how the appropriation from the Research Account is actually being used, or what the annual cost of the Cancer Registry program***



**Table 1. 4. Appropriations From Proposition 99 Health Education and Research Accounts 2000/01 - 2012/13 (Dollars in Thousands)**

	2000-01	2001-02	2002-03	2003-04	2004-05	2005-06	2006-07	2007-08	2008-09	2009-10	2010-11	2011-12	2012-13	2013-14	2014-15
Total Revenues	351,157	334,066	324,714	309,950	308,000	309,289	335,731	327,000	314,889	293,653	284,950	276,099	272,099	264,076	277,761
Board of equalization fee	-1,337	-1,545	-2,137	-2,387	-1,997	-4,703	-4,664	-6,277	-6,907	-6,888	-8,094	-8,935	-9,760	-9,987	-9,057
Total Revenues to be allocated	349,820	332,521	322,577	307,563	306,003	304,586	331,067	320,723	307,982	286,765	276,856	267,164	262,339	254,089	268,704
<b>Health Education Account</b>															
Beginning balance	59,487	69,273	12,878	13,539	1,371	5,032	16,686	14,305	19,311	18,853	19,780	17,297	17,593	7,929	17,593
Prior year adjustment	39,517	-29,018	1,553	-2,906			-667	1,704	1,924	1,156	5,095	0	0	0	1,394
20% of Total Proposition 99 Revenues	69,964	66,504	64,515	61,513	61,201	60,917	66,214	64,143	61,595	57,352	55,370	53,306	52,468	50,818	54,025
Prop 10 Backfill	14,900	15,900	21,800	13,400	13,400	13,100	11,400	12,200	13,200	13,530	10,200	10,200	9,300	9,300	9,300
Interest	7,350	3,558	2,077	1,478	1,478	1,085	3,427	2,958	1,447	416	338	241	231	231	204
Net Resources	191,218	126,217	102,823	87,024	77,450	80,134	97,060	95,310	97,477	91,307	90,783	81,141	79,592	68,278	82,516
Total actual expenditures	121,945	113,480	91,173	85,653	73,992	76,744	82,750	75,994	78,622	71,510	73,445	77,799	62,095	64,849	70,734
Dept. of Public Health	93,403	84,928	63,056	58,920	50,932	53,602	59,965	53,888	55,827	54,756	53,052	49,871	44,834	47,744	44,238
Dept. of Education	27,661	28,064	27,933	26,560	23,020	23,091	22,785	22,106	22,795	16,754	20,393	16,672	26,701	17,047	26,413
Direct Pro Rate Charges	881	488	184	173	40	39	0	0	0	0	0	0	0	0	0
State Controller	0	0	0	0	0	0	0	0	0	0	0	35	40	0	20
Financial Information System	0	0	0	0	0	0	0	0	0	0	0	0	68	58	63
Carryover	69,273	12,737	11,650	1,371	5,032	16,686	14,305	19,311	18,853	19,780	17,297	17,593	7,929	3,413	11,782
Source: California Department of Finance															

**Table 1.5 . Appropriations From Proposition 99 Health Education and Research Accounts, 2000/01 - 2013/14 (Dollars in Thousands)**

	2000-01	2001-02	2002-03	2003-04	2004-05	2005-06	2006-07	2007-08	2008-09	2009-10	2010-11	2011-12	2012-13	2013-14	2014-15
<b>Research Account</b>															
Beginning Balance	75,120	56,334	8,825	8,032	530	693	3,465	4,759	3,194	2,517	2,605	25,054	1,910	1,623	1,910
Prior year Adjustment	109	-46,096	190	-837	0	0	4	97	114	457	23,263	-14,552	0	0	3,986
5% of Total Proposition 99 Revenues	17,491	16,626	16,129	15,378	15,300	15,229	16,553	16,037	15,400	14,338	13,843	13,327	12,862	12,704	13,506
Prop 10 Backfill	3,700	4,000	5,400	3,300	3,300	3,300	2,900	3,000	3,300	3,380	2,600	2,600	2,300	2,300	2,300
Interest	4,905	2,325	1,169	1,169	1,169	657	1,769	1,562	754	219	132	132	132	64	49
Net Resources	101,325	33,189	31,713	27,042	20,299	19,879	24,691	25,455	22,762	20,911	42,443	26,561	17,204	16,691	21,751
Total Actual Expenditures	44,991	24,364	24,513	26,512	19,279	19,474	19,932	22,257	20,244	18,300	17,374	24,998	15,763	15,853	19,332
TRDRP	39,823	19,434	19,434	21,625	14,253	14,253	14,553	16,553	14,553	13,090	12,534	19,849	11,115	11,249	14,713
DHS Cancer Registry	5,050	4,930	4,930	4,738	5,026	5,213	5,375	5,704	5,690	5,210	4,840	5,131	4,533	4,532	4,518
Direct Pro Rata Charges	118	0	149	149	0	6	0	0	0	0	0	0	0	0	0
State Controller Financial Information System	0	0	0	0	0	0	0	0	0	0	0	10	12	0	6
System	0	0	0	0	0	0	0	0	0	0	0	8	103	72	95
Carryover	56,334	8,825	7,200	530	693	3,465	4,759	3,194	2,517	2,605	25,054	1,910	1,623	835	2,491

Source: California Department of Finance

**Table 1.6. Appropriations From Proposition 99 Health Education and Research Accounts, 2000/01- 2014/15 (Dollars in Thousands)**

Fiscal Year	1999-00	2000-01	2001-02	2002-03	2003-04	2004-05	2005-06	2006-07	2007-08	2008-09	2009-10	2010-11	2011-12	2012-13	2014-15
Dept of Public Health Tobacco Control Program															
Health Education Account (Prop 99)															
Administrative Support	1,016	1,778	1,733	1,790	1,250	2,492	2,849	2,706	3,172	4,311	3,344	3,157	3,841	4,045	3,386
Media Campaign	19,624	45,264	45,264	21,112	16,781	15,695	15,695	19,995	15,695	15,695	15,695	14,467	13,540	11,966	11,966
Competitive Grants	17,690	17,690	17,690	16,775	17,334	15,444	18,044	16,744	15,444	15,444	15,444	15,180	14,180	13,580	13,580
Local Lead Agencies	17,426	17,426	17,426	16,525	19,525	16,215	16,215	16,215	16,215	16,215	16,215	16,215	14,615	12,001	12,001
Evaluation	4,405	4,381	4,381	4,154	3,255	3,641	3,570	5,713	3,913	3,913	4,058	4,033	4,072	3,305	3,305
Multi-year Carryover	0	0	0	0	775	783	241	1,591	0	0	0	0	1,298	0	0
Total from Health Education Account	60,161	86,539	86,494	60,356	58,920	54,270	56,614	62,964	54,439	55,578	54,756	53,052	51,546	44,897	44,238
Other Account Funds	127	821	*20,840	836	3,880	1,586	1,233	1,320	1,320	0	0	0	0	0	0
Total to Tobacco Control Program	60,288	87,360	107,334	61,192	62,800	55,856	57,847	64,284	55,759	55,578	54,756	53,052	51,546	44,897	44,238
Department of Education															
Health Education Account (Prop 99)	28,011	28,038	28,042	27,996	26,560	23,282	24,320	24,381	23,048	24,719	17,912	20,393	26,253	17,198	26,413
<b>Total from the Health Education Account</b>	88,172	114,577	135,376	88,352	85,480	77,552	80,934	87,345	77,487	80,297	72,668	73,445	77,799	62,095	70,734
Tobacco-Related Disease Research Program															
Research Account (Prop 99)	36,726	22,627	19,434	19,434	21,625	14,253	14,253	14,553	16,553	14,553	13,090	12,534	34,936	11,115	11,249
Dept of Public Health Cancer Registry															
Research Account (Prop 99)	1,719	5,050	4,930	4,930	4,738	5,026	5,213	5,375	5,704	5,690	5,210	4,840	5,216	4,540	4,545
<b>Total from the Research Account</b>	38,445	27,677	24,364	24,364	26,363	19,279	19,466	19,928	22,257	20,243	18,300	17,374	40,152	15,655	15,794
<b>TOTAL for Tobacco Control Programs</b>	125,025	138,025	154,810	108,622	110,985	96,831	96,420	103,218	93,360	94,850	85,758	85,979	112,735	73,210	81,934
* Included \$20 million in MSA funds															
Source: California Department of Finance															

**Table 1.7. Appropriations from the Proposition 99 Research Account to TRDRP and the Department of Public Health, FY1996-2014 (in thousands of dollars)**

Fiscal Year	TRDRP	DPH
1996	4,000	1,696
1997	60,422	3,696
1998	32,950	3,697
1999	18,661	3,738
2000	31,311	1,719
2001	39,823	5,050
2002	19,434	4,930
2003	19,434	4,930
2004	21,625	4,738
2005	14,253	5,026
2006	14,253	5,213
2007	14,553	5,375
2008	16,553	5,704
2009	14,553	5,690
2010	13,090	5,210
2011	12,534	4,840
2012	19,849	5,131
2013	11,115	4,533
2014	11,249	4,532

Source: Department of Finance

the case. The Budget Acts for fiscal years 1997-2013 all show the allocation from the Research Account going for the general support of the Department of Health Services. The Budget Acts for fiscal years 2001-2004, however, did specifically allocate a portion of the general appropriation from the Research Account to DHS: \$500,000 for cancer research and \$500,000 for cancer registry data collection. It is unclear from data from DHS how the appropriation from the Research Account is actually being used, or what the annual cost of the Cancer Registry program is. However, TRDRP reported in 2007 that the Department of Finance and DHS stated that most of the diverted Research Account money was used as salary support for personnel in the Cancer Registry and in the Environmental Health Investigations unit of DHS.<sup>65</sup>

For fiscal year 2008, TRDRP requested that the Governor’s Budget shift the funding for the Cancer Registry from the Proposition 99 Research Account to the Proposition 99 Unallocated Account.<sup>65</sup> The Proposition 99 Unallocated Account receives 25% of the Proposition 99 gross revenues, and may be appropriated for any of the purposes set out in Proposition 99, which includes tobacco-related disease

research. That request was not granted because of vigorous opposition from the California Department of Public Health, leaving only the Tobacco Education and Research Oversight Committee to oppose the diversion of TRDRP funds.

***A Close Call: Attempted Defunding of the Tobacco Control Program’s Training and Technical Assistance Grants***

Other than the statewide media campaign, CTCP activities are conducted at the local level through allocation agreements to Local Lead Agencies, and by competitive grants to non-profit organizations for local interventions to provide technical support to the local activities. As of July 2014, competitive grant funds approximately 42 local intervention projects and six statewide projects.<sup>31</sup> CDPH is mandated to “award and administer grants for projects directed at the prevention of tobacco-related diseases” (Health & Safety Code §104385) and is permitted to make grants to “provide program support services to local tobacco use prevention programs” (Health & Safety Code §104390). Historically, the Department used this mandate and authority to fund local tobacco control activities and to provide statewide support services to local tobacco control programs and others involved in the tobacco control movement. The CTCP’s successful strategy of working with outside agencies as contractors was seriously threatened beginning in 2012 when the CDPH’s Office of Legal Services (OLS) challenged the legality of these practices. However, the successful work of tobacco control advocates and the media attention they garnered helped to ensure the program could continue working with outside advocates.

Health & Safety Code §104390 authorizes CTCP to provide technical support services to those local activities through grants to state-wide nonprofit organizations. For over two decades, those training and technical support services included legal services to support local tobacco control ordinance advocacy and youth advocacy training to support both local tobacco control ordinances and voluntary smokefree campus movements, among others.<sup>66</sup>

Despite the lack of legal authority to support it, and in violation of the several Attorneys General opinions to the contrary, Office of Legal Services had interpreted GC §19130 to require CTCP to find civil servants in state agencies to perform the technical support services work that had been performed for years through grants to nonprofit organizations with tobacco control expertise. Government Code §19130 is intended to protect civil service jobs by restricting state agencies use of personal service contracts with private contractors to do state work. The first public disclosure that the Office of Legal Services was raising an issue with these and other grants came at the meeting of TEROC on September 24, 2012, when CTCP reported that there were “significant challenges experienced in the approval of grants and contracts due to Department changes in the review and approval of these documents.”<sup>67</sup>

The grants at issue were not procurement contracts for services to the state that have to comply with GC §19130 according to four Attorney General Opinions issued by four different Attorneys General between 1975 and 2005.<sup>68-71</sup> The State Contracting Manual specified that grants made pursuant to specific statutory authority under which no services were provided to the state were not subject to Department of General Services or Office of Legal Services approval.<sup>72</sup> CTCP is authorized to make such grants, and all of the services are provided to local government agencies, local tobacco control nonprofit organizations, and universities and colleges, not to CTCP or CDPH. It is not clear if this interpretation of GC §19130 by OLS was the result of inadequate legal research by lawyers in OLS, or was a power grab by OLS to impose its imprimatur on grant-making by CTCP. OLS lawyers claimed attorney-client privilege between it and CDPH when asked by TEROC leadership for an explanation.<sup>73</sup> Regardless of motive, the OLS interpretation would have meant the wholesale dismantling of the two-decade old technical support organization and shifting of the work to state agencies with no history or expertise in tobacco control. Either CTCP would have to find and hire those special skills and competencies to comply with the statutory mandates for CTCP after authorization by the Legislature to add full time equivalent (FTE) employees to agency staffs – something that the Legislature had consistently refused to do – renew the contracts, or terminate the activities.

***OLS interpretation would have meant the wholesale dismantling of the two-decade old technical support organization and shifting of the work to state agencies with no history or expertise in tobacco control.***

In an attempt to resolve the issue of whether contracts could be renewed with outside nonprofits, TEROC Chair Dr. Michael Ong initiated communication on October 31, 2012 with the CDPH Director, Dr. Ronald Chapman:<sup>74</sup>

TEROC is mandated to report to the Legislature on recommendations for any necessary policy changes or improvements. Before making any such recommendations, I would

like to meet with you on behalf of TEROC to discuss the contract delays, and preferably to determine how these contract issues can be resolved and to make their full execution a top priority.

No such meeting took place because Dr. Chapman did not make himself available.

For over two decades, the firm ETR Associates had maintained the Tobacco Education Clearinghouse of California (TECC) to provide printed educational materials for local tobacco control programs throughout California along with a catalog and distribution system for those printed materials, maintained a library of tobacco educational materials available to the local tobacco control programs, and provided a registry of public health and tobacco control experts to enhance training opportunities for staff of local tobacco control organizations.<sup>75</sup> Despite this long and successful service, on October 1, 2013, CTCP informed TEROC that CTCP was not going to renew its grant to ETR Associates. This decision was made as a result of a new CDPH policy requiring that such services be obtained from state agencies through interagency contracts.<sup>76</sup>

Since nearly a year had passed since TEROC had first raised the issue with Director Chapman, Dr. Ong's October 11, 2013 letter to Dr. Chapman was blunt:

TEROC has serious concerns regarding CDPH contracting policies and business practices. It appears that one reason for this problem is that the Department is taking a conservative approach to its interpretation of GC [California Government Code] Section 19130 and the application of allowable exemptions. As you know, this law establishes standards for the use of personal service contracts [by state agencies]....

CTCP's inability to contract with non-governmental agencies for specialized statewide services inhibits their [sic] ability to be compliant with federal and state law, blocks the expenditure of essential funding streams, causes inefficiencies and costly breaks in service, and interrupts data continuity, including surveying school-age children about their tobacco use, that is critical to tobacco control.

In light of the loss of TECC and the fact that a number of CTCP statewide training and technical assistance contractors [sic] and statewide evaluation and surveillance contracts are due to be rebid in 2013 and 2014, TEROC hopes to have a frank discussion with CDPH to resolve the conflict between Prop 99 enabling statutory language and GC Section 19130.<sup>77</sup>

The statewide training and technical assistance contracts Dr. Ong referred to were with the American Lung Association in California for the Center for Tobacco Policy and Organizing that provided state-wide tobacco policy and community training and technical assistance to Local Lead Agencies and local tobacco control advocacy organizations; ChangeLab Solutions for the state-wide guidance in local tobacco control ordinance drafting and other legal advice; and Public Health Foundation Enterprises for the California Youth Action Network that provided state-wide youth and young adult advocacy, training, and technical assistance.<sup>78</sup> These three

statewide programs had been funded by grants from the CTCP to these nonprofit organizations for many years.

Following Dr. Ong's October 11, 2013 letter, Dr. Chapman agreed to attend a special TEROC meeting in Sacramento on October 31, 2013 devoted solely to this dispute.<sup>79</sup> At that meeting, Dr. Chapman defended the Department's reassessment of its statewide grants as being required by GC §19130 and attributed the necessity for doing so to two California State Auditor audits of CDPH practices of outsourcing information technology services for the Department and administration of the Kids Plates Program, a CDPH program to promote prevention of unintentional childhood injuries, that were found in noncompliance with GC §19130. Dr. Chapman also mentioned pressure from state employee unions to strictly apply GC §19130 throughout state government.<sup>80</sup> Neither State Auditor report referred to by Dr. Chapman dealt with the CTCP grants, which are not covered by GC §19130.<sup>81-82</sup>

When explaining the CDPH's decision not to renew the three remaining grants, the TECC grant was to term out on December 31, 2013. CTCP wanted to do a two year extension as was described in the original procurement but were not permitted by OLS, because of a perceived conflict with GC §19130. After much discussion with OLS it was determined that the Office of State Publishing was not able to provide these services and the grant was extended to December 31, 2015. For the remaining grants CTCP had planned to do a open competitive bids. (Both the CTCP and TEROC and CTCP have referred to these arrangements as contracts, when under the statute they are grants.) Dr. Chapman several times referred to generalized pressure from state employee unions to reduce outsourcing and hire more state employees, a position supported by Governor Jerry Brown.<sup>83-84</sup> The governor cannot unilaterally increase the number of state employees; that requires approval of the Legislature in the budget process.

The CTCP grants are given for support services that require special skills and competencies, which Dr. Chapman conceded CTCP was not finding available in state agencies, universities and colleges.

***The CTCP grants are given for support services that require special skills and competencies.***

Minutes of the October 31, 2013 special meeting of TEROC<sup>80</sup> describe letters from organizations who had and were utilizing the training and technical assistance services funded by the grants that had been sent to CDPH expressing concerns over the actions of CDPH in terminating decades of support services from experts in the nonprofit sector of tobacco control. In total 66 letters, shown in Table 1.8, would be sent on behalf of the grants.

Representatives from several agencies using the support services challenged Dr. Chapman on the rationale for the change and urged that the decision be reversed. One member of the public, Richard Barnes, an author of this report, pointed out to Dr. Chapman that the dismantling of the nonprofit support services was doing more damage to the California Tobacco Control Program than the tobacco industry has ever been able to do.<sup>80</sup> Mr. Barnes also pointed out to Dr. Chapman that the Tobacco Control Program is unique in CDPH because of the statutory mandates for the program, and the scope of TEROC's responsibility for ensuring that the program adheres

**Table 1.8 TEROC Correspondence Regarding Technical Assistance Grants**

Advocacy and Data Dissemination to achieve Equity for Priority populations on Tobacco (ADEPT)  
The African American Tobacco Control Leadership Council (AATCLC)  
Alex Bell of Student Health Services, Allen Hancock College  
Alireza Rezapour of Saint Mary's College of California  
Ameilia Peterson of Madera County Community Transformation Grant (CTG)  
Andrea Craig Dodge of Buck Tobacco Sponsorship Project  
Anquanitte Ortega and Evelyn Williams of Solano County Tobacco Education Coalition  
Arianna Luna of Kings County Tobacco-Free Partnership  
Aoki and John Maa of University of California (UC), Tobacco-Related Disease Research Program (TRDRP)  
Beth Hoffman of Student Health and Wellness Services Santiago Canyon College  
Brian Davis of Tri-City Health Center  
Brian Vaughn of Sonoma County Department of Health Services Bridgit Aouncuz and Judy Moore of Protecting Health and Slamming Tobacco (PHAST)  
Carol Baker of Tobacco-Free Coalition of Santa Clara County  
Charleen Mikail of California State University Northridge  
Chris Kiger of Irvine Valley College  
Dale Hillard of Coalition for a Tobacco-Free Monterey County  
Daniel E. McGoldrick of Campaign for Tobacco Free Kids  
DeAnne Blankenship of California Health Collaborative  
Debbie Goodman of Shasta College Student Health & Wellness Services  
Debra Oto-Kent and Janet Porter of Health Education Council  
Drew Johnson of California Department of Public Health to Rod Lew of APPEAL  
Elizabeth Benne of Pierce College  
Ester Schiller of Smokefree Air For Everyone (SAFE)  
Gregory Robinson of Children and Family Futures  
Harold Goldstein of California Center for Public Health Advocacy to Dr. Chapman  
Jacob Delbridge of University of California, Berkeley School of Public Health  
Jeannie Cook of Smoke-Free Marin Coalition  
Joel Ervice of Regional Asthma Management & Prevention (RAMP)  
Jose Arrezola of Madera County Community Transformation Grant (CTG)  
Judy Gerard of ATOD Network  
Justin Garret of March of Dimes  
Kathleen J. Young of California State University, Northridge  
Ken Fitzgerald of Stanislaus County Office of Education  
Ken Fitzgerald of Stanislaus Advocacy Action Team  
Kevin Keyes of Tobacco Free Coalition Kern County (TFK)  
Kimberly Bankston-Lee of Sacramento County Tobacco Control Coalition  
Llana Knopf of Center for Public Health and Tobacco Policy  
Lorenzo Higley of San Diego County Tobacco Control Coalition  
Lou Moerner and James P. McCubbrey of Tobacco Education Network  
Maggie Mahoney of Tobacco Control Legal Consortium  
Marice Ashe and Anne Pearson of ChangeLab Solutions  
Matthew Willis of County of Marin Department of Health and Human Services  
Mayra Miranda of Madera County Tobacco Control Program  
Megan Edmonson of Fresno County Tobacco-Free Coalition  
Meredith Minkler of University of California, Berkeley  
Myriam Alvarez of Madera County Tobacco Control Program  
Naomi Kitajima of Foothill College  
Nephtali Offen to Coalition of Lavender-Americans and Health (CLASH)  
Oralia Vallejo of Central Valley Regional Tobacco Coalition  
Richard Barnes of the University of California, San Francisco Center for Tobacco Control Research  
Richard O. Johnson of Public Health of Mono County  
Rod Lew of Asian Pacific Partners for Empowerment, Advocacy and Leadership (APPEAL)  
Roger Kennedy of Tobacco-Free Coalition of Santa Clara County  
Rosalyn Chan of Mission College  
Rosalyn Moya of ATOD Network  
Sharon Sheehan Bifano of Coalition Engaged in A Smoke-Free Effort (CEASE)  
Shirley Arroyo of Elk Grove Unified School District to Secretary Dooley  
Stanton A. Glantz of University of California, San Francisco to Secretary Dooley  
Thea Jones of Central Valley Chronic Disease Partnership to Secretary Dooley  
Thomas Aragon of City and County of San Francisco Department of Public Health  
Tina Franco of Madera County Tobacco Control Program  
Tom Changnon of Stanislaus County Office of Education  
Wayne S. Hansen Jr. of San Luis Obispo County Tobacco Control Coalition  
Wendel Brunner of Contra Costa Health Services  
Glenn R. Dodd, Coalition for a Tobacco-Free Los Angeles County

Source: California Department of Public Health



to those mandates, including making recommendations to the Legislature for statutory changes affecting the program.<sup>85</sup>

At that meeting, Chairman Ong established a subcommittee to work with CDPH to try to resolve what it saw as a conflict between the statutory mandate for the California Tobacco Control Program and the OLS interpretation of GC §19130 as applying to the grants.<sup>80</sup> Time was of the essence because the existing grants expired June 30, 2014 and the TEROC concern included a break in continuity of the support services.

The *Sacramento Bee* published an editorial on December 9, 2013 about the ending of the contracts with nonprofits that had prompted TEROC to intervene with CDPH: “California’s tobacco control effort is working. The Department of Public Health should not try to fix what’s not broken.”<sup>86</sup> This brought the controversy out into the open, and to the attention of legislators.

At the December 11, 2013 regular meeting of TEROC, April Roeseler, Acting Director of CTCP, reported that the Department had identified an exemption which could be applied to the TECC Grant. The CDPH was to work toward an extension of the TECC contract at no cost through June 30, 2014, but that the library function and local policy database that had been provided by TECC had already been contracted to UC Davis.<sup>87</sup> The contract with ETR for the TECC that expired December 31, 2013 had an option for CTCP to extend the contract for two years, and CTCP was given permission by OLS to exercise that option. TECC would continue to provide printed educational materials for local tobacco control programs throughout California along with a catalog and distribution system for those printed materials.

Ironically, if the goal of OLS was to insure that civil service employees performed the CTCP work to comply with GC §19130, the contract with UC Davis was in conflict with that goal because the California Constitution provides that UC employees are not civil service employees, and therefore they are not covered by GC §19130.<sup>88</sup>

With regard to the services being performed by ChangeLab Solutions, American Lung Association of California, and the California Youth Advocacy Network under grants expiring June 30, 2014, Roeseler reported that CTCP staff were negotiating with OLS for permission to issue a Request for Applications “to fund projects to conduct research, plan, develop and disseminate innovative policy, regulation and promising community level strategies that can be replicated by others to create healthy, sustainable communities which dissuade tobacco use, rather than soliciting agencies to provide direct services to DPH funded projects on behalf of the state. We think that the work done by those three current contractors falls within that description and that they will have the opportunity to write great applications and compete with the rest of the world for that.”<sup>89</sup> This would resolve the issue if OLS approved the plan.

The minutes of the December 11, 2013 meeting<sup>87</sup> reflect that fifty additional letters from Local Lead Agencies and nonprofit organizations who had and were utilizing the training and technical assistance services funded by the grants had been sent to CDPH expressing concerns over the actions of CDPH in terminating decades of support services from experts in the nonprofit sector of tobacco control. When added to the earlier letters from the customers using the technical support services, nearly all of the agencies supported by the technical support services had made

their concerns public. Chairman Ong reported the administration and union pressure was to make sure civil service jobs are not being displaced: “The current administration is in favor of the changes that have been implemented [by CDPH]. The continued discussions by individuals within the tobacco control communities with legislators have created a buzz. Although pressure is coming from the current political administration, Dr. Chapman is responsible for working with CDPH-OLS to make contracting determinations.”<sup>87</sup> The Minutes also document statements made at the meeting by representatives of Local Lead Agencies and their local partners using the support services about the potential to impair tobacco control if the support services are discontinued. Their message was that allowing this disruption of support services to continue could completely derail the progress that has been made in tobacco control because the LLAs rely on CTCP support to help make their programs more effective.

On January 23, 2014, CTCP released a request for proposals, "Make Tobacco History, Request for Applications #14-10013,"<sup>90</sup> to solicit proposals for three-year grants to public and private nonprofit organizations to perform the support services that were being performed by ChangeLab Solutions, American Lung Association of California, and the California Youth Advocacy Network pursuant to grants expiring June 30, 2014.<sup>73</sup> OLS had reservations about the Request for Application, but did not prevent the plan for grant-making disclosed by CTCP at the December 11, 2013 TEROC meeting discussed above. This was an important step in resolving the issue.

At the regular TEROC meeting on February 12, 2014, as a member of the public Richard Barnes asked how the RFA #14-10013 applications would be processed. CTCP Acting Director, April Roeseler, responded that after CTCP and each applicant for the newly-planned grants had negotiated the final provisions of the newly-planned grant, it would be subject to approval by OLS. Members of TEROC expressed concern about this unnecessary step because the proposal was for grants not subject to OLS approval.

No formal action was taken, but the consensus among TEROC members was to maintain vigilance to prevent any interference by OLS with completion of the grant-making process so that there would be no break in continuity of support services after the existing contracts expired June 30, 2014. TEROC could later explore the possibility of making recommendations to the Legislature to deal with the long-term implications of the OLS involving itself in the CTCP grant-making process.<sup>91</sup> With the issuance of the RFA, the grants program was back on track, at least temporarily. OLS still had to approve the final grants negotiated between CTCP and the grant applicants.

While the Office of Legal Services’ threat to the California Tobacco Control Program’s ability to carry out its statutory mandate to provide support services to local tobacco control programs though grants appeared to have significantly subsided in February 2014, the potential for problems with OLS was still present until the RFA#14-10013 grants were approved. At the May 28, 2014 TEROC meeting, Roeseler reported an intent to award three grants for RFA #14-10013. The three grantees were the American Lung Association in California for the Center for Tobacco Policy and Organizing, ChangeLab Solutions, and Public Health Foundation Enterprises for the California Youth Action Network. The grants provided five years of funding to continue the work these nonprofits had been providing to local tobacco control activities for years. The issue was resolved.

It is hard to clearly identify the cause of the change of position of CDPH management that made possible this fix for the grants issues. The decision to reframe the service agreements as grants instead of contracts would prevent them from needing a 2319a, a form that must be signed by CDPH-OLS or the Contract Management Unit will not sign-off on the agreement. The decision did create some internal fallout. Dr. Chapman was reminded at the October 31, 2013 TEROC meeting that the California Tobacco Control Program is unique within CDPH. It has numerous statutory mandates for programmatic and support services, and it is the only program within CDPH with an oversight committee (TEROC) with statutory responsibility to create a Master Plan to advise the CDPH and other departments charged with implementing the California tobacco control programs and the responsibility to recommend legislative changes to the programs' budgets and mandates. The outpouring of deep concern from the many local tobacco control programs and advocates, both in writing to CDPH leadership and at TEROC meetings, about the loss of vital support services provided by trusted nonprofit agencies likely did not go unnoticed. The media attention and "buzz" in the Legislature created by the tobacco control community assured that CDPH understood that the tobacco control community was not going to accept a dismantling of the program support infrastructure without a fight. The result was CDPH's action to extend the TECC contract for two years and to award the three grants despite the OLS interpretation of GC §19130.

## **Conclusion**

For many years, California set the bar in tobacco control with substantial funding for tobacco control programs, the first statewide smokefree workplaces law, and rapid declines in smoking prevalence and consumption. However, years of success resulted in a significant reduction in Proposition 99 revenues that had been the financial underpinning of that success. Inflation had been a major factor as well; it only cost 53 cents in 1989 to buy what cost \$1 in 2013. As a result, the significant declines in smoking prevalence and cigarette consumption in the 1990s slowed in the 2000s and 2010s. After 2006, the tobacco control programs made strategic shifts in priorities to make better use of the declining purchasing power of Proposition 99 revenues. However, the program failed to address the rising concern of electronic cigarette use.

TEROC recognized the need for new sources of revenue and advocated for increasing the tobacco excise taxes. An increase of only \$.50 per pack in the cigarette tax, with all of the revenue allocated to the existing tobacco control programs, when added to the \$.05 in Proposition 99 revenue, would provide the CDC recommended funding level for tobacco control in California (\$498.6 million in 2013 based on California 2013 consumption of 906.6 million packs).<sup>58</sup>

***The outpouring of deep concern from the many local tobacco control programs... about the loss of vital support services provided by trusted nonprofit agencies likely did not go unnoticed.***

Unless tobacco control advocates make restoration of funding to the program a high priority, there is a serious risk of backsliding in the major gains made by the California Tobacco Control program.

Regardless of whether or not there is a tobacco tax increase, tobacco control advocates could restore some funding by demanding an end to diversions such as the Cancer Registry funds taken from the Research Account.

***Tobacco control advocates must make restoration of funding to the program a high priority or risk a backslide in the major gains made by the tobacco control program.***

The success of the California tobacco control program in the 1990s came from the high level of funding for the programs.



## CHAPTER 2 - TOBACCO INDUSTRY ACTIVITIES TO INFLUENCE PUBLIC POLICY, 2007-2013

- Between 2007 and 2013, the tobacco industry spent \$64,428,254 on state-level political activity, including \$4,983,156 in campaign contributions to candidates and party committees, \$4,903,209 to non-party committees, \$8,567,268 on lobbying, and \$48,974,621 on initiatives.
- Industry contributions to Democrats have been rising. During 2011-2012 election cycle Democrats accepted \$176,200, nearly twice the \$101,800 they accepted in 2007-2008. In 2013, the Democratic Party accepted the first tobacco industry campaign contribution (\$100,900) since 2003-2004.
- In the 2011-2012 election cycle, over three-fourths of all tobacco industry campaign funding was made to political parties and non-party campaign committees, which makes tracing it to specific candidates virtually impossible.
- Massive tobacco industry spending has created a hostile political climate for tobacco control efforts at the state level.

### Introduction

In California during 2007-2013, the tobacco industry continued to spend heavily on campaign contributions, including a total of \$4,983,156 to candidates and political parties, \$8,567,268 on lobbying, and \$53,877,830 on ballot measure committees and non-party committees. Spending by the tobacco industry on such non-party committees represented the most salient feature of the tobacco industry contributions during this period. By donating to non-party committees the industry can discreetly influence candidates. The period was marked by a rise in campaign contributions to Democrats who beginning in the early 2000s<sup>92</sup> were less likely to accept tobacco industry campaign contributions than Republicans. Historically, tobacco industry campaign contributions have been shown to have a significant effect on legislative behavior at the state-level.<sup>93-94</sup>

*The period was marked by a rise in campaign contributions to Democrats*

### Campaign Contributions

The tobacco industry has a long history of working to influence public policy through making election campaign contributions to candidates, political parties, non-party committees and ballot measure committees, and spending large sums on lobbying. Contributions from Philip Morris, the largest tobacco company, represented approximately 73% of total tobacco industry contributions during this period. Expenditures for all political influence by tobacco companies are shown in Table 2.1.

Tobacco industry activities to influence tobacco policymaking in California should be looked at as a singular plan. Table 2.1 shows total lobbying and total elections expenditures. In the four

**Table 2.1. Tobacco Industry Political Expenditures by Company to Influence Policy, 2007-2013<sup>2, 4</sup>**

Company	Individual Candidates	Political Parties	Non-Party Committees	Ballot Measure Committees	Direct and Indirect Lobbying	Total
Philip Morris	\$1,383,085	\$2,346,102	\$4,882,678	\$34,774,226	\$5,759,153	\$49,145,244
RJ Reynolds	\$655,975	\$300,000	\$8,100	\$14,192,995	\$1,836,963	\$16,994,033
UST	\$97,659	\$93,785	\$7,500	-0-	\$595,564	\$794,508
California Distribution Ass'n	\$100,650	\$5,900	\$4,931	\$7,400	\$375,588	\$494,469
Total	\$2,237,369	\$2,745,787	\$4,903,209	\$48,974,621	\$8,567,268	\$67,428,254

Note: Contributions to candidates and political parties for 2013 should not be interpreted as showing any election cycle trend toward reduced industry political activity because it is the first year of a two-year election cycle. (In addition to only being half the cycle, contributions tend to be lower in the first year of an election cycle than the second year.)

**Table 2.2. Total Tobacco Industry Expenditures for Candidate Elections and Lobbying, 2003-2012**

Legislative Session	Candidate Elections	Lobbying	Total
2003-04	\$1,375,500	\$3,003,105	\$4,378,605
2005-06	\$2,179,000	\$2,463,621	\$4,642,621
2007-08	\$1,742,000	\$3,526,659	\$5,268,659
2009-10	\$1,870,807	\$3,746,888	\$5,617,695
2011-12	\$2,458,702	\$2,245,289	\$4,703,991
2013	\$1,307,339	\$2,046,283	\$3,353,622

election cycles 2003 through 2010, lobbying expenditures were generally larger than elections spending, but in the 2011-12 election cycle the two expenditures categories were largely parallel. The total for lobbying and campaign expenditures for 2011-12 was lower than that of the two preceding election cycles. Table 2.2

**Table 2.3. Tobacco Control Bills by Legislative Session, 2007-2013**

Legislative Session	Introduced	Passed	Became Law
2007-08	7	2	1
2009-10	19	7	3
2011-12	13	7	5
2013	6	1	1
Total	45	17	10

shows tobacco control legislative activity by legislative session. The 2009-10 legislative session was the most active by number of bills introduced, and the highest in tobacco industry expenditures for lobbying.

#### Data Sources

In California, contributors, candidates and committees are required to file regular reports on campaign contributions made and received, and employers of lobbyists are required to file reports with the office of the California Secretary of State on sums paid to lobbyists and other expenditures to influence policymaking along with the matters on which they lobbied. All of the campaign contributions and lobbying reports that form the basis of this report were accessed online from the website of the California Secretary of State at <http://cal-access.sos.ca.gov/campaign> in 2013 and 2014.

For campaign contributions for the period 2007-2013, the tobacco industry in California consisted of Phillip Morris (Altria), R.J. Reynolds, UST (formerly U.S. Tobacco Company), and the California Distribution Association (formerly California Distributor's Association), which represents tobacco distributors and retailers. Several changes in the industry affected the way that the campaign contributions are reported:

- UST became a subsidiary of Altria in January 2009 and ceased separately reporting campaign contributions and lobbying expenditures.
- Altria also owns Philip Morris USA, and John Middleton, Inc., a cigar manufacturer, and the combined activities of all of the related companies are reported as Philip Morris for years 2007 through 2013.
- Lorillard Tobacco Co. reported no campaign contributions to candidates, political parties, campaign committees, or any lobbying activities after 2006; it did report a \$1,215 payment to Clicksquared Inc., a Boston marketing firm, to oppose Proposition 29 an initiative that would have raised the tobacco tax to fund biomedical research and tobacco control activities on the June 2012 Primary Election ballot.

No other tobacco product manufacturers, including e-cigarette manufacturers, reported making any campaign contributions in the period 2007-2013.

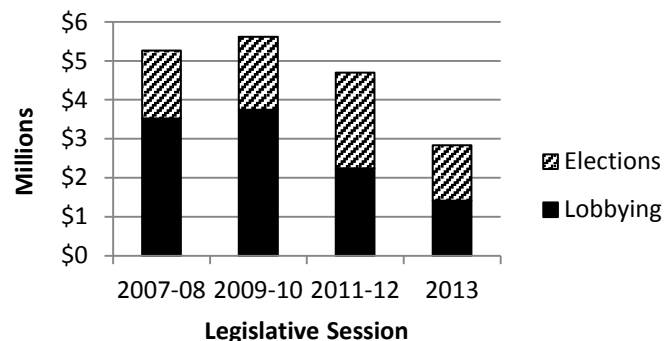
Tobacco retailers made very small campaign contributions and are not included in the total tobacco industry campaign contributions to candidates and political parties; all contributions, including small tobacco retailer and trade association contributions to the official ballot measure committees required by law for the funding of campaigns in support or opposition to ballot measures are included in Appendix 4 & 5 for Proposition 29. The campaign contributions for years before 2007 that are aggregated in various figures and tables include all tobacco industry companies and the Tobacco Institute that reported campaign contributions in those earlier years and are covered in our earlier reports on California.

Lobbying expenditures by the tobacco industry remains a major means of influencing legislation in California. Candidate election campaign expenditures were only 53.5% of the total of campaign and lobbying expenditures in the period 2007-2013. Campaign contributions and lobbying expenditures to influence legislation are shown in (Figure 2.1).

### The Introduction of Non-Party Committees

Non-party committees, which are not formally affiliated with an individual party or candidate, became an important vehicle for tobacco industry contributions since their introduction in 2001. This is significant because the non-party committee provided the tobacco industry a vehicle to indirectly fund individual candidate campaigns while making that funding cumbersome to trace. (Detailed tobacco industry

**Total Tobacco Industry Expenditures for Candidate Elections and Lobbying, 2007-2013**



**Figure 2.1.** Total Tobacco Industry Expenditures on Candidate Elections and Lobbying, 2007-2013<sup>2, 4</sup>



contributions to non-party committees are shown in Appendix 1.) The non-party committee became major a vehicle for influencing candidate elections after Proposition 34 in 2000 when voters imposed limits on the amount that could be contributed to candidates, and to political parties for making contributions to candidates. Proposition 34 did not impose limits on contributions to nonparty committees.<sup>95</sup> Proposition 34 also placed no limit on the amount of money political parties could contribute to individual candidates. A stated purpose of Proposition 34 was “To strengthen the role of political parties in financing political campaigns. . .”<sup>96</sup> Tobacco industry contributions to non-party campaign finance committees grew dramatically beginning with the 2009-10 election cycle (Figure 2.2).

Most of that increase in contributions to non-party committees after 2006 came from Philip Morris (Table 2.4). The huge jump in contributions in 2009-10 to non-party committees came from Philip Morris, at over \$2.7 million, of which \$2.1 million went to two non-party committees, California Business PAC and Small Business Action Committee PAC, and the remainder went to nine committees that spent all of the money on numerous candidate elections.

***Non-party committee provided the tobacco industry a vehicle to indirectly fund individual candidate campaigns while making that funding cumbersome to trace.***

In that election cycle, those two non-party committees spent most of their money supporting the “No on 25/Yes on 26” ballot measure campaign. Proposition 25 lowered the vote on the budget in the Legislature from 2/3 to a simple majority and Proposition 26 defined most “fees” as taxes requiring a 2/3 vote in the Legislature, local governments or by the voters for passage. Big business was supporting Proposition 26 to further limit the power of the Legislature, local governments and voters to impose charges on businesses; San Francisco’s Board of Supervisors had just imposed a litter abatement fee on cigarettes, by a simple majority vote, to recoup the cost of cigarette butt waste cleanup. Both Propositions passed.

It is unclear why Philip Morris would want to hide its support of the campaign in this manner as it gave \$1,750,000 directly to the “No on 25/Yes on 26” campaign. No other tobacco company donated directly or indirectly to the “No on 25/Yes on 26” campaign.

A detailed analysis of the tobacco industry campaign contributions to non-party committees 2007-2013 showed that each non-party committee recipient was one of three types: Committees that spent money only to support or oppose individual candidates, committees that supported only official ballot measure campaigns supporting or opposing specific ballot measures, and committees that spent money on general political

Election Cycle	Principal Political Spending Activity		
	Candidate Elections	Ballot Measures	General
2007-08	\$311,000	\$0	\$182,500
2009-10	\$536,807	\$2,100,000	\$145,000
2011-12	\$1,157,702	\$50,000	\$100,000
2013	\$320,200	\$0	\$0
Total	\$2,325,709	\$2,150,000	\$427,500

activities like voter registration and get-out-the-vote drives (Table 2.4).

The most significant finding is the substantial increase in non-party committee contributions in the 2011-12 election cycle of \$1,157,702 to non-party committees spending to support or oppose candidates, which was more than double the contributions

in the 2009-10 election cycle, and was nearly as much as the \$1,301,183 given directly to candidates and political parties by the tobacco industry in the 2011-12 election cycle. Figure 2.3 shows the changing pattern of tobacco industry contributions to individual candidates, political parties and non-party committees from 1991 through 2013; in the period 2007-2013; total contributions to non-party committees were nearly equal to the total of all contributions to individual candidates and political parties combined.

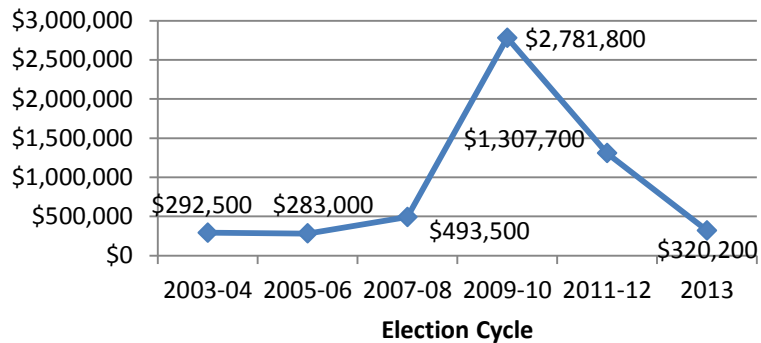
While Figure 2.3 shows that contributions to candidates and political parties in the period 2007-2013 remained relatively steady, the jump in the non-party committee contributions in the 2009-2010 and 2011-2012 election cycles represents money that is difficult to trace to a specific candidate election campaign.

### The Art of Non-Party Contributions

In the 2011-2012 election cycle tobacco companies funneled money to candidates in excess of the limits set for individual candidates. This was achieved by contributing heavily to non-party committees that focused overwhelmingly on supporting such candidates. Yet, there are disclosure requirements if the contribution to a non-party committee is earmarked for a candidate. The California Political Reform Act requires that if the contribution to a non-party committee is earmarked by the donor for the benefit of a specific candidate (Government Code §85704), the expenditure by the recipient non-party committee for the benefit of that specific candidate must be disclosed as coming from donor that earmarked the contribution. If such disclosure is not made, the Fair Political Practices Commission deems it “money laundering” of the contribution.

During the 2011-2012 election cycle, Philip Morris contributed \$546,000 to the non-party committee Reform California Now Independent Expenditures Committee in the 2011-2012 election cycle. Reform California Now Independent Expenditures Committee then gave \$1,121,000 to the non-party committee Californians Against Wasteful Spending. Citizens

**Total Tobacco Industry Contributions to Non-Party Committees, 2001-2013**



**Figure 2.2.** Total Contributions to Non-Party Committees, 2001-2013<sup>2</sup>

Against Wasteful Spending spent \$720,554 opposing Fran Pavley (D, S. Dist 27) and \$537,211 opposing Jose Medina (D, A. Dist 61).

Todd Zink (R) was running against the incumbent Pavley and Bill Batey (R) was running against the incumbent Medina. Most of the spending by Citizens Against Wasteful Spending in the two campaigns was for media buys opposing Pavley and Medina, and for mailers supporting Zink and opposing Pavley. All of this spending was in the last three weeks of the campaigns.

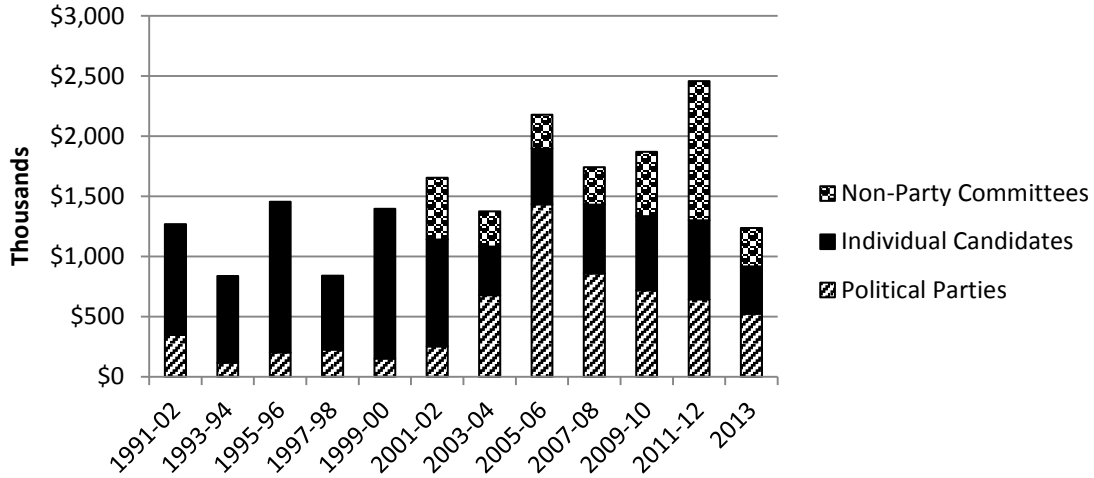
Both Pavley and Medina won their races against their Republican opponents. Citizens Against Wasteful Spending spent \$33,080 to support Pavley's opponent, Todd Zink. Citizens Against Wasteful Spending paid \$1,290,845 for the Pavley/Zink and Medina races out of a total of \$1,313,394 it spent in the 2011-12 election cycle. (The small remaining balance was spent on an internet ad supporting Joe Coto [D, S. Dist 15] and a contribution to the California Hispanic Chamber of Commerce Independent Expenditure Committee.) In short, Citizens Against Wasteful Spending spent almost all of its 2011-12 funds opposing the candidates running against Zink and Batey.

All of the transactions were disclosed. Nevertheless, this practice makes tracing the money to a specific campaign difficult. Nor was this an isolated incident; other similar donations by tobacco companies were found. The longstanding pattern of the tobacco industry favoring the Republican Party began in 1995 (Figure 2.8).<sup>92</sup> The November 1994 election saw a general Republican sweep nationally. In that election, the Republicans regained control of the Assembly (41-39) for the only time since the 1969-70 Session (41-39) and only the second time since 1957-58 (42-38). Governor Pete Wilson (R) won reelection in 1994. The combination of Wilson's reelection and the Republicans regaining control of the Assembly may be the reason the tobacco industry started a long period of lopsided support for Republican candidates. The last time the Republicans controlled both houses of the Legislature was the 1955-56 Session; however, between 1957 and 2013, four Republican and four Democrat governors were elected. After the 1995-96 Session, the Republicans steadily lost ground in both houses; in December 2013, Democrats held a super-majority (two-thirds or more) in both houses.

***During the 2011-2012 election cycle, Philip Morris contributed \$546,000 to the non-party committee Reform California Now Independent Expenditures Committee.***

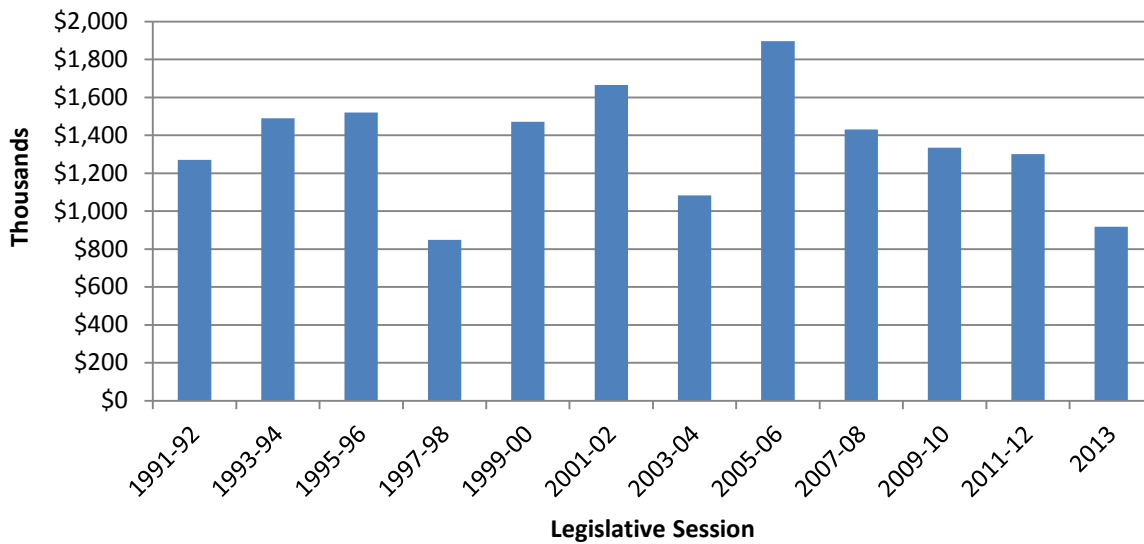
When it came to individual candidates, Republican candidates received \$2,300,597 and Democrats received \$802,850. While total contributions to political parties steadily declined after peaking in the 2005-06 election cycle, total contributions to individual candidates increased (Figure 2.9). Over the twenty-two year period from 1991 through 2013 (Figure 2.7), the tobacco industry spent more than three times as much on Republican candidate elections than it did on Democrat candidate elections.

### Tobacco Industry Campaign Contributions to Candidate Elections by Type of Contribution, 1991-2013



**Figure 2.3.** Tobacco Industry Campaign Contributions to Candidate Elections by Type of Contribution, 1991-2013

### Total Tobacco Industry Contributions to Candidates and Political Parties, 1991-2013



**Figure 2.4.** Tobacco Industry Contributions to Candidates and Political Parties, 1991-2013<sup>2</sup>

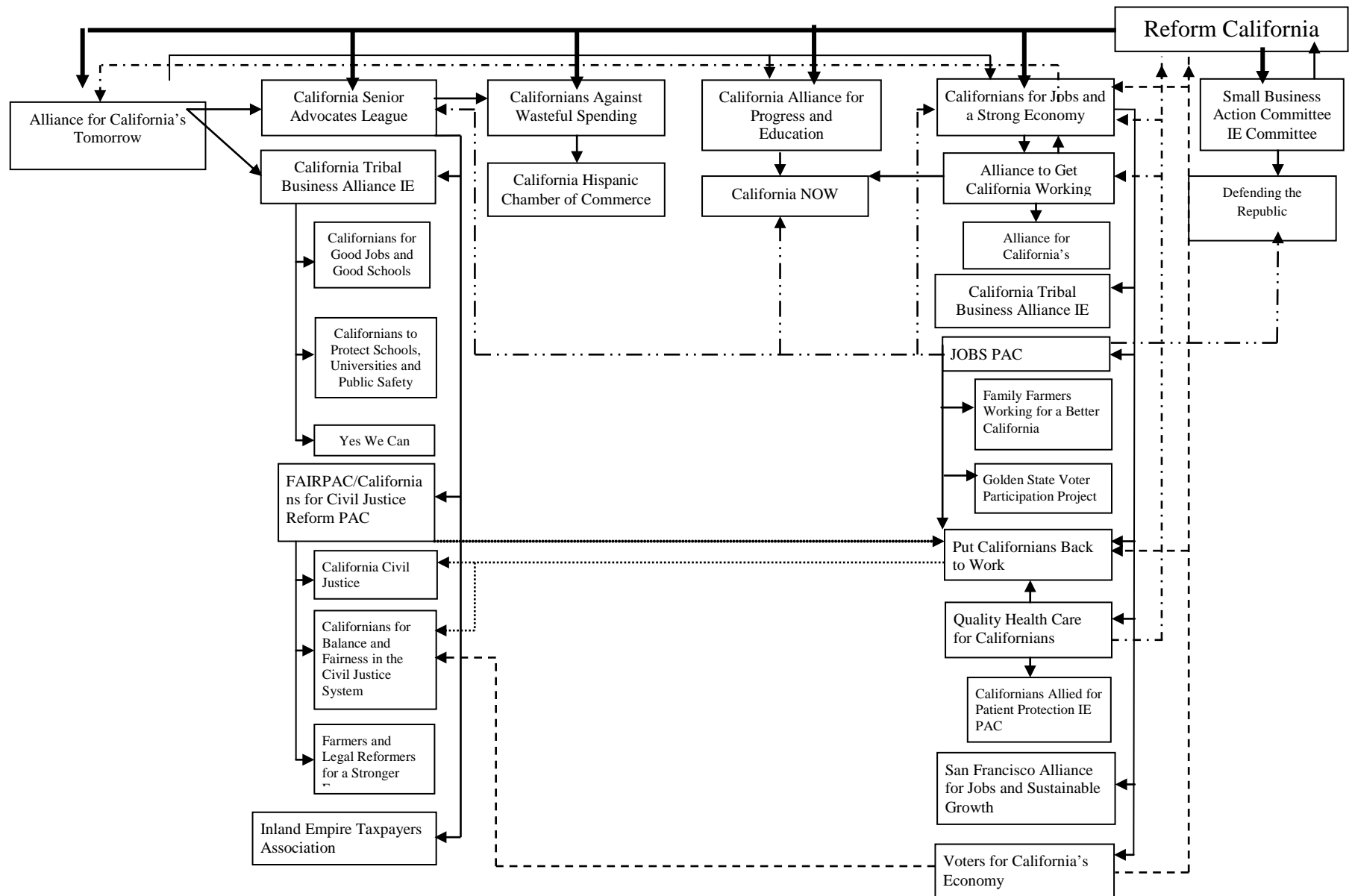


Figure 2.5. Flowchart of Contributions from Reform California Now Non-party Committee to Other Non-Party Committees, 2011-12<sup>1</sup>

## **Direct Tobacco Industry Campaign Contributions to Individual Legislative Candidates**

Campaign contributions to individual legislative candidates for 2007-2013 are shown in Appendix 2. In the 2013-14 Legislature, 66 members took tobacco industry campaign contributions, and 69 took no tobacco money (In March 2013, there were three vacancies in the Legislature, two in the Senate and one in the Assembly).

Table 2.6 shows the 54 members of the 2013-14 Legislature who had never taken tobacco industry campaign contributions in their legislative careers; none were Republicans. In our 2007 report<sup>65</sup> we found 39 legislators had not taken any tobacco industry money in their legislative careers; all were Democrats. The pattern is changing as more Democrats were taking tobacco industry money after the 2012 election cycle,<sup>97</sup> including Governor Jerry Brown, the first governor of either party to do so in years. Some campaign consultants attributed this change to a voter attitude that all campaign money is tainted, so its source is no longer a factor.<sup>97</sup>

*The pattern is changing as more Democrats were taking tobacco industry money... including Governor Jerry Brown, the first governor of either party to do so in years.*

## **Industry Campaign Contributions to Legislative Leadership in the 2013-14 Legislature**

Table 2.7 shows the tobacco industry campaign contributions to legislative leadership in the 2013-14 Legislature received throughout their legislative careers. The Democrat leadership in the Senate was tobacco money-free, while the Republican leaders were among the top ten recipients of tobacco money throughout their legislative careers. The only other Assembly leaders taking tobacco money were Asst' Majority Floor Leader V. Manuel Perez (D, Dist. 56, \$2,000) and Minority Floor Leader Connie Conway (R, Dist. 26, \$36,200).

## **Tobacco Industry Campaign Contributions to Members of Key Legislative Committees in the 2013-14 Legislature**

The Assembly Government Organization Committee hears every substantive bill related to tobacco, so it is not surprising that the tobacco industry provides campaign contributions to its members (Table 2.8). Thirteen of the sixteen members of the Assembly Government Organization Committee took tobacco industry money during their legislative careers, including eight of the eleven Democrats on the Committee. The Chair, Assemblymember Isadore Hall (D, Dist 64), and Vice Chair Assemblymember Brian Nestande (R, Dist. 42) were among the top twenty recipients of tobacco money throughout their careers. All of the five Republicans on the committee accepted tobacco industry contributions through 2013. Two Republicans on the Assembly Government Organization Committee did not receive tobacco industry campaign contributions in their 2012 freshman election bids, but Assemblymembers Frank Bigelow (R, Dist. 5) and Marie Waldron (R, Dist. 75) did accept tobacco industry money in 2013. The Assembly Revenue and Taxation Committee hears all bills.

*In the Assembly, Democrat Speaker John Perez...was among the top ten recipients of tobacco money throughout his legislative career.*

### Total Direct Tobacco Industry Election Contributions by Recipient and Party, 1991-2013

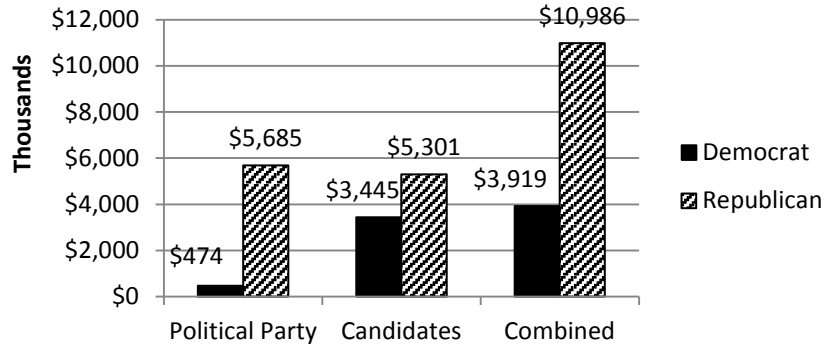


Figure 2.7. Total Tobacco Industry Election Contributions by Recipient and Party, 1991-2013<sup>2</sup>

### Direct Tobacco Industry Contributions to Political Parties by Party, 1991-2013

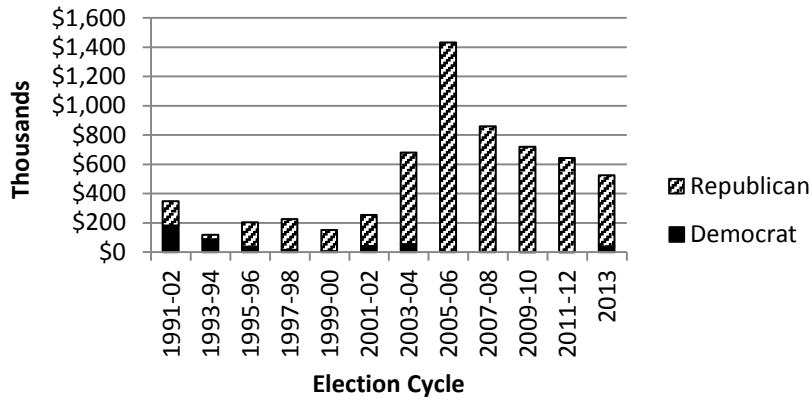


Figure 2.8. Direct Tobacco Industry Contributions to Political Parties by Party, 1991-2013<sup>2</sup>

related to taxes, including tobacco taxes (Table 2.9). Six of the nine members of the Committee had received tobacco industry contributions, including the Chair, Assemblymember Raul Bocanegra (D, Dist.39). Tobacco bills in the Senate are typically heard by the Budget and Fiscal Review, Health, and Rules Committees. Tobacco industry campaign contributions to members of these committees are shown in Tables 2.8, 2.9, and 2.10. The Chair of the Senate Budget and Fiscal Review Committee (Table 2.10), Sen. Mark Leno (D, Dist. 11), had never taken tobacco industry contributions, but the Vice Chair, Bill Emmerson (R, Dist. 23) was the top recipient of tobacco industry contributions in the 2013-2014 Legislature (Table 2.5). Two of the Democrats on the Committee, Sen. Curren Price, Jr. (D, Dist 26) and Sen. Roderick Wright (D, Dist. 35), were among the top ten recipients of tobacco industry contributions (Table 2.5). Price was first elected to the Assembly in 2006 and to the Senate in a Special Election in June 2009. He left the Senate in July 2013 for a seat on the Los Angeles City Council. On the Senate Health Committee (Table 2.11), five of the eight members were recipients of tobacco money, including the Chair, Sen. Ed Hernandez (D, Dist. 24) and the Vice Chair, Sen. Joel Anderson (R, Dist. 36).

The Senate Rules Committee (Table 2.12) is always chaired by the Senate President pro Tempore. Chair Sen. Darrell Steinberg (D, Dist. 6) had never taken tobacco contributions, but the Vice Chair, Sen. Jean Fuller (R, Dist. 18) was among the top twenty recipients of tobacco money in the 2013-14 Legislature.

### Constitutional Offices

The constitutional offices are Governor, Lieutenant Governor, Secretary of State, Controller, Treasurer, Attorney General, Superintendent of Public Instruction, Insurance Commissioner, and members of the Board of Equalization. All are statewide offices except for

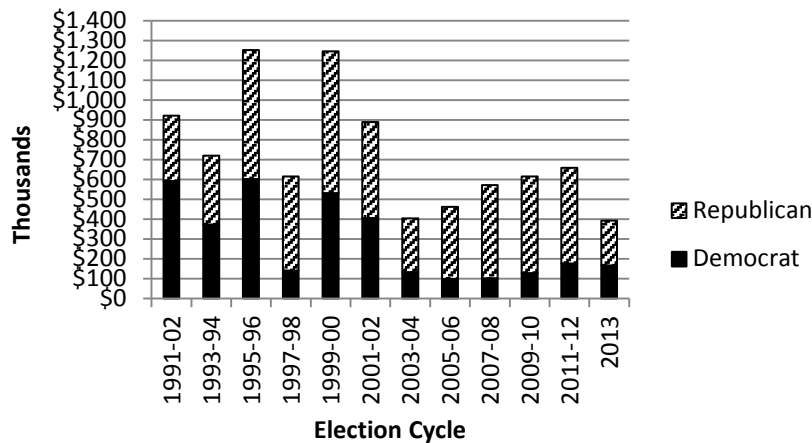
**Table 2.5. 2013-14 Legislators Receiving \$10,000 or More in Tobacco Industry Campaign Contributions, 2000-2013**

Name	Office	District	Party	Amount
Emmerson, Bill	S	23	R	\$58,975
Wyland, Mark	S	38	R	\$51,243
Calderon, Ron	S	30	D	\$50,500
Gaines, Ted	S	1	R	\$44,600
Walters, Mimi	S	37	R	\$44,100
Wright, Roderick D.	S	35	D	\$43,900
Harkey, Diane L.	A	73	R	\$41,900
Nielsen, Jim	S	4	R	\$40,400
Hall, Isadore III	A	64	D	\$39,700
Perez, John A.	A	53	D	\$36,300
Conway, Connie	A	26	R	\$36,200
Berryhill, Tom	S	14	R	\$36,000
Huff, Bob	S	29	R	\$35,900
Price, Jr., Curran D.	S	26	D	\$34,200
Hagman, Curt	A	55	R	\$32,800
Knight, Steve	S	21	R	\$30,000
Nestande, Brian	A	42	R	\$29,600
Logue, Dan	A	3	R	\$29,200
Galgiani, Cathleen	S	5	D	\$27,400
Mansoor, Allan	A	74	R	\$27,200
Fuller, Jean	S	18	R	\$26,900
Gorell, Jeff	A	44	R	\$26,700
Bradford, Steven	A	62	D	\$25,800
Wagner, Donald P.	A	68	R	\$25,700
Cannella, Anthony	S	12	R	\$25,600
Morrell, Mike	A	40	R	\$24,200
Correa, Lou	S	34	D	\$23,700
Grove, Shannon L.	A	34	R	\$21,800
Anderson, Joel	S	36	R	\$21,000
Gaines, Beth	A	6	R	\$20,300
Olsen, Kristin	A	12	R	\$20,300
Coto, Joe	S	15	D	\$19,500
Gray, Adam	A	21	D	\$19,400
Jones, Brian W.	A	71	R	\$17,900
Donnelly, Tim	A	33	R	\$14,700
Perea, Henry T.	A	31	D	\$13,800
Melendez, Melissa	A	67	R	\$13,000
Calderon, Ian	A	57	D	\$13,000
Garcia, Bonnie	S	28	R	\$11,200
Wilk, Scott	A	38	R	\$11,000
Chavez, Rocky	A	76	R	\$11,000



Name	Office	District	Party	Name	Office	District	Party
Ammiano, Tom	A	17	D	Lara, Richardo	S	33	D
Atkins, Toni	A	78	D	Leno, Mark	S	11	D
Block, Marty	S	39	D	Levine, Marc	A	10	D
Bloom, Richard	A	50	D	Lieu, Ted W.	S	28	D
Blumenfield, Bob	A	45	D	Liu, Carol	S	25	D
Bonilla, Susan	A	14	D	Lowenthal, Bonnie	A	70	D
Bonta, Rob	A	18	D	Mitchell, Holly	A	54	D
Brown, Cheryl R.	A	47	D	Monning, Bill	S	17	D
Buchanan, Joan	A	16	D	Mullin, Kevin	A	22	D
Campos, Nora	A	27	D	Muratsuchi, Al	A	66	D
Chau, Ed	A	49	D	Nazarian, Adrin	A	46	D
Chesbro, Wesley	A	2	D	Padilla, Alex	S	20	D
Cooley, Ken	A	8	D	Pan, Richard	A	9	D
Corbett, Ellen M	S	10	D	Quirk, Bill	A	20	D
de Leon, Kevin	S	22	D	Quirk-Silva, Sharon	A	65	D
DeSaulnier, Mark	S	7	D	Rendon, Anthony	A	63	D
Dickinson, Roger	A	7	D	Roth, Richard	S	31	D
Eggman, Susan	A	13	D	Skinner, Nancy	A	15	D
Evans, Noreen	S	2	D	Steinberg, Darrell	S	6	D
Fong, Paul	A	28	D	Stone, Mark	A	29	D
Fox, Steve	A	36	D	Ting, Philip Y.	A	19	D
Frazier, Jim	A	11	D	Torres, Norma J.	A	52	D
Gomez, Jimmy	A	51	D	Weber, Shirley N.	A	79	D
Hancock, Lori	S	9	D	Wieckowski, Bob	A	25	D
Hill, Jerry	S	13	D	Williams, Das	A	37	D
Hueso, Ben	S	40	D	Yamada, Mariko	A	4	D
Jackson, Hannah-Beth	S	19	D	Yee, Leland Y.	S	8	D

**Direct Tobacco Industry Contributions to Individual Candidates by Party, 1991-2013**



**Figure 2.9.** Direct Tobacco Industry Contributions to Individual Candidates by Party, 1991-2013<sup>2</sup>

the four Board of Equalization members who are elected in districts; the fifth member of the Board of Equalization is the State Controller who is elected at large and serves *ex officio*. Tobacco industry contributions to candidates for constitutional offices 2007-2013 are shown in Appendix 3.

The only constitutional officers sitting in 2013 who received tobacco industry campaign contributions were Governor Edmund G. “Jerry” Brown and Board of Equalization member Michelle Steel. Gov. Brown was elected in 2010 while

finishing out a term as Attorney General to which he was elected in 2006. Philip Morris gave Attorney General Brown a contribution of \$2,500 in 2009 for his reelection campaign; Brown chose to run for governor instead of seeking reelection as Attorney General. The Philip Morris contribution was transferred by Brown to his gubernatorial campaign. In 2012, Philip Morris gave a \$26,000 contribution to Brown’s 2014 reelection campaign, another \$27,000 in 2013, and \$1,400 in January 2014. Michelle Steel was first elected to the Board of Equalization in 2006 and received \$14,000 in tobacco industry campaign contributions for her 2010 reelection campaign.

**Table 2.7. Tobacco Industry Campaign Contributions to Leadership in the 2013-14 Legislature, 2000-2013**

Name	Office	Party	District	Amount
<b>Senate</b>				
Steinberg, Darrell	President pro Tempore	D	6	\$0
Corbett, Ellen M.	Majority Leader	D	10	\$0
Huff, Bob	Minority Leader	R	29	\$40,000
Hill, Jerry	Democratic Caucus Chair	D	13	\$0
Gaines, Ted	Republican Caucus Chair	R	1	\$44,600
<b>Assembly</b>				
Perez, John	Speaker	D	53	\$36,300
Campos, Nora	Speaker pro Tempore	D	27	\$0
Atkins, Toni	Majority Floor Leader	D	78	\$0
Perez, V. Manuel	Asst. Majority Floor Leader	D	56	\$2,000
Holden, Chris R.	Majority Whip	D	41	\$4,100
Gomez, Jimmy	Asst. Majority Whip	D	51	\$0
Ting, Phil	Democratic Caucus Chair	D	19	\$0
Conway, Connie	Minority Floor Leader	R	26	\$36,200

### Summary of Tobacco Industry Campaign Contributions

The tobacco industry has used campaign contributions to influence policy for decades.<sup>93-94</sup> Shown in Figure 2.9, contributions to influence candidate elections in California have been increasing. Since 2003, such contributions have increased more than 61%. Despite that increase, an even greater increase in contributions to non-party campaign committees has also occurred (Figure 2.10). It is no longer enough to look at contributions to individual candidates to grasp the extent of tobacco industry election financing; one must look at the total of all contributions (Figure 2.10 ) because the trend has shifted from candidate/party contributions to non-party committees, which makes it murkier. For example, in the

**Table 2.8. Tobacco Industry Campaign Contributions to Members of the 2013-14 Assembly Government Organization Committee, 2000-2013**

Name	Party	District	Amount
Isadore Hall III, Chair	D	64	\$39,700
Brian Nestande, Vice Chair	R	42	\$29,600
Franklin E. Bigelow	R	5	\$9,500
Wesley Chesbro	D	2	-0-
Ken Cooley	D	8	-0-
Adam C. Gray	D	21	\$19,400
Curt Hagman	R	55	\$32,800
Roger Hernandez	D	48	\$4,500
Brian W. Jones	R	71	\$17,900
Roger Jones-Sawyer, Sr.	D	59	\$10,500
Marc Levine	D	10	-0-
Jose Medina	D	61	\$5,600
Henry T. Perea	D	31	\$13,800
V. Manuel Perez	D	56	\$2,000
Rudy Salas, Jr.	D	32	\$5,600
Marie Waldron	R	75	\$5,600

**Table 2.9. Tobacco Industry Campaign Contributions to Members of the 2013-14 Assembly Revenue and Taxation Committee, 2000-2013**

Name	Party	District	Amount
Raul Bocanegra, Chair	D	39	\$6,600
Brian Dahle, Vice Chair	R	1	\$9,500
Richard S. Gordon	D	24	\$2,250
Diane L. Harkey	R	73	\$41,900
Kevin Mullen	D	22	\$0
Brian Nestande	R	42	\$29,600
Richard Pan	D	9	\$0
V. Manuel Perez	D	56	\$2,000
Philip Y. Ting	D	19	\$0

2011-12 election cycle, contributions to individual candidates represented only 25.2% of the total tobacco industry campaign contributions to influence candidate elections. Over the five election cycles from 2003 through 2012, contributions to individual candidates were 22.2% of the total of all contributions. With over three-fourths of all tobacco industry campaign funding going to political parties and non-party campaign committees, tracing all of the monies expended in individual

candidate elections is a daunting challenge. After 2001, the only contributions to party committees were to county party committees and not in large amounts because of the Proposition 34 limits. Unlike the 1990s, in which party committees flourished, they seem to have been replaced with the non-party committees as a result of Proposition 34.

### Lobbying Expenditures and Other Payments to Influence Policy

The tobacco industry has a long history in California of hiring powerful lobbying and law firms to represent their interests in the Legislature, Governor’s Office and administrative agencies. (Table 2.11), and paying them a great deal of money (Figure 2.11). California campaign finance law requires entities that employ lobbyists also to report other payments (indirect lobbying) to influence policy that are not payments directly to lobbyists or lobbying firms. Figure 2.11 shows the relationship between these two types of reportable expenditures to influence policy from 2007 through 2013. Contract lobbyists employed by the tobacco industry have cross lobbied for a variety of other powerful industries including advertising, insurance, vending machine, alcoholic beverage, restaurant, convenience stores, and banks.<sup>98</sup> Table 2.12 illustrates California's tobacco lobbyists who also represent health related organizations, including the California Hospital Association and California Nurses Association, two of the most powerful lobbying organizations in the state. Tobacco lobbyists who represent multiple powerful and wealthy clients besides tobacco, are able to magnify their influence by brokering votes and support for various legislation, including tobacco legislation.<sup>98</sup> This situation creates opportunities for these lobbyists to compromise the ability of these health organizations to promote public health, a potential conflict of interests.<sup>99</sup>

**Table 2.10. Tobacco Industry Campaign Contributions to Members of the 2013-14 Senate Budget and Fiscal Review Committee, 2000-2013**

Name	Party	District	Amount
Leno, Mark, Chair	D	11	\$0
Emmerson, Bill, Vice Chair	R	23	\$58,975
Anderson, Joel	R	36	\$21,000
Beall, Jim	D	15	\$1,000
Berryhill, Tom	R	14	\$36,000
Block, Marty	D	39	\$0
DeSaulnier, Mark	D	7	\$0
Hancock, Lori	D	9	\$0
Hill, Jerry	D	13	\$0
Jackson, Hannah-Beth	D	19	\$0
Monning, Bill	D	17	\$0
Nielsen, Jim	R	4	\$40,400
Price, Curren D., Jr.	D	26	\$34,200
Roth, Richard	D	31	\$0
Wright, Roderick D..	D	35	\$00
Wyland, Mark	R	38	\$51,243

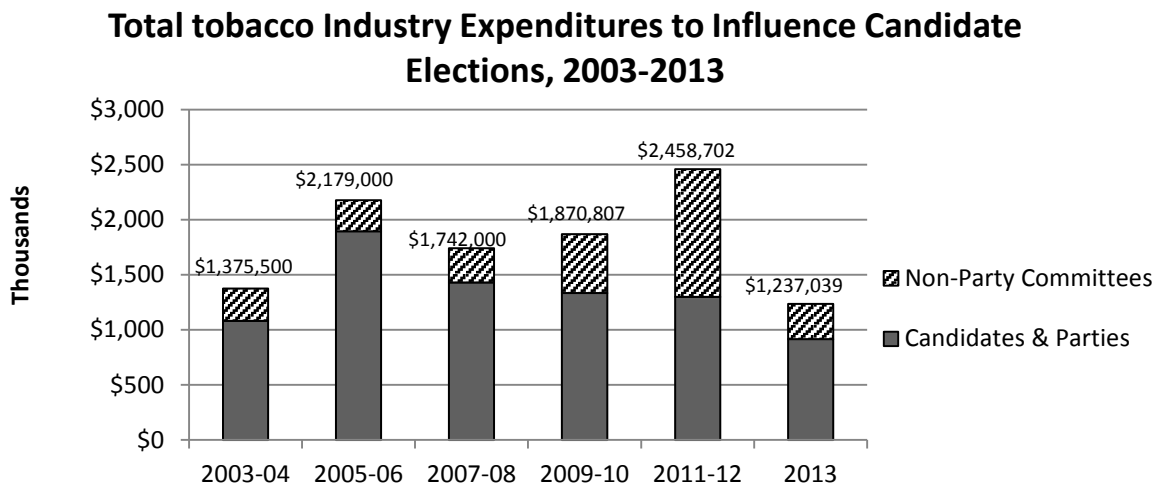
Data on tobacco industry lobbying activities were obtained from the Secretary of State website at <http://cal-access.sos.ca.gov/lobbying/> in 2013. Payments to lobbying firms by the tobacco companies for direct lobbying activities are reported to the California Secretary of State, while other costs of the tobacco companies for their lobbying activity that are not related to

Name	Party	District	Amount
Hernandez, Ed, Chair	D	24	\$1,000
Anderson, Joel, Vice Chair	R	36	\$21,000
Beall, Jim	D	15	\$1,000
DeSaulnier, Mark	D	7	\$0
Monning, Bill	D	17	\$0
Nielsen, Jim	R	4	\$40,400
Pavley, Fran	D	27	-0-
Wolk, Lois	D	3	\$2,000

direct lobbying activities are reported on Section C entitled “Activity Expenses” and Section D entitled “Other Payments to Influence Legislative or Administrative Action” on Form 635 (Report of Lobbyist Employer and Report of Lobbying Coalition)<sup>100</sup> which is filed with the Secretary of State on a quarterly basis. Section C, which defines “Activity Expenses,” states that these expenses are: any expense which benefits, in whole or in part, an elected state officer, a legislative official, an agency official, a state candidate, or a member of the immediate family of such officials or candidates. Activity expenses include gifts, honoraria, consulting fees, salaries, and any other form of compensation, but do not include campaign contributions.

Section D, “Other Payments to Influence Legislative or Administrative Action,” includes: all other payments...made in connection with attempts to influence legislative or administrative action. Such payments would include payments to a lobbying coalition; payments in support of a lobbyist (but not made directly to the lobbyist), such as the payment of a credit card charge for activity expenses which have been reported by the lobbyist; payments for office overhead and operating expenses and subscription services, payments to expert witnesses, and compensation to employees (other than a lobbyist) who spent 10 percent or more of their compensated time in a calendar month in connection with lobbying activities.

In the 2007-2013 legislative period, the tobacco industry spent \$26,564 on activity expenses and \$2,753,188 on other payments to influence the legislature, for a total of \$2,779,752 (Table 2.13). The total direct and indirect lobbying expenditures to influence the legislature of each tobacco



**Figure 2.10 - Total Tobacco Industry Expenditures to Influence Candidate Elections, 2003-2013<sup>2</sup>**

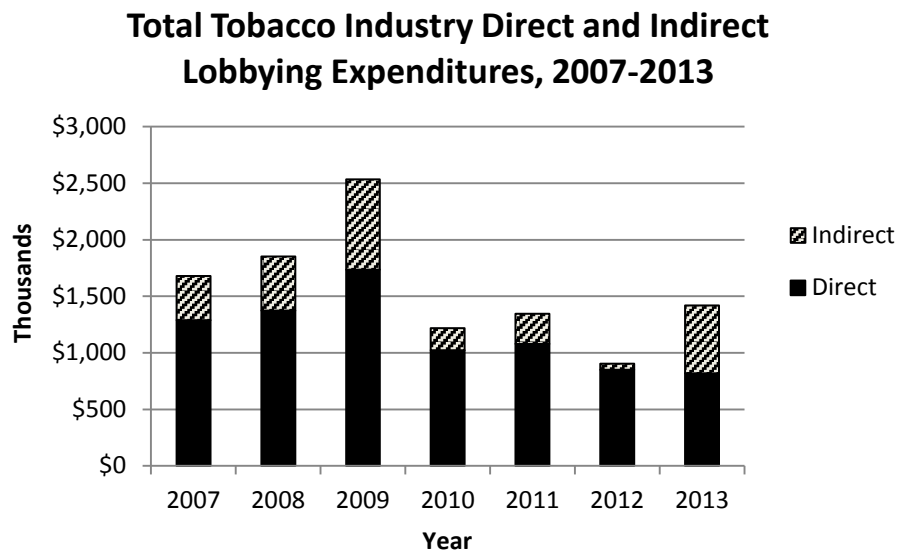
industry company are shown in Table 2.11. Lobbying expenditures by the tobacco industry closely follow the level and intensity of tobacco control legislative activity which is shown in Table 2.13. The details of all tobacco control legislation are covered in Chapter 3.

Name	Party	District	Amount
Steinberg, Darrell, Chair	D	6	\$0
Fuller, Jean, Vice Chair	R	18	\$26,900
Emmerson, Bill	R	23	\$58,975
Lara, Richardo	D	33	\$0
Jackson, Hannah-Beth	D	19	\$0

The 2009 Legislative Session saw a large increase in overall tobacco industry expenditures to influence policymaking (Figure 2.11) likely because of the coordinated introduction of a number of tobacco control measures, including SB 600 and four other measures that would have raised tobacco taxes. In that Session, sixteen tobacco control measures were introduced; five passed with two signed into law and three vetoed; the tobacco industry spent a little over \$2.5 million on direct and indirect lobbying that year. In the 2011 Legislative Session, fourteen tobacco control bills were introduced, but lobbying expenditures by the tobacco industry fell substantially (Figure 2.11); eight of the bills passed, three were vetoed and five were signed by the governor, and the tobacco industry spent about \$1.3 million on direct and indirect lobbying. The difference between the two Sessions was that none of the fourteen bills introduced in the 2011 Session involved an increase in tobacco taxes. There was a tobacco tax increase bill introduced in 2013 and a small uptick in lobbying expenditures by the tobacco industry (Figure 2.11),

### Lobbying by the Voluntaries

The voluntary health organizations spent considerably less on lobbying than did the tobacco industry (Table 2.14), and the amounts spent were relatively stable over time: the voluntary health organizations use employee-lobbyists for most of their lobbying work with occasional payments to outside lobbying firms and lobbying coalitions, while the tobacco industry did not report paying any employee-lobbyists. In August 2014, ACS lobbyist Jim Knox stated that a new tobacco control strategy would be to start a pledge to get legislatures to refuse tobacco industry



**Figure 2.11.** Total Tobacco Industry Direct and Indirect Lobbying Expenditures by Legislative Session, 2003-2012<sup>2</sup>

<b>Table 2.11. Tobacco Industry Lobbying Firms, 2007--2014</b>				
	2007-08	2009-10	2011-12	2013-14
California Distribution Ass'n	Capitol Strategies Group, Inc.	Capitol Strategies Group, Inc.	Capitol Strategies Group, Inc.	Capitol Strategies Group, Inc.
Philip Morris	- Capitol Connection - Lang Hansen O'Malley and Miller Governmental Relations - Nielsen, Merksamer, Parrinello, Gross & Leon, LLP	- The Apex Group - Capitol Connection - Lang Hansen O'Malley and Miller Governmental Relations - Nielsen, Merksamer, Parrinello, Gross & Leon, LLP	- The Apex Group - Capitol Connection - Lang Hansen O'Malley and Miller Governmental Relations - Nielsen, Merksamer, Parrinello, Gross & Leon, LLP	- The Apex Group - Capitol Connection - Lang Hansen O'Malley and Miller Governmental Relations - Nielsen, Merksamer, Parrinello, Gross & Leon, LLP
RJ Reynolds	The Flanagan Law Firm	The Flanagan Law Firm	The Flanagan Law Firm	The Flanagan Law Firm
UST	- The Apex Group - Capitol Advocacy, LLC	- The Apex Group - Capitol Advocacy, LLC		

Source: California Secretary of State<sup>4</sup>

<b>Table 2.12. Tobacco Lobbying Firms and Health Related Clients in 2014</b>	
Capitol Strategies Group Inc.	California Hospital Association
Capitol Connection	California Nurses Association
Lang Hansen O'Malley and Miller Governmental Relations	California Association of Eye Physicians and Surgeons
Nielsen, Merksamer, Parrinello, Gross & Leon, LLP	California Dietetic Association California Institute for Regenerative Medicine California Pharmacists Associations California Psychiatric Association

Source: California Secretary of State<sup>4</sup>

money.<sup>102</sup> Bringing the public's attention to elected officials who are taking money from the tobacco industry can help them make more informed decisions during elections.

## Conclusion

The major development in the 2007-2013 period of tobacco industry influence on policymaking in California was the dramatic shift from making contributions to candidates and parties to increasingly giving to non-party committees, and doing it in a way that makes tracing funding of specific elections more cumbersome and harder for the public to see, making it easier for the tobacco companies to exercise hidden influence. One unfortunate trend following the 2012 election was more Democrats directly accepting tobacco industry campaign funds. Because Democrats controlled both houses of the Legislature the shift would be an important strategy of the industry and impediment to state-wide tobacco control policies. Given the scope of "hidden influence" through contributions to non-party committees, the number of Democrats benefiting from tobacco industry money may actually be larger.

**Table 2.13. Tobacco Industry Expenditures by Company for Direct and Indirect Lobbying to Influence Legislative and Administrative Actions, 2007-2013<sup>101</sup>**

Company	Direct Lobbying	Indirect Lobbying		Grand Total
		Activity Expenses	Other Payments to Influence	
<b>California Distributors Ass'n</b>				
2007	\$52,213	\$1,120	\$0	
2008	\$52,140	\$140	\$0	
2009	\$52,422	\$0	\$0	
2010	\$52,800	\$840	\$0	
2011	\$49,553	\$0	\$0	
2012	\$49,210	\$0	\$0	
2013	\$67,250	\$0	\$0	
<b>Total</b>	<b>\$375,588</b>	<b>\$2,100</b>	<b>\$0</b>	<b>\$377,688</b>
<b>Philip Morris</b>				
2007	\$796,678	\$6,897	\$363,145	
2008	\$884,275	\$2,573	\$460,325	
2009	\$1,231,330	\$719	\$770,491	
2010	\$680,239	\$10,123	\$160,117	
2011	\$779,963	\$421	\$266,904	
2012	\$550,527	\$83	\$44,361	
2013	\$501,031	\$137	\$334,973	
<b>Total</b>	<b>\$5,424,043</b>	<b>\$20,953</b>	<b>\$2,400,316</b>	<b>\$7,845,312</b>
<b>RJ Reynolds</b>				
2007	\$232,095	\$0	\$15,217	
2008	\$237,550	\$0	\$11,173	
2009	\$258,509	\$2,047	\$23,678	
2010	\$287,925	\$436	\$23,212	
2011	\$247,363	\$0	\$0	
2012	\$248,708	\$0	\$8,196	
2013	\$249,798	\$0	\$264,871	
<b>Total</b>	<b>\$1,761,948</b>	<b>\$2,483</b>	<b>\$346,347</b>	<b>\$1,596,109</b>
<b>UST</b>				
2007	\$207,156	\$645	\$2,500	
2008	\$196,408	\$383	\$4,025	
2009	\$192,000	\$0	\$0	
<b>Total</b>	<b>\$595,564</b>	<b>\$1,028</b>	<b>\$6,525</b>	<b>\$603,117</b>
<b>Grand Total</b>	<b>\$8,157,143</b>	<b>\$26,564</b>	<b>\$2,753,188</b>	<b>\$10,936,895</b>

**Table 2.14. Lobbying Expenditures by the Voluntary Health Organizations, 2007-2013**

Year	American Cancer Society	American Heart Association	American Lung Association
2007	\$145,678	\$166,210	\$213,566
2008	\$155,923	\$158,680	\$264,638
2009	\$187,844	\$157,131	\$261,514
2010	\$148,232	\$162,509	\$199,504
2011	\$103,649	\$166,566	\$249,510
2012	\$50,362	\$164,727	\$139,023
2013	\$157,426	\$202,843	\$85,151
<b>TOTAL</b>	<b>\$949,114</b>	<b>\$1,178,665</b>	<b>\$1,412,906</b>

## CHAPTER 3 – STATE TOBACCO CONTROL LEGISLATION, 2007-2014

- The tobacco industry dominated tobacco control policy making at the state level between 2007 and 2014.
- Seventeen bills to close loopholes in California’s 1994 state smokefree law (AB13) were introduced, seven of which passed the Legislature. Only three were signed into law.
- Governor Arnold Schwarzenegger vetoed bills that would have prohibited smoking on state beaches and in acute care hospitals.
- Governor Jerry Brown vetoed bills that would have restricted smoking in health facilities and nursing homes.
- The three bills signed into law had little practical effect, simply clarifying the fact that universities, multi-unit housing property owners, and state mental health facilities had the authority to implement smokefree policies, something they could do without the law.
- Despite the fact that California has the 33rd lowest cigarette tax in the nation and a concerted lobbying effort by health advocates, only 7 bills were introduced to increase the cigarette excise tax; none moved past the legislature.
- Electronic cigarettes emerged as a new, unregulated threat to tobacco control and several unsuccessful attempts were made to restrict sales to minors and regulate public usage.
- The only state bill on e-cigarettes that became law was SB 882 in 2010 that prohibited the sale of e-cigarettes to minors, but lacked any enforcement measures.

### Introduction

A total of forty-nine tobacco control bills were introduced in the Legislature in the period 2007-2013 (Table 3.1) that dealt with a variety of tobacco control issues, including taxation, retailer licensing, smoking restrictions, and e-cigarettes.

Of the twenty-seven introduced during the Governor Arnold Schwarzenegger (R) administration (2007-2010), seven (25.9%) were passed by the Legislature, but only two (28.7%) of those became law. Tobacco control legislation fared much better under Governor Jerry Brown (D), who came into office in January 2011.

***A total of forty-nine tobacco control bills were introduced in the Legislature in the period 2007-2013***

Twenty-two tobacco control measures were introduced, nine (40.9%) passed in the Legislature, and seven (77.7%) of those became law. Though some members of the Legislature remained committed to improving tobacco control policies, other members of the legislature who have taken campaign contributions were obstructing these efforts.

Six of the bills that failed in the Legislature during the Schwarzenegger administration would have raised tobacco excise taxes, an important tool in reducing tobacco use <sup>103-106,99-103,98-102,2-6</sup> especially among youth.<sup>107</sup>

Tax increase measures require a 2/3 vote in both houses to become law, and the Republicans held more than 1/3 of the seats in both houses during the Schwarzenegger administration and



Subject	Gov. Arnold Schwarzenegger (R)				Gov. Jerry Brown (D)		
	2007	2008	2009	2010	2011	2012	2013
Tobacco Tax Increase	SCA13		AB89 ACA22 SB600 ABX3 2 ABX3 39		AB 330		SB768
Authorize Local Tobacco Taxes					SBX1 23 SB653		
Smoking Restrictions		SB1418 SB1598 AB3010	SB4 AB574	SB4 (v) AB574 (v)	SB796 SB332 (s) SB575 AB217 AB795 (s) AB1278 (v)	AB217 (v)	AB352 (s) AB746 AB1142
Cessation	AB2662		SB220 (v)				
Definitions of "cigarettes"	SB554		AB689				
Tobacco Retailer Licensing	AB2344 (v)		SB601 SB602 SB603	AB2733 (s)	AB1301 (s) SB301 SB331		
Electronic Cigarettes			SB400 (v) SB882(s) SJR8				SB648
Youth Access			AB2757				AB320
Master Settlement Agreement			AB2496 (s)				SB680 (s)
Tobacco Advertising					AB1218		
Film Tax Subsidies					AB2016 (s)		

(s) Signed by the Governor  
(v) Vetoes by the Governor

most had signed a not-tax pledge. Despite Gov. Brown's pledge in his 2010 campaign not to raise taxes without a vote of the people, SB 768, a bill to increase the tobacco excise tax, was sponsored by the voluntary health organizations in the 2013 Legislative Session after the narrow failure of their tobacco tax initiative, Proposition 29, in the June Primary in 2012. The Democrats held the required 2/3 supermajority to pass a tax increase in 2013, but SB 768 died because Gov. Brown and the legislative leadership opposed it.

### Data

Data on bills, bill history and bill status, and names of supporters and opponents and their arguments were obtained from the California Legislature's Bill Information System online at

[http://www.legislature.ca.gov/the\\_state\\_legislature/bill\\_information/bill\\_information.html](http://www.legislature.ca.gov/the_state_legislature/bill_information/bill_information.html) using

Legislative Session	Introduced	Passed	Became Law
2007-08	9	2	0
2009-10	18	5	2
2011-12	15	7	5
2013	7	2	2
Total	49	16	9

the “Bill Search” function. Data on lobbying activity of supporters and opponents of legislation were obtained from the Office of the Secretary of State using Cal-Access and searching “Employers of Lobbyists” at <http://cal-access.sos.ca.gov/Lobbying/Employers/> and from interviews of key informants. Bills introduced in 2007 on which action was completed by October are discussed in detail in the 2007 report on California;<sup>65</sup> however, two bills, SCA 13 and SB 554, carried over to 2008. Legislators are identified by party, district represented and total tobacco industry campaign contributions received.

## **Tobacco Excise Taxes**

Between 2007 and 2010, the nation experienced a major recession, causing sources of state tax revenue to plummet in California. Combined with earlier tax cuts (most notably Gov. Arnold Schwarzenegger's decision to cut the vehicle license fee shortly after taking office in 2003) and the governor and Republican minority in the Legislature's refusal to increase taxes, California faced serious budget deficits; Gov. Schwarzenegger responded with massive budget cuts to services including education, public safety, and health and human services, as well as state employee salaries. The state borrowed from local governments and special funds, and its credit rating began to fall. Some of the state's Democrats were concerned with finding sources of revenue to mitigate the budget cuts, but Republicans remained committed to honoring Americans For Tax Reform's "Taxpayer Protection Pledge" against any tax increases. Even with Democrats looking for new sources of revenue, there were few members actively pursuing increasing the tobacco tax as a way to mitigate the budget deficit.

At its peak in February 2009, the California budget deficit hit \$2 billion.<sup>108</sup> Democrats introduced five bills to increase the tobacco tax to raise money for the general fund and backfill accounts they had been borrowing from. However, the 2/3 vote requirement to raise taxes would necessitate support from a few Republicans in both houses, which never materialized. Additionally, between 2007 and 2014 both Governors Arnold Schwarzenegger and Jerry Brown were not supportive of raising tobacco taxes, adding to the difficult political climate. Ensuring that tobacco taxes are not raised is often the main target of tobacco companies lobbying efforts and they spend heavily to defeat the bills.<sup>109</sup>

***Of the seven excise tax increase bills introduced in the period, all failed to pass in the Legislature.***

### *SCA 13: Attempting to Increase the Cigarette Tax, for Healthcare and Tobacco Cessation*

Tom Torlakson made health one of his top priorities during his tenure at the California State Legislature from 1996-2010 as first a senator (2000-2008) and then as a member of the Assembly (2009-2010). Torlakson made earlier attempts to pass tobacco tax increases, including SB 564 in 2005 that would have increased the cigarette excise tax by \$1.00 to support tobacco control and fund child health programs, but his legislation died in the Senate. As discussed in detail in our earlier report on tobacco policy making in California,<sup>65</sup> in 2007 he introduced SB 24 to raise the cigarette tax by \$1.90 to fund tobacco control programs and tobacco research (See California Report 2007).

Because SB 24 was tied up in the Senate Revenue and Taxation Committee, on May 31, 2007, Sen. Torlakson (D, Dist 7, \$0) introduced Senate Constitutional Amendment 13 to submit to voters an increase of the cigarette tax by \$2.10 a pack.<sup>110</sup> It was too late in the 2007 Legislative Session to file another bill, but constitutional amendments were not subject to any limitations on when they could be filed. The revenue would have been used to fund tobacco cessation services, lung cancer research, and health-related purposes. In the Senate Revenue and Taxation Committee, the bill was amended on July 25, 2007 at Torlakson's request to specify that allocations of revenue would be 50% for children's health care, 15% for tobacco cessation services, 15% to fund general health care and 5% for lung cancer research, especially research regarding early detection, prevention and treatment methods. SCA 13 also provided for a "backfill" of Proposition 99 accounts and the Breast Cancer Fund to make the two funds whole for additional loss in revenue resulting from further declines in tobacco sales as a result of the new increase in the tobacco tax.

Because SCA was a tax increase, it required a 2/3 vote of both houses to become law, which was very difficult to secure. The Republicans, who were the primary beneficiaries of tobacco industry campaign contributions from 1995 through 2012, held more than one-third of the seats in each house and had pledged to reject all tax increases. In addition, many Democrats, particularly the "moderates," were not interested in raising the tobacco tax. SCA 13 did pass out of the Senate Revenue and Taxation Committee. Philip Morris was the only tobacco manufacturer to report to the Secretary of State that it lobbied against SCA 13.<sup>4</sup> The extent of their lobbying effort is impossible to gauge because lobbying disclosure reports do not report expenditures on specific bills. They are often present in committee hearings and communicate with staff, but rarely issue formal opposition or support for a bill.

Lacking the votes needed to pass SCA 13, in August 2008, Sen. Torlakson effectively dropped the effort by allowing Senate President Pro Tempore Perata to amend the measure to create a legislative initiative to reform the state's budgeting process, removing any mention of a tobacco tax from the language.<sup>111</sup> In its final form the bill passed in both houses with bipartisan support and was submitted to a vote of the people in a Special Election on May 19, 2009 where it was defeated by a 2 to 1 margin.

### ***2009-2010***

#### ***AB 89 and ACA 22: Continuing Attempts to Increase the Cigarette Tax***

In 2009, Torlakson returned to the California State Legislature as an Assemblymember (D, Dist. 11, \$0) after having been termed out of the Senate. Once again, he introduced a tobacco tax increase, AB 89, on January 5, 2009 to raise the tax on cigarettes by \$2.10 per pack and by an equivalent amount of tobacco products with the proceeds to be appropriated to fund education, children's health care, tobacco cessation services, lung cancer research, and general health care, again supported by the Lung Cancer Foundation of America.<sup>112</sup> Recent polls had shown raising tobacco taxes was supported by an overwhelming majority of California voters, prompting Sen. Torlakson to try again.<sup>113</sup> The amount of the tax was significantly higher than past legislation. "I set it high for negotiation purposes," Torlakson stated, "but lower than what voters rejected in 2006 (Prop 86)."<sup>113</sup> Proposition 86 (2006) had failed because of heavy tobacco industry

advertising arguing that the funds would go to large hospitals and not be used to help smokers quit. Additionally, the tobacco industry often uses the argument that tobacco taxes disproportionately affect the poor<sup>114</sup>. Assemblymember Torlakson wanted to neutralize these arguments by mandating some of the money go to smoking prevention and cessation services.<sup>113</sup>The American Cancer Society and American Heart Association lobbied for the bill; however they had plans to introduce a different tax measure (see AB 600) so they were not co-sponsoring AB 89.

American Cancer Society and American Heart Association lobbied on the bill, so that it would be amended to allocate funds to the whole California Tobacco Control Program, not just smoking cessation.<sup>115</sup> The American Lung Association also wanted to see money allocated to the California Tobacco Control Program.<sup>116</sup> In addition, the Lung Cancer Foundation of America had lobbied for funding to go to lung cancer research.<sup>115</sup> The Lung Cancer Foundation of America had been conducting a fairly high profile statewide campaign, including getting an article published in the *Los Angeles Times*, to increase funding for lung cancer research, which had received less federal government funding than other cancer research programs, such as breast cancer.<sup>116</sup> The NCI had reported lung cancer research received only \$1,553 per death from federal funding, compared to \$14,400 per breast cancer death.<sup>117</sup> Philip Morris`, Reynolds American`, California Distributors Association and UST reported they lobbied against the bill.<sup>4</sup> AB 89 was referred to the Assembly Governmental Organization and Revenue and Taxation Committees. The hearings in each committee were cancelled at the author's request and the bill died at the end of the session without a hearing, which suggests the author did not seriously pursue the measure. Garnering enough Democratic support would be a challenge, but with the Republicans still controlling more than one-third of each house made any tax increase effectively impossible.<sup>112</sup>

As a second strategy in 2009, Assemblymember Torlakson introduced ACA 22 on April 22, 2009 which would have submitted to voters a constitutional amendment to increase cigarette taxes by \$1.48 a pack and increase the tax on tobacco products by an equivalent amount, with the revenues appropriated to fund education, children's health care, tobacco cessation services, lung cancer research, and general health care, the same as in Torlakson's AB 89.<sup>118</sup> It also would have barred the Legislature from imposing by statute any additional tax on cigarettes or tobacco products between January 1, 2011 and December 31 2015, a tactic to garner more support for the bill. It was referred to both the Governmental Organization and Revenue and Taxation Committees. ACA 22 was not heard in either committee and died. Because the bills did not get heard in their first policy committees, Assemblymember Torlakson may not have made this legislation a priority.<sup>116</sup>

At the same time, Torlakson, who was in the running for California Superintendent of Public Instruction, introduced AB 267, which would have allowed education finance districts to create special taxes. The legislation was heavily supported by many school districts and teachers unions and could have been a higher legislative priority for Torlakson than was the tobacco tax increase.<sup>119</sup> AB 267 passed in both houses, but was vetoed by Governor Schwarzenegger.

## *SB 600: Attempt at a Cigarette Tax Increase for the General Fund*

### *Origins of Senate Bill 600*

The voluntary health organizations wrote and co-sponsored, and Senators Alex Padilla (D, Dist. 20, \$0) and Darrell Steinberg (D, Dist. 6, \$0) co-authored SB 600 to increase the tax on cigarettes by \$1.50 per pack with an equivalent increase on tobacco products; both Senators thought it would be a great way to generate revenue for the General Fund.<sup>120</sup> The tax rate would be adjusted annually for inflation as measured by the Consumer Price Index.<sup>121</sup> Sen. Steinberg was President Pro Tempore of the Senate, which gave the measure a higher chance of passage in the Senate. As a result, it also drew a long list of supporters and opponents (Table 3.3).

As introduced on February 27, 2009, 15% of the revenue would fund existing tobacco control programs, with the hope they could create new television ads geared towards teenagers, and a new lung cancer research program, with 85% going into the General Fund<sup>113</sup>. The Board of Equalization estimated that the tax would initially raise \$1.2 billion.

### *Advocacy Efforts*

Understanding the difficulty of passing a tax increase, the voluntary health organizations created a broad plan in an environment in which a vote of two-thirds in both houses of the Legislature was needed to pass a tax increase and Republicans, with their “no tax” pledges, held more than one-third of the seats in both houses, and Governor Schwarzenegger (R) opposed any new taxes. Through the lengthy budget debates of 2009, efforts were made by the voluntaries and other support groups to view the tobacco tax as a sensible revenue source for the general fund. Given the powerful allies in the Senate and the large budget deficit, the voluntaries saw this as an opportune time to pursue this legislation.<sup>122</sup>

***This six-month campaign was the highest priority state legislative effort for ACS and its allies at the American Lung Association and the American Heart***

This six-month campaign was the highest priority state legislative effort for ACS and its allies at the American Lung Association and the American Heart Association.<sup>122</sup> The plan was backed by funding of \$400,000 from ACS CAN, the lobbying and grassroots branch of the ACS organization, and the Campaign for Tobacco-Free Kids. These funds increased the capacity and impact of the voluntary health organizations through additional lobbying, polling, online advocacy, grass roots organizing, media exposure and campaign management.<sup>122</sup> It was the feature issue of state lobby days for each of the three groups. Dozens of meetings took place with legislators and legislative staff, both at the capitol and in the districts. The field staffs of the voluntary health organizations were heavily engaged. ACS led 26 coalition lobbying meetings in the districts of swing legislators. Outreach to the media resulted in extensive coverage of the issue. Opinion pieces from volunteer leaders of ACS and allies ran in many major dailies. Influential political columnists, including George Skelton of the *Los Angeles Times*, reversed long held positions of opposition to a tobacco tax increase.<sup>113</sup> Tens of thousands of email alerts

Supporters	Opponents
American Cancer Society	Asian Business Council *
American Heart Association	Association of Los Angeles County Deputy Sheriffs
American Lung Association	Brawley Chamber of Commerce
Alameda County Board of Supervisors	California Black Chamber of Commerce *
American Dental Association	California Chamber of Commerce *
American Federation of State, County and Municipal Employees	California Distributors Association *
Asian & Pacific Islander American Health Forum	California Grocers Association *
Breathe California	California Independent Grocers Association
CA Chapter of the American College of Cardiology	California Licensed Beverage Association
California Dental Association	California Manufacturers & Technology Ass'n *
California Emergency Nurses Association	California Retailers Association *
California Hospital Association	California Statewide Law Enforcement Ass'n
California Medical Association	California Taxpayers Association *
California Thoracic Society	Cigar Association of America
Consumer Attorneys of California	Commonwealth Brands
Los Angeles County Office of Education	El Centro
MAGNA Systems Inc	Garden Grove Chamber of Commerce
Marin County Board of Supervisors	Lake Elsinore Valley Chamber of Commerce
The Lung Cancer Alliance - California	Long Beach Area Chamber of Commerce
Tobacco Education & Research Oversight Committee	Menifee Chamber of Commerce
	Murrieta Chamber of Commerce
	Neighborhood Market Association *
	Philip Morris
	Redondo Beach Chamber of Commerce
	Regional Black Chamber of Commerce of San Fernando Valley
	Reynolds American
	Southwest California Legislative Council
	Temecula Valley Chamber of Commerce
	UST
	West Covina Chamber of Commerce
	Wildomar Chamber of Commerce

\* Opponents of Proposition 29 in 2012 (Table \_)

were disseminated. Targeted radio ads, Internet banner ads and phone banking were also utilized.<sup>122</sup>

### Opposition

Once again it is hard to gauge what the tobacco industry was actively doing, but tobacco industry arguments that a tobacco tax was regressive were brought forth by opposing conservative members of the Legislature<sup>123</sup>

### Addressing Revenue Issues

The Senate Health Committee adopted the authors' amendments on June 9, 2009 that changed the allocation of the 15% of the revenue to fund existing tobacco control programs, to doubled funding for a new lung cancer research program pushed by the Lung Cancer Alliance –

California and added funding for tobacco law enforcement and created a new Tobacco Tax General Fund Account in the General Fund for the other 85% (Table 3.4) of the revenue without specifying any allocation of the Account.<sup>124</sup> The funding for law enforcement included \$10.8 million to BOE to enforce laws regulating the sale and distribution of cigarettes and tobacco products.

AB 71 passed by the Legislature in 2003 created the California Cigarette and Tobacco Products Licensing Act of 2003.<sup>63</sup> That Act required retailers to obtain a license to sell tobacco products, but only imposed a onetime fee of \$100 to cover administration, which raised only a little more than \$1 million annually, while the cost of administration was over \$9 million annually. The shortfall in AB 71 revenue for the cost of BOE administration was allocated by the Legislature proportionately among Proposition 99, Proposition 10, the Breast Cancer Research Fund and the General Fund accounts.<sup>63</sup> The Legislature passed AB 2344 in 2008 to impose annual renewal fees to eliminate this AB 71 shortfall, but Gov. Arnold Schwarzenegger vetoed the bill.<sup>64</sup>

***Senator Steinberg did not want to push a vote on SB 600 that would force Democrats to vote to support a tax if there was no chance the bill would pass***

On July 9, 2009 the bill was placed on the Revenue and Taxation Committee suspense file, where bills with a fiscal impact may be sent. On August 31, 2009, SB 600 was passed favorably out of the Appropriations Committee and referred to the Rules Committee, chaired by Senator Steinberg.

### *Failing to Pass Senate Bill 600*

A procedural vote, used to test whether there was enough support for the passage of the \$1.50 tobacco tax increase, was put to a floor vote in both houses by Democrat leaders; it received a majority in each house but not the two-thirds needed for passage. With this result, Senator Steinberg did not want to push a vote on SB 600 that would force Democrats to vote to support a tax if there was no chance the bill would pass.<sup>122</sup> No further action was taken on SB 600 in the Legislature, and it died with the end of the Session despite an aggressive effort by the voluntary health organizations.<sup>122</sup>

### *Aftermath: Trying New Ways to Increase Cigarette Prices*

The voluntaries then explored two other alternatives. One was to pursue a tobacco fee that required only a majority to pass. The limitation was that the fee revenue could only be expended in a way that demonstrably mitigates harm caused by the product on which the fee is assessed. In the case of a tobacco fee that meant tobacco use prevention and cessation, cigarette butt litter cleanup or fire prevention would have been appropriate, but nothing could go to the General Fund. This may have made it less attractive to legislators. In the California Supreme Court decision in *Sinclair Paint Company v. State Board of Equalization, et al.*,<sup>125</sup> the Court held that fees paid under the Childhood Lead Poisoning Prevention Act of 1991 were valid regulatory fees and not improper special taxes that had failed to comply with 2/3 supermajority vote required under Proposition 13. The Sinclair Paint decision allows a fee on a product or service if there is a

Original		First Amended	
Percentage	Recipient	Percentage	Recipient
65% (\$117 million)	Department of Public Health Tobacco Control Program	45% (\$81 million)	Department of Public Health Tobacco Control Program
15% (\$27 million)	Department of Education (For tobacco use prevention)	10% (\$18 million)	Department of Education
10% (\$18 million)	University of California Tobacco Related Disease Research Program	10% (\$18 million)	University of California Tobacco Related Disease Research Program
10% (\$18 million)	University of California to establish Lung Cancer Early Detection and Treatment Research Program	20% (\$36 million)	University of California to establish Lung Cancer Early Detection and Treatment Research Program
		15% (\$27 million)	40% (\$10.8 million) to BOE to enforce laws regulating the sale and distribution of cigarettes and tobacco products
			40% (\$10.8 million) to DPH for grants to local law enforcement agencies for training and funding for enforcement of state and local tobacco control laws.
			20% (\$5.4 million) to the Attorney General to enforce tobacco control laws.

direct nexus between the cost of mitigating a problem, such as the economic burden of tobacco-related disease, and the parties who are to pay the fee (smokers), and that the funds raised by the fee are used exclusively to mitigate the adverse effects of secondhand tobacco smoke. This changed in 2010 when voters passed Proposition 26 with 52.5% that required a 2/3 super majority vote on most fees. Negotiations between legislative leaders and the Governor’s Office did not result in an agreement.

The ACS had other alternative ideas for increasing the tobacco tax. One was a legislative referendum to amend Proposition 99 (1988) by a vote of the people. Governor Schwarzenegger was not willing to support this approach, so it was not pursued.<sup>122</sup>

This campaign foreshadowed the efforts of the voluntary health organizations in supporting Proposition 29 to increase the tobacco tax by \$1 for biomedical research and tobacco control that appeared on the June 5, 2013 Primary Election.<sup>122</sup>

*ABX3 2 and ABX3 39: Cigarette Tax Increase Attempts During California's Budget Crisis*

In 2009, several extraordinary sessions were called by Governor Schwarzenegger to address California's Budget Crisis, which created opportunities for the Legislature to increase tobacco taxes. The Assembly considered two bills seeking to increase cigarette taxes during its third extraordinary session; bills during extraordinary session are given numbers reflecting so, for example "ABX3". The two bills introduced were ABX3 2 and ABX3 39.



Assemblymember Noreen Evans (D, Dist. 7, \$0), who was chairing the Legislature's Budget Conference Committee, introduced ABX3 2 on January 5, 2009 as a spot bill to be used as part of changes to the Budget Act of 2008 that would be required as a result of Governor Schwarzenegger's declaration of a fiscal emergency on December 19, 2008 and his calling a special session of the Legislature for that purpose. A "spot bill" is a placeholder bill introduced without substantive language but a declared subject matter to ensure that a bill will be available at a later date; it cannot be referred to a committee without substantive amendments. Later amendments must be "germane" (relevant) to that declared subject matter. language appeared as: "It is the intent of the Legislature to enact statutory changes relating to the Budget Act of 2008." It passed 48-0 in the Assembly and was sent to the Senate.

On June 29, 2009 ABX3 2 was amended by floor vote in the Senate to repeal existing motor fuels taxes that were allocated to special transportation accounts and to impose other fees and taxes allocated to the General Fund to ease the budget shortfall among General Fund accounts. Among the other fees and taxes, ABX3 2 included a \$1.50 per pack increase in the cigarette tax with an equivalent increase in the tax on tobacco products. At the time SB 600, which would have increased the cigarette tax by \$1.50, was still pending, but would have required a 2/3 super majority vote for passage, but would have provided additional funding for the existing tobacco control programs while ABX3 2 would have all of the tobacco tax increase go to the General Fund. It passed in the Senate 22-17 without a single Republican vote and was sent to the Assembly.<sup>126</sup> (ABX3 2 did not require a 2/3 super majority because it was not a tax increase, but rather a swap of one tax for others with no net increase in revenue.) The Assembly never voted on concurrence in the Senate amendments, and the bill died. There was no registered support for or opposition to ABX3 2.

While ABX3 2 was inactive in the Senate, ABX3 39 was introduced June 18, 2009, also by Assemblymember Noreen Evans, as a spot bill related to the Budget Act of 2009 with no operative language. In the Assembly, it proceeded to third reading and a floor vote, as required for all spot bills, on June 28, 2009 without reference to any committee. On third reading, it was amended on a floor vote to repeal existing motor fuels taxes that were allocated to special transportation accounts and to impose other fees and taxes allocated to the General Fund to ease the budget shortfall among General Fund accounts. Among the other fees and taxes, ABX3 2 included a \$1.50 per pack increase in the cigarette tax with an equivalent increase in the tax on tobacco products. AHA and ALA were pushing SB 600 for a \$1.50 increase at this time and devoting their energies to it and it alone.<sup>127</sup> ACS was supportive of all of the attempts to increase the tobacco tax. It passed the Assembly 44-31 on June 28, 2009, largely along party lines, and was sent to the Senate the same day. ABX3 39 language was identical to what the Senate amended into ABX3 2 on June 29, 2009, so it is unclear why it was never assigned to a Senate committee and died.

***In 2009, several extraordinary sessions were called by Governor Schwarzenegger to address California's Budget Crisis, which created opportunities for the Legislature to increase tobacco taxes***

The purpose of these two bills was to fund health care reform, which was a continuing and ongoing issue and a priority for voluntary organizations.<sup>123</sup> However, the anti-tax climate (the requirement of a 2/3 vote, and the Governor and Republicans were not supportive of additional taxes after agreeing to a temporary sales tax hike earlier in the budgeting process), so the health groups did not mobilize to support these bills.

#### *SB 1109: Attempt to Reallocate Proposition 10 Cigarette Tax Revenue*

Senator Dave Cox (R, Dist. 1, \$38,350) introduced SB 1109 on February 17, 2010 to radically change the funding allocation of the tobacco tax imposed by 1998's Proposition 10 that increased the cigarette tax by 50 cents and allocated the money to the First 5 early childhood development programs. SB 1109 would have submitted a legislative referendum to the voters to eliminate the California Children and Families Commission (CCFC) and the county children and families commissions that implement First 5 and transfer the money to the General Fund for appropriation to the Healthy Families Program and Medi-Cal.<sup>128</sup>

Senator Cox argued that a series of California State Audit reports had shown that CCFC had been mismanaging funds, and by eliminating First 5 there would be more Proposition 10 funds allocated to other services.<sup>128</sup>

The Senate Health Committee killed SB 1109 by 2-6. It was opposed by a large number of children's and family organizations. The voluntary health organizations were watching the bill, and did have conversations with Cox to see if they might have some common ground in pushing the State First 5 commission to spend more of their funds on tobacco control. Nothing ever came from these conversations.<sup>116</sup>

#### **2011-2012**

#### *SB 653: Attempt to Allow Local Governments to Impose Various Taxes*

In an attempt to authorize local governments to impose additional taxes, including taxes on cigarettes and tobacco products, oil, and alcohol, Senate President Pro Tem Darrell Steinberg introduced SB 653 on February 18, 2011. As originally proposed, it would have authorized the board of supervisors of any county or city to submit the issue to voters.<sup>129</sup> Senator Steinberg argued that the bill would give local populations the ability to tax themselves if they choose.<sup>130</sup>

The Senate Governance and Finance Committee adopted the author's amendment to expand the authorization to the governing board of any county or city and county and any school district. The Senate Appropriations Committee adopted the author's amendment to change the authorization to the governing board of any county or city, community college district and any county office of education.<sup>131</sup>

The bill was supported by a number of labor and education organizations and opposed by a large number of business organizations. On August 22, 2011, the bill was ordered to the inactive file at the request of Sen. Steinberg and died. In addition to the long list of opponents, the Franchise Tax Board stated they did not have the resources available to implement the bill. There would be

an initial cost to develop a program to tax each person based on their city, county, and school district.<sup>130</sup> The American Cancer Society stated it was ready to support the bill if it had moved forward;<sup>115</sup> the Senator's office was aware of this support, but chose not to pursue the measure. *SBX1 23: Attempt to Allow Tobacco Taxes*

SBX1 23 was introduced on May 18, 2011 by the Senate Budget and Fiscal Review Committee with language identical to SB 653 to authorize the governing board of any city, county, school district, community college district, and county office of education to levy, increase or extend a number of taxes and fees, including a cigarette and tobacco products tax, with voter approval. SBX1 23 was supported by a number of public employee unions, two school districts (San Bernardino and San Francisco) and opposed by the Howard Jarvis Taxpayers Association and a number of businesses and business trade organizations. It passed the Senate 21-16 and was sent to the Assembly. It was referred to the Assembly Revenue and Taxation Committee and sent to the suspense file, where all bills with a fiscal impact may be sent while the committee decides on further action on the bill. The committee decided to keep the bill on the suspense file, where it died. Philip Morris lobbied against the bill.

Given Governor Brown's adamant opposition to raising tax revenue without a vote of the people, the ACS, though supportive, saw little opportunity for its passage and decided not to work on the measure.<sup>115</sup>

## **2013**

### *SB 768: An Attempted Cigarette Tax Increase Blocked by the Governor and Legislature Leadership*

In 2013, the health groups made another concerted effort to increase the tobacco tax when they worked with Sen. Kevin De Leon (D, Dist. 22, \$0) on SB 768. This bill was co-sponsored by the American Cancer Society Cancer Action Network, American Heart Association, American Lung Association in California, Health Access California, and Service Employees International Union California, and supported by a number of public health and tobacco control organizations.<sup>132</sup> It was considered one of the top legislative priorities of the year by the voluntary health organizations.<sup>115</sup> The goal was to introduce a bill that the voluntaries and the Senator determined provided robust funding for prevention services, specifically for the California Tobacco Control Program.<sup>116</sup> Additionally, they were interested in funding MediCal as it related to tobacco-related diseases.<sup>116</sup>

Sen. De Leon introduced SB 768 on February 22, 2013, the last day to introduce a new bill in the 2013 Legislative Session, as a spot bill with a single sentence: "It is the intent of the Legislature to conduct a review of the structure of the Cigarette and Tobacco Products Tax Law."<sup>133</sup> A spot bill may be introduced to create a germane vehicle to be used for substantive amendments on the same subject at a later date.

Sen. De Leon amended it on April 17 to add \$2.00 to the existing \$.87 cigarette tax rate, and included an annual inflation adjustment. Revenue would be allocated in unspecified percentages among three accounts: Tobacco Prevention and Education Account, Tobacco Disease Related

Health Care Account, and the Tobacco Law Enforcement Account.<sup>134</sup> These three accounts were roughly equivalent to the tobacco control accounts created in Proposition 99 in 1988 that created the California Tobacco Control Program. It was initially formally opposed by the California Chamber of Commerce and Reynolds American, Inc.

A substantial amount of revenue going to the expansion of health care was a critical feature to attract swing Democratic votes.<sup>116</sup> The lobbying on the bill by the voluntary health organizations was taken hearing by hearing to make sure that funding was all allocated to tobacco control programs, and the voluntaries worked closely with committee leadership to ensure this was a viable option and best investment of tax dollars, if and when leadership decided to take up tax legislation.<sup>116</sup>

SB 768 was voted “Do Pass” 6-2 in the Senate Committee on Health, as amended to delete the annual inflation adjustment provisions, and 5-2 in the Senate Committee on Governance and Finance, both on May 8, 2013. On May 14, 2013, on Second Reading, the Senate Committee on Health’s proposed amendment was adopted in a floor vote to delete the annual inflation adjustment provisions.<sup>132</sup>

All tax-related legislation was being held in the Senate Appropriations Committee<sup>123</sup> because the Governor, Assembly Speaker John. A. Perez and Senate President Pro-Tem Darrell Steinberg had indicated they did not want to increase taxes because of the passage of Proposition 30 in 2012, in which voters agreed to increase sales and some income taxes.<sup>115</sup> On May 20, 2013, the bill was placed on the Senate Committee on Appropriations Suspense File by a 6-0 vote; bills on the Suspense File may be heard at a later hearing. On July 10, 2013, Eric Batch, Vice President of Advocacy for the Western States Affiliate of the American Heart Association, reported that SB 768 was effectively dead for the 2013 Session as the leadership in the Legislature and the Governor’s Office would not support any tax increases.<sup>135</sup> It officially died in the Senate Appropriations on January 31, 2014 because no action had been taken on it.

***The goal was to introduce a bill that the voluntaries and the Senator determined provided robust funding for prevention services, specifically for the California Tobacco Control Program.***

The period 2007-2014 was a difficult one for tobacco control advocates working to increase tobacco excise taxes in the Legislation. Until the 2012 election, the Republicans held more than one-third of the seats in both the Senate and the Assembly and stuck tenaciously to their anti-tax pledges. Governor Jerry Brown (D) campaigned in 2010 on a promise not to increase taxes without a vote of the people. A man of his word, Brown submitted to voters Proposition 30 in 2012 that voters approved to raise sales and taxes on higher earners for five years. In 2012, the Legislature became 2/3 Democratic, giving it the power to more easily raise taxes. However, the Governor and the Democratic legislative leadership were not supportive on using that new power to enact cigarette tax increases. With the failure of Proposition 29 in 2013 to increase cigarette taxes by \$1.00, tobacco control advocates had little or no place to go to increase tobacco taxes.

## Smoking Restrictions

Between 2007 and 2014, there were seventeen attempts to close loopholes in the state smokefree workplace law (AB13, passed in 1994), and to restrict smoking in specific venues including hospitals, public parks and beaches, multi-unit housing, and university campuses. The voluntary health organizations, ACS, AHA, and ALA, generally supported any measures that limited the exposure to secondhand smoke, however, their major goals were closing smokefree workplace loopholes in AB 13 and expanding smokefree multi-unit housing restrictions.<sup>115-116</sup> Reflecting long-established arguments against smoking restrictions promoted by the tobacco industry,<sup>136-141</sup> there was an ongoing tension in the Legislature between some conservatives (in both parties), who supported the personal freedom to smoke, and liberal members who supported freedom from secondhand smoke.<sup>115</sup> The effect of this tension was difficulty in passing legislation to restrict smoking. Many of the bills were blocked by Assembly Government Organization Committee Chair Isadore Hall. Of the seventeen smoking restriction bills introduced in the 2007-2014 period, only seven passed in the Legislature and only three were signed into law. Governor Arnold Schwarzenegger (R) vetoed the two bills that passed in the Legislature during his administration. Governor Jerry Brown (D) signed the three that became law but vetoed two others.

***Between 2007 and 2014 there were seventeen attempts to close loopholes in the state smokefree workplace law.***

### 2007-2008

#### *SB 1418: Attempt for Smokefree State Parks and Beaches*

In 2003, the Legislature passed a law that created smokefree policies for playgrounds at public parks in order to protect children from secondhand smoke. Following the state law many California cities and counties took steps to strengthen their laws reducing or eliminating secondhand smoke entirely from outdoor venues, including parks and beaches.<sup>142</sup> The efforts had been supported by the CTCP media campaign (Chapter 1), highlighting the environmental impact of cigarette butts. In particular one ad features fish consuming cigarette butts. By 2014, almost all Southern California beaches were covered by smoking restrictions through local ordinances (Chapter 4).

Following significant passage of local laws in Southern California prohibiting smoking on beaches, Sen. Jenny Oropeza (D, Dist. 28, \$1,000), whose long time battle with cancer led her to be a champion for both health and environmental causes, pushed for smokefree state parks and beaches.<sup>143</sup> She introduced SB 1418 on February 21, 2008 to prohibit smoking at a state beach or park, or other unit of the state park system. Additionally, the bill would impose a \$100 fine for failure to comply, but did not require signage.<sup>144</sup> This bill was identical to SB 4 she had introduced in 2007 that had died (discussed in our earlier report.)<sup>65,116</sup> This bill would address beaches in Northern California, most of which are state beaches, and all state parks. SB 1418 was supported by the voluntary health organizations and the Mayor of Los Angeles, but no environmental groups formally supported it. Citing a 1998 U.S. EPA statistic, Senator Oropeza argued that cigarette butts were the number one marine debris found in the United States.<sup>144</sup> The bill passed in the Senate Natural Resources and Water Committee with an

amendment to exempt adjacent parking lots. The amendment was approved on Second Reading and was re-referred to the Senate Natural Resources and Water Committee, where a hearing on the measure was cancelled at the request of the author, and the bill died.<sup>144</sup> The voluntaries supported the legislation by writing a letter of support and testifying at the Committee hearing. They believed it would decrease exposure to secondhand smoke and denormalize smoking. The Committee had concerns about the ability to enforce the measure without proper signage.<sup>144</sup>

### *SB 1598: Smokefree Multi-Unit Housing*

On February 22, 2008, Sen. Alex Padilla (D, Dist. 20, \$0) introduced SB 1598, which would have permitted a landlord of residential property to prohibit smoking in all areas of the rental property. The bill was sponsored by the California Apartment Association. At the time, California law did not prohibit landlords from prohibiting smoking, which created confusion about the necessity of the bill. The author stated that the bill was an attempt to clarify the rights of the landlords, and for that reason the AHA, ALA and ACS initially supported the bill.<sup>145</sup>

The bill was strongly opposed by the Western Center on Law and Poverty (WCLP), a liberal organization, on the grounds it would disproportionately affect low-income smokers and possibly children.<sup>145</sup> Despite the fact the residents of affordable multi-unit housing are particularly vulnerable to secondhand smoke, WCLP has a history of siding with the tobacco industry on tobacco control fights.<sup>146-147</sup>

Arguments that the bill disproportionately affected low income housing led the bill to be amended in Senate Judiciary Committee to exempt rent-controlled units. In addition, it was amended to grandfather in smoking tenants with existing leases, making it much more difficult for a landlord to create a smokefree building. Though the bill was supported by the California Apartment Association, the Apartment Association of Southern California now opposed it calling it a "Smoker's Protection Act." It passed in the Senate 22-16.

***Arguments that the bill disproportionately affected low income housing led the bill to be amended in Senate Judiciary Committee to exempt rent-controlled units.***

The voluntary health organizations now opposed the amended bill and said they would only support it if it returned to its original form.<sup>148</sup> The California Distributors Association was the only tobacco industry organization that reported lobbying against it.<sup>149</sup> The Distributors Association had a historic connection to the tobacco industry. Long time California Distributor's Association lobbyist Dennis Loper also represented the Smokeless Tobacco Council and was a key ally during the tobacco industry campaign against Proposition 10 in 1998.<sup>101, 150</sup>

### *AB 3010: Tobacco-Free State Mental Hospitals*

Existing law prohibited the possession and use of tobacco at California prisons and juvenile detention facilities, but required permitting patients at state mental hospitals to smoke in designated smoking area. About 85% of the patients in state mental hospitals were there as a result of a criminal sentence or parole from a prison or jail to a state mental hospital. In 2006, Assemblymember Sam Blakeslee (R, Dist 33, \$6,600) tried to correct this inconsistency, but his

AB 1880 was watered down to only require the director of Atascadero State Hospital, the maximum security hospital that administers care, treatment and education to the mentally disordered for the entire state located in Blakeslee's district, to develop a hospital-wide strategic plan to improve the health, safety, therapeutic, and workplace environment with relation to the presence or use of tobacco.<sup>65</sup> The California Association of Psychiatric Technicians (CAPT) supported the measure to eliminate smoking to protect the health of patients and staff. CAPT also argued that it would reduce the cost of medications as lower doses would be required to overcome the effects of nicotine. An additional factor cited by CAPT was the banning of tobacco use at California prisons, which created an incentive for prisoners to manipulate the system to get assigned to a state mental health facility where they could smoke. This ties up hospital resources while clinicians determine they do not have a mental illness that warrants hospitalization. A patients' advocacy group cited the patient's right to smoke to help calm themselves. Atascadero State Hospital issued a memo in October 2007 that stated state regulations requiring a designated smoking room were prohibiting them from implementing a smokefree policy.<sup>151</sup>

***The author of the bill stated his reasons for regulating tobacco use in ASH involved violence among patients over barter of cigarettes.***

Blakeslee introduced AB 3010, a spot bill on MediCal benefits, but then amended it in the Assembly Health Committee to prohibit the possession and use of tobacco products by patients and staff in state mental hospitals.<sup>152</sup> Assemblymember Blakeslee argued that a smoking ban would increase patient and staff safety not only by protecting them from secondhand smoke, but by also decreasing patient tensions on their smoke breaks by eliminating the breaks and the bartering of cigarettes by patients, and increasing time for other patient activities.

From the beginning, the measure was widely supported by mental health professionals and law enforcement organizations. The bill was also supported by the American Cancer Society and the American Lung Association.

Protection & Advocacy, Inc., a non-profit advocacy organization whose goal was to advance the human and legal rights of people with disabilities, initially opposed the bill because there was no smoking cessation program required.<sup>151, 153</sup> They later shifted to support the bill once smoking cessation services were mandated.

The Assembly Appropriations Committee, by unanimous vote, amended AB 3010 to remove the prohibition of the possession and use of tobacco products and authorized, but did not require, the Director of Mental Health to issue regulations to the same effect.<sup>154</sup> This was to harmonize the proposed law to other laws governing the mental hospitals that authorize the Director of Mental Health to make regulations regarding the conduct and management of the mental hospitals. In addition, it removed the blanket prohibition on staff tobacco use by allowing tobacco use in staff residential areas where no patients were present the Assembly passed AB 3010 by a vote of 78-0.

The Senate Health Committee further amended the measure to require that the director of a mental hospital request a tobacco-free hospital before the Director of Mental Health could prohibit tobacco possession and use, added "any other person" to patients and staff that could not

possess or use tobacco on hospital grounds other than in staff residential areas where no patients were present, and added cessation services for any patient requesting it that would include an individual medical treatment plan, counseling, prescription drugs and NRTs. The amendment also required the Director of Mental Health to include an implementation plan for the tobacco-free program that included a phase-in period for implementation.<sup>151</sup> The Committee members thought that without a cessation program, it was not appropriate to prohibit smoking.<sup>151</sup> It passed in the Senate 29-6. The Assembly concurred with the Senate amendments, and the governor signed the measure.

## **2009-2010**

### *SB 4: Smokefree Parks and Beaches: Vetoed by Schwarzenegger*

Sen. Jenny Oropeza (D, Dist. 28, \$1,000) tried again to prohibit smoking on state beaches and parks by introducing SB 4 on December 1, 2008 to be acted upon on or after January 1, 2009.<sup>155</sup> As introduced, it would prohibit all smoking on a state coastal beaches or in a unit of the state park system. Under existing law, the Department of Parks and Recreation could only prohibit smoking in areas in which it found an extreme hazard of fire. It passed in the Senate 21-14. The Department of Parks and Recreation then weighed in to oppose the bill in the Assembly because of the costs involved in providing signage and enforcement activities on 300 miles of state coastal beaches and in 279 state parks that encompassed 1.3 million acres. It was amended on the Assembly floor on July 13, 2009 to incorporate the author's amendments to provide that the ban would be in effect on coastal beaches and in units of the state park system only if the district superintendent of the state park system posted an order in accordance with state park regulations that prohibited smoking in those areas and that notice of the proposed order had been provided for at least 30 days. This amendment caused the Department of Parks and Recreation to drop its opposition.

It was originally supported by ACS and ALA, later joined by environmental groups, including The Sierra Club and the Ocean Conservancy.<sup>155</sup> ACS and ALA decided to not to support the bill after the Assembly amendment because there were no signage requirements and no enforcement mechanisms. The author did not want to include those measures, because of the costs that they could incur for the state.<sup>116</sup> Local efforts to prohibit smoking on state beaches had included robust education campaigns and enforcement measures, and the Lung Association believed that those efforts were possible at the state level, and did not want to see anything less.<sup>116</sup> SB 4 passed in the Senate on May 14, 2009 and was sent to the Assembly where several non-substantive amendments were made. On August 27, 2009, it was placed in the inactive file at the request of Assemblymember Alberto Torrico (D, Dist. 20, \$2,000).<sup>155</sup> The last date for passage of the bill in the Assembly was August 31; by placing the bill in the inactive file, it could then be removed from the inactive file and taken up on the floor of the Assembly in the 2010 Session. On January 4, 2010, Majority Floor Leader Assemblymember Paul Krekorian (D, Dist. 43, \$0) filed a motion to remove the bill from the inactive file, which passed on January 5, 2010. On March 22, 2010, SB 4 passed in the Assembly 42-27. Other than the usual lobbying, there was no other campaign to get this bill passed.

On May 3, 2010, Governor Schwarzenegger vetoed it:



This bill would impose a ban on smoking in parks and coastal beaches owned by the state of California. While I understand and appreciate the intent of the author with respect to addressing the issues of public health protection, fire hazard mitigation and marine debris avoidance, I am unable to sign this bill for several reasons.

First, I believe this bill is an improper intrusion of government into people's lives. I have supported laws in the past that tackle the problem of smoking indoors and smoking in cars with children. But, by mandating in state law that people may not smoke outdoors in certain areas, this bill crosses an important threshold between state power and command and local decision-making. There is something inherently uncomfortable about the idea of the state encroaching in such a broad manner on the people of California.

Current law already allows discretion by local governments and the Department of Parks and Recreation to ban smoking in parks and beaches under certain circumstances. The Department has exercised its authority throughout the state and has already banned smoking in several areas where fire hazards exist. Additionally, cities and counties throughout the state have appropriately exercised their authority and banned smoking in many parks under their jurisdiction. I think this is a discretionary decision that is best left with the Department and local government.

With respect to marine debris, I understand the challenge cigarette butts cause to our beaches and marine life. But, this bill applies the ban solely to those beaches and parks owned and operated by the state of California. When considering the contiguous nature of state-owned and locally-owned beaches, the purpose of the bill is undermined if the difference between legal activity and illegal activity is literally a line in the sand. As we have seen, marine debris and litter know no boundaries. I believe a more appropriate response is to increase the fines and penalties already in law for littering in our parks and on our beaches.

For these reasons I am unable to sign this bill.<sup>64</sup>

There was no attempt to override the veto.

*AB 574: Acute Care Hospital Campuses, vetoed by the Governor*

Breathe California and the California Tobacco Control Alliance, a Robert Wood Johnson Foundation funded state-wide tobacco control coalition that consisted of the voluntary health organizations and other non-profit and government agencies<sup>156</sup> and The California Endowment, co-sponsored, and Assemblymember Jerry Hill (D, Dist. 19, \$0) introduced, AB 574 as a spot bill authorizing the California Department of Public Health to establish a program to reduce the risks of tobacco smoke for hospital patients, staff and visitors and to assist these person to quit smoking.<sup>157</sup> On April 13, 2009, Hill amended it to prohibit smoking in patient care areas, waiting rooms, and visiting rooms of all health facilities.<sup>158</sup> The Assembly Health Committee adopted the author's amendment which limited its prohibitions to acute care hospitals and applied it to all areas of the hospital campus, indoors and out, including parking structures,

vehicles, and sidewalks.<sup>158</sup> The California Hospital Association initially opposed it, but dropped its opposition when the author agreed to an amendment allowing smoking on a hospital campus by a patient if the treating physician determined that the patient's treatment would be substantially impaired by the denial to the patient of the use of tobacco and the physician entered a written order permitting tobacco use by the patient.<sup>159</sup> The bill contained no requirements for enforcement or penalties, which was likely a strategy to avoid keep the costs down, and avoid opposition from members of the Appropriations Committee.<sup>159</sup> The American Lung Association wrote a letter supporting AB 574. The American Cancer Society thought that the bill did not really do much, since hospitals already had the ability to prohibit smoking, so it was not a policy priority.<sup>115</sup> It passed in the Assembly 46-25 and 21-15 in the Senate, with Democrats supporting it and Republicans opposing it. Breathe California sponsored a letter writing campaign to the Governor's office and reached out to other organizations such as the California Medical Association for support.<sup>160</sup>

Governor Schwarzenegger vetoed it on October 11, 2010:

I support California's strong anti-smoking programs, as evidenced by my support for several anti-smoking bills over the last several years. I signed legislation that prohibited smoking in a vehicle with children; increased the fines and penalties for selling tobacco products to underage minors; and banned tobacco products in our state correctional facilities and state hospitals. I also support California's strong anti-smoking program and included funds for a stronger smoking cessation program in my 2007 health care reform proposal.

However, this bill is unnecessary. Current law already prohibits smoking in hospital patient care areas, waiting rooms and visiting rooms of a health facility. Hospitals also have the ability to further restrict smoking on their campuses to include open-air areas such as patios, parking lots and sidewalks.

For this reason, I am unable to sign this bill.<sup>161</sup>

There was no attempt to override the veto.

## **2011-2012**

### *SB 796: Contraband in State Mental Hospitals*

Sen. Sam Blakeslee (R, Dist. 15, \$0) introduced a spot bill SB 796 on February 18, 2011 to make non-substantive changes to an existing statute on parole procedures. At the request of several state employee unions and as a follow up to his previous successful tobacco control efforts in state mental hospitals made by Blakeslee when he served in the Assembly, the author decided to penalize individual attempting to smuggle tobacco products into state mental hospitals. (See AB 3010, 2008),<sup>162</sup> on March 29, 2011, the Senate Rules Committee adopted the author's amendments to strike the original language and substitute provisions making it a misdemeanor punishable by a fine of up to \$5,000 "for possession with intent to deliver, or to deliver to any patient in a state mental hospital which has been prohibited for possession by a patient either by

statute or regulation,” and would require confiscation of any such contraband from any visitor.<sup>163</sup> At this time, 92% of the patients in state mental hospitals that had spent time in prison and county jails, bring to the mental hospitals the same behaviors they were exhibiting in prison or jail, including the smuggling of prohibited items (contraband). This bill was aimed at punishing those who smuggled contraband into state mental hospitals.

On April 25, the Senate Public Safety Committee adopted the author’s amendment to specify cell phones, tobacco products if the hospital prohibits tobacco products, and money in excess of limits set by the hospital, and reduced the fine to not exceed \$1,000.<sup>163</sup> SB 796 passed both houses of the Legislature with bi-partisan support and was signed by the governor on August 31, 2011<sup>163</sup>. The bill was supported by several state employees unions, and received no opposition.<sup>162</sup> None of the voluntaries lobbied on this bill.

### *SB 332: Clarifying Property Owners' Rights to Prohibit Smoking*

After 2005, local health departments, community-based organizations, state-funded agencies, and tobacco control advocates began organizing support for smokefree multi-unit housing (Chapter 4).

This measure was an attempt to clarify landlords’ rights to prohibit smoking in their properties after the failure of SB 1598 in 2008. While existing law was being interpreted as allowing a landlord to prohibit smoking on and in their residential properties as long as the rules prohibiting smoking were included in the lease agreement, Sen. Alex Padilla (D, Dist. 20, \$0) introduced SB 332 on February 15, 2011 to codify that right and to establish requirements that the lease agreement specify the areas of the property on and in which smoking was prohibited.<sup>164</sup> The bill also specifically provided that it did not preempt local regulation of smoking in residential rental units.<sup>164</sup> The voluntary health organizations wrote letters of support for the bill, along with the California Medical Association.<sup>165</sup> In addition, the American Heart Association testified at the committee hearings.<sup>123</sup> The California Apartment Association also supported the bill, arguing the landlords were caught in the middle of confrontations between smokers and nonsmokers and needed support for nonsmoking rules. The bill codified existing law so it was non-controversial, but the ordinances, an important effort of local tobacco control advocacy.<sup>116</sup> SB332 passed by wide margins in each house: 33-2 in the Senate and 66-9 in the Assembly. Governor Jerry Brown signed SB 332 on September 6, 2011.<sup>164</sup>

***Voluntary health organizations saw it as another tool in the toolbox of the new and growing movement to encourage local governments to pass smokefree multi-unit housing***

Because landlords already had the right to create smokefree buildings, the bill was noncontroversial and received very little opposition. By 2014, there were at 37 localities that had adopted some form of ordinance on smokefree multi-unit housing (Chapter 4).

*SB 575: Attempting to Close the Smokefree Workplace Law Loopholes*

When AB 13 was passed in 1994 to create the nation's first statewide law mandating smokefree workplaces, it contained some exemptions. Employers with five or fewer employees could permit smoking if the facility is not accessible to minors, all employees consent and the air in the smoking area is exhausted to the outside and not recirculated to other areas of the building. Also exempt were owner-operated businesses with no employees.<sup>166</sup> Sen. Mark DeSaulnier (D, Dist. 7, \$0), along with co-author Assemblymember Jerry Hill (D, Dist. 19, \$0), introduced SB 575 on February 17, 2011 to eliminate the owner-operated businesses exemption along with exemptions for hotel lobbies, meeting and banquet rooms, tobacco shops, patient smoking areas in long-term health care facilities, warehouse facilities, and employee break rooms.<sup>166</sup> This bill would have eliminated most of the exemptions in the 1994 smokefree workplaces law.

The bill was co-sponsored by the voluntary health organizations and Health Officers Association of California. The bill would be one of their top legislative priorities for the year and the voluntary health organizations mounted an aggressive grassroots campaign to support the bill.<sup>116</sup> Given other states' more comprehensive smokefree laws, California was no longer a leader in clean indoor air efforts, which led the voluntaries to believe this was an important and viable piece of legislation<sup>116</sup>.

The California Department of Public Health (CDPH) had advised the authors that nearly 14% of

***14% of California workers reported being exposed to secondhand tobacco smoke in the workplace because of the exemptions***

California workers reported being exposed to secondhand tobacco smoke in the workplace because of the exemptions. AB 13 devolved enforcement of the smokefree workplace law to cities and counties, with state enforcement stepping in only after the employer has been found guilty of a third violation in the previous year. CDPH reported that the owner-operator exemption created an enforcement hardship

on cities and counties charged with enforcing the law, because the investigation required to successfully challenge an owner-operator exemption was time-consuming. CDHP also reported that the "retail tobacco shop" definition in AB 13 was ambiguous, allowing some businesses that served food and drink to successfully claim exemption as a retail tobacco shop.<sup>166</sup>

When the bill passed in the Senate 25-14 on June 2, 2011, the exemptions were eliminated for owner-operated businesses, hotel lobbies, meeting and banquet rooms, patient smoking areas in long-term health care facilities, warehouse facilities, and employee break rooms; the exemption for tobacco shops was restored. In the Assembly, it was initially referred to the Assembly Labor and Employment Committee where it was voted out, with a "do pass" recommendation from the Committee Chair on June 23, 2011 and referred to the Assembly Governmental Organization Committee where it was set for hearing on July 6, 2011. The Cigar Association, led by its lobbyist Paula Treat, had organized a campaign using tobacco shop, cigar store and hookah bar owners to successfully preserve the exemption for their businesses in the Senate.<sup>116</sup>

During the Assembly Governmental Organization Committee hearing, Chair Assemblymember Isadore Hall (D, Dist. 64, \$39,700) would not move the bill in committee unless the author and

the sponsors agreed to weaken the bill even further.<sup>115</sup> The amendments included exemption for warehouses or facilities owned or leased by a tobacco product manufacturer, importer, leaf dealer, or wholesale distributor where tobacco products are burned for quality control purposes, and patient smoking areas in long-term care facilities.<sup>167</sup> The amendments were just a pretense for the Chairman to kill the bill. The bill's co-authors and sponsors decided it was best to let the bill die rather than pass only a partial elimination of the loopholes in AB 13.<sup>116</sup> The bill was held in committee without recommendation and died there. According to Jim Knox the political reality of the situation, was that no bill was going to pass out of the committee and the compromise was to provide a "fig leaf" for letting the bill die. Hall would argue that the DeSauliner needed to work with Assemblymember Wilmer Carter (D, Dist 62, \$16,600), discussed below, who had introduced AB 217 a less comprehensive bill addressing smoking in long-term care facilities. The Health voluntaries decided to abandon the effort.<sup>168</sup>

The American Lung Association acknowledged in an interview for this report that the problem for passage stemmed from the lack of education of legislative staff about the harmful effects of cigar smoke. Additionally, given the state's poor economic climate at the time, there was concern among legislators about killing small businesses.<sup>116</sup> The close relationship of Assemblymember Hall, Chair of the Government Organization Committee and well-known cigar aficionado, with Paula Treat and James Jack, cigar lobbyists, was influential in the demise of the bill.<sup>115-116</sup>

SB 575 was supported by public health organizations, organized labor organizations, several local governments, including the City of Los Angeles that passed a Resolution supporting the bill, and the Tobacco Education and Research Oversight Committee, the body created by the Legislature in 1989 to provide oversight to the California Tobacco Control Program and to make recommendations to the Legislature for changes in tobacco control laws. It was opposed publicly by the California Association of Health Facilities, Cigar Association of America, San Francisco Small Business Commission, Southern California Cigar Alliance, California Distributors Association, and Commonwealth Brands, Inc.<sup>169</sup>

#### *AB 1278: Prohibiting Smoking in Acute Hospitals*

AB 1278 started as unrelated to public health. Assemblymember Richard Pan (D, Dist. 9, \$0) introduced AB 1278 on February 18, 2011 as a spot bill on educational programs for the marketing of agricultural products. Pan released the bill to Assemblymember Jerry Hill (D, Dist. 19, \$0). On August 15, 2011, the Assembly Jobs, Economic Development and the Economy Committee adopted Hill's amendment which stripped out the existing language and substituted language related to tax credits for job creation. On re-referral, the Committee failed to pass the bill, but granted reconsideration. On January 4, 2012, the Jobs, Economic Development and the Economy Committee took up AB 1278 on reconsideration and adopted the author's amendment to strip out the existing language related to tax credits and substitute language to amend existing law regulating smoking in patient care areas, waiting rooms and visiting rooms of health facilities, including general acute care hospitals.<sup>170</sup> Hill was once again trying to restrict smoking in healthcare facilities following the veto of AB 575 in 2009 by Gov. Schwarzenegger.

Now the bill would prohibit smoking in all areas and throughout the campus of a general acute care hospital, unless a patient's treating physician determined that the patient's treatment would be substantially impaired by the denial of the use of tobacco and the physician enters an order permitting the use of tobacco by that patient.<sup>170</sup> At the time of the bill's introduction 70 out of 440 acute hospitals in the state were voluntarily smokefree.<sup>171</sup> The bill was now substantially similar to Hill's AB 574 (2009) that was vetoed by Governor Schwarzenegger and discussed above.

AB 1278 was now sponsored by Breathe California and supported by the California Hospital Association, and had no opposition at this point.<sup>172</sup> It passed in the Assembly on January 30, 2012 by a vote of 48-26, just making the January 31 deadline to carry over from 2011. In the Senate, it was referred to the Senate Health Committee that recommended amending it to eliminate the \$100 penalty in existing law for smokers violating the prohibition. The Senate adopted the amendment and passed AB 1278 by 22-14.

***During the committee hearing he forced amendments on the authors that they had never seen before, and did not let the authors present them***

In the Senate, AB 1278 gained support from the California Medical Association, California Black Health Network, Coalition for a Tobacco-Free Monterey County, and the Santa Clara County Board of Supervisors, later joined by the Coalition for a Smoke-Free Long Beach, Physicians for Social Responsibility – Los Angeles, San Francisco Asthma Task Force, San Luis Obispo County Health Agency, San Mateo County Board of Supervisors and the Stanford Cancer Center.<sup>172</sup> The voluntaries did not oppose or support the bill.<sup>172</sup> The American Cancer Society thought the bill did very little to close smoking loopholes, because hospitals could already prohibit smoking, so they did not work on the measure.<sup>115</sup>

The Assembly concurred in the Senate amendment, but Governor Brown vetoed it on September 23, 2012:

I am returning Assembly Bill 1278 without my signature. Helping people to quit smoking is a laudable health goal. In fact, many hospitals already designate their campuses "smoke-free" and impose fines on violators. Nothing in current law prevents hospitals from adopting this practice.

Finally, I would note that this bill eliminates penalties for smoking in hospitals.<sup>173</sup>

Brown was right; the bill as it passed was actually a step backwards.

No attempt was made to override the veto.

*AB 795: Smoke/Tobacco-free Colleges and Universities Enforcement Provision*

The California Youth Advocacy Network (CYAN), an organization funded by the California Tobacco Control Program to change the tobacco use culture in California's high schools, colleges and universities, military installations, and other youth and young adult communities, had found that colleges it worked with on smoking policies were confused about what their options were for enforcement since the existing law was unclear.<sup>174</sup> California public universities and colleges did not always enforce city or county smokefree ordinances on their property because as state entities they were independent of local jurisdictions. CYAN believed that it was important to them have a clear, enforceable state law applicable to their campuses. Because CYAN received state funding, it could not lobby for the measure, so the American Lung Association agreed to support the bill through the legislative process.<sup>174</sup>

***California public universities and colleges did not always enforce city or county smokefree ordinances on their property because as state entities they were independent of local jurisdictions.***

Existing state law prohibited smoking in and around public buildings and permitted the governing bodies at California community colleges, California State University and the University of California to adopt and enforce additional smoking and tobacco control regulations and policies.<sup>175</sup> Assemblymember Marty Block (D, Dist. 78, \$0), who represented San Diego State University and chaired the Assembly Higher Education Committee, introduced AB 795 on February 17, 2011, to authorize the governing bodies of each community college district, the California State University, and the Regents of the University of California, to enforce their smoking and tobacco control regulations and policies by citation and fine up to a maximum of \$100.<sup>175</sup> In addition, the bill prohibited the sale of tobacco at all public universities and colleges.<sup>175</sup>

Block argued the colleges and universities were hesitant to adopt enforcement policies regarding enforcement, because the law was unclear about the types of penalties they could impose.<sup>175</sup> AB 795 also required that, if the enforcement provisions were adopted, the campuses post signage stating the policy and designating where smoking was permitted and where prohibited.<sup>175</sup>

The bill was amended in Assembly Governmental Organization Committee, where the Chair Isadore Hall (D, Dist. 64, \$39,700) removed the provision that forbid colleges and universities from selling tobacco.<sup>176</sup> Additionally, the amendment made signage requirements optional at University of California campuses.<sup>176</sup> The bill went on to pass, as amended, out of the Assembly Higher Education Committee, chaired by Assemblymember Block, the bill's author.<sup>177</sup>

The American Heart Association, American Cancer Society and American Lung Association supported the bill from the outset.<sup>175, 178</sup> The Lung Association sponsored the bill through the legislative process, testifying at hearings, and issuing press releases on it.<sup>178</sup> Also supporting the bill from the outset were numerous colleges, and college and student organizations,<sup>175</sup> and, late in the process, the California Medical Association. It passed 54-23 in the Assembly and 29-9 in the Senate, with Democrats supporting it and Republicans opposing it, and was signed by Gov. Brown on October 8, 2011.<sup>176</sup>

*AB 217: An Attempt to Eliminate Smoking in Long-term Care Facilities*

AB 217 was an attempt to eliminate the exemption in AB 13 for long-term care facilities. Introduced by Assemblymember Wilmer Amina Carter (D, Dist. 62, \$16,600) on January 31, 2011, AB 217 deleted the exemption in the existing smokefree workplace law (AB13) for patient smoking areas in long-term health care facilities. AB 217 passed both houses (Assembly 50-26, Senate 29-8) and was sent to the governor. AB 217 amended the exemption to allow smoking in patient smoking areas of long-term health care facilities if the smoking area is not in a patient's room and is located outdoors in a space that can be monitored by staff and that reasonably prevents smoke from entering the facility or patient rooms. It further provided that a long-term health care facility may prohibit a resident from smoking in a patient smoking area to protect the resident from inclement weather and that doing so does not violate a patient's rights.

***Governor Brown uses language in his veto message similar to language used by Philip Morris on its corporate website supporting accommodating smoking.***

The bill was supported by Breathe California, California Medical Association and a number of health care organizations, but not by the voluntary health organizations. The voluntary organizations urged Carter to work with Senator DeSaulnier on SB 575, which they felt would have addressed this issue in a more comprehensive context by addressing all loopholes. However, they were unable to get the two legislators to work together, an argument Hall would use to kill DeSaulnier's bill. It was opposed by the California Health Facilities Association.

Governor Brown vetoed AB 217 on September 27 2012:

I am returning Assembly Bill 217 without my signature.

This bill seeks to eliminate one of several statutory exceptions to the general prohibition on indoor smoking in the workplace. Specifically, AB 217 would ban all indoor smoking, and also restrict outdoor smoking, at nursing homes and similar facilities.

While health and safety considerations must prevail, to the extent a resident's preferences can be accommodated, they should. Allowing an elderly resident, who can't go home and who has smoked for a lifetime, to smoke in a designated indoor area during inclement weather – this sounds reasonable to me. Let's rely on the locals, in this case the facility and its residents and employees, to figure out which accommodations work or don't work.<sup>179</sup>

Governor Brown uses language in his veto message similar to language used by Philip Morris on its corporate website supporting accommodating smoking:" Business owners – particularly owners of restaurants and bars – are most familiar with how to accommodate the needs of their patrons and should have the opportunity and flexibility to determine their own smoking policy. The public can then choose whether or not to frequent places where smoking is permitted."<sup>180</sup>



**2013**

*AB 320: Non-Proposition 99 Funded Smokefree School Policies*

As of 2014 California did not have a law making all schools tobacco free. Existing law provided that only school districts and County Offices of Education that received Proposition 99 funding are required to adopt and enforce a tobacco-free campus policy. A tobacco-free school prohibits all tobacco use anytime, anywhere by anyone on all school property, and at all school-sponsored events (California Health and Safety Code *Section* 104420 [n][2]). School property includes buildings, grounds and vehicles owned or leased by the school. School-sponsored events include sporting events, school dances and other events held on and off school property. Because of a decrease in Proposition 99 funding available there was a subsequent decrease in the number of schools that were required to have a tobacco-free policy. As a result, there was a gap in protection for students at schools that did not receive Proposition 99 funding<sup>181</sup>. The State Department of Education sought to address this problem by sponsoring AB 320, introduced by Assemblymember Adrin Nazarian (Dist.46, D, \$0) in February 2013, to require that all school districts and county Offices of Education adopt policies for all district buildings and K-12 campuses in the state prohibiting the use of products containing tobacco and nicotine.<sup>181</sup>

In addition to the sponsor, AB 320 was supported by the voluntary health organizations and the American Federation of State, County and Municipal Employees. CTCP, CDE and the voluntary health organizations had many meetings to develop and draft this bill and worked to try to support the bill and get it out of committee.

Based on committee staff recommendations, the bill was amended in the Assembly Committee on Education to include all charter schools, and to exempt prescription nicotine replacement therapy products from the prohibition.<sup>181</sup> Upon referral to the Assembly Committee on Appropriations, AB 320 was held in Appropriations Committee on May 24, 2013 pending a setting for a hearing to allow the author and committee members to work on the bill to find a funding source for the bill.<sup>115</sup> The funding required was for the cost of signage that was estimated to be \$155,000.<sup>181</sup> AB 320 died on January 31, 2014 for failure to pass in the house of origin.

*AB 746: Another Attempt at Smokefree Multi-Unit Housing*

As reported in Chapter 4, local tobacco policymaking, 2007-2014, over 100 communities had passed ordinances restricting or prohibiting smoking in some multi-unit housing with wide variations in their provisions. This included San Rafael, where Marc Levine authored a smokefree multi-unit housing measure as a city council member.<sup>115</sup> When Assemblymember Levine was elected to the Legislature in 2012, he reached out to the Lung Association to support a state-wide measure, and made this a platform issue.<sup>116</sup> The author's intent in AB 746 was to expand and make uniform a minimum standard prohibiting indoor smoking in multifamily housing and allowing local governments to pass stricter regulations.<sup>182</sup> The Lung Association thought that with the groundswell of local efforts, the timing was right to make a state-wide effort to begin the dialogue on the issue.<sup>116</sup>

In February 2013, the American Lung Association in California sponsored AB 746, introduced by Assemblymember Marc Levine (D, Dist. 10, \$0), to prohibit smoking in all indoor areas of multi-unit housing while allowing for a designated outdoor smoking area subject to strict requirements as to location and size.<sup>182</sup> Violations would be an infraction enforced by peace officers which progresses from a written warning to fines up to \$200 and possible eviction for breach of the lease.<sup>182</sup>

***The Lung Association... felt that if Hall were serious about closing loopholes in indoor smoking, he would not be continuing to block their efforts***

AB 746 was also supported by the American Cancer Society Cancer Action Network, the American Heart Association and American's for Nonsmoker's Rights sent letter of support to legislators and action alerts to their constituents. Opposition came from the California Association of Realtors and several landlord and tenants rights organizations.<sup>183</sup> Voluntary organizations wrote letters of support, showed up to testify, spoke to the media, lobbied other members of the Legislature and spoke to the media.<sup>116</sup> Amazeen with the Lung Association used the positive reception of the local ordinance in Marin County to push the measure.<sup>184</sup>

The bill failed to pass in the Assembly Committee on Housing and Community Development on April 17, 2013 on a vote of 2-5, but on May 1, 2013 as a standard procedure, the Motion for Reconsideration unanimously passed 7-0 in the Committee so the author could address concerns from members on the committee, and it could be heard again.<sup>182</sup> However, it died with the end of the Session without a hearing.

The bill was considered a long-term effort by the voluntaries, because it was known from the beginning that it had little support in the legislature, but the author was committed to the policy issue.<sup>115</sup> The action at the local level was continuing at a faster pace in 2013 which should improve the environment for state-wide legislation.

#### *AB 352: SmokeFree foster Care*

Assemblymember Isadore Hall (D, Dist. 64, \$25,900) the Chair of the powerful Governmental Organization Committee, introduced AB 352 to require smokefree foster care environments. The Analyst's report on AB 352 reflects: "The author states that when foster children reside in an environment where their health is compromised by exposure to secondhand smoke, the state's health care costs for tobacco-related medical conditions almost certainly rise. The state of California has a legal obligation to protect the well-being of foster children."<sup>185</sup> The bill was surprising to the voluntary health organizations, given the author's historic hostility towards tobacco control legislation as the Chair of Governmental Organization Committee. The origin of the bill was the Assemblymember's staff who found that smoking in foster care facilities was an issue.<sup>115</sup> The final version of AB 352 signed by Governor Brown required a smokefree environment in a foster care facility and on the outdoor grounds if a foster child is present. While existing law prohibited smoking in a motor vehicle when a minor is present (Health and Safety Code, §118948(a)), AB 352 prohibited smoking at any time in a motor vehicle regularly used to transport a foster child. The only substantive change to the bill as introduced was to add

the prohibition on smoking on outdoor grounds if the foster child is present. There was no official opposition to AB 352 and it was supported by Advancement Project, American Cancer Society Cancer Action Network, California Black Health Network and the National Association of Social Workers – California Chapter. The Lung Association, though encouraged by his efforts, felt that if Hall were serious about closing loopholes in indoor smoking, he would not be continuing to block their efforts to close the loopholes in AB13, so they did nothing to support the measure.<sup>116</sup> <sup>16</sup> The American Heart Association did not support the bill.<sup>123</sup>

### *AB 1142: Another Attempt at Smokefree State Park Beaches*

By early 2013, cities and counties had made their beaches smokefree, generally on environmental grounds. Historically, bans on smoking on beaches have most often been the result of efforts by local environmentalists and anti-smoking activists, whereas national organizations like the American Lung Association, the American Heart Association, and the American Cancer Society have not made it a policy priority.<sup>186</sup> (The American Lung Association, however, does believe that prohibiting smoking on state beaches is important for denormalizing cigarette smoking.<sup>116</sup>) Assemblymember Richard Bloom (D, Dist. 50, \$0) introduced AB 1142 on February 22, 2013 to make technical amendments to the beverage container redemption law, but amended it in March to prohibit any person from smoking or disposing of any used tobacco products on a state coastal beach or within a state park punishable by a fine of \$250.<sup>187</sup> The bill, as amended, was double-referred to the Assembly Committee on Water, Parks and Wildlife and the Assembly Committee on Governmental Organization. The Governmental Organization Committee offered several amendment suggestions including exempting camping sites and parking lots, but the author refused to make them.<sup>188</sup> Supporters included ALA and ANR, because it contained enforcement measures, the Sierra Club and several other environmental organizations.<sup>188</sup> It passed 9-6 in the Committee on Water, Parks and Wildlife, but failed in the Committee on Governmental Organization 6-8 with all Republican members of the committee voting "no" and moderate Democratic Assemblymembers Rudy Salas (D, Dist. 32, \$0) and Norma Torres (D, Dist. 52, \$0), also voting "no." The author filed a Motion for Reconsideration which passed unanimously in the Committee on Governmental Organization keeping it alive for 2014.<sup>187</sup> AB 1142 died on January 31, 2014 for failure to pass in the house of origin.

### **Tobacco Use Cessation**

The American Lung Association's 2008 *State of Tobacco Control* report<sup>189</sup> rated states on Cessation Coverage through Medicaid and private health plans for the first time; California received a "D" grade in Cessation Coverage. Private health plans were inconsistent in the types of smoking cessation services they were offering; some offered a lot and some very little.<sup>116</sup> SB 576 in 2006 would have mandated uniform cessation coverage in private health plans, but it was vetoed by Gov. Schwarzenegger. Without success, efforts to raise this grade continued in the 2007-2014 time period.

### **2007-2008**

#### *AB 2662: An Attempt to Expand Cessation Benefits*

Existing law required that behavior modification (counseling) must precede any prescribing of pharmacotherapies for smoking cessation for MediCal recipients. The Community Life Improvement Program, a collaborative group of stakeholders within the African American community in Los Angeles that supported tobacco control efforts,<sup>190</sup> sought to loosen this requirement by allowing the receiving of counseling or pharmacotherapies without requiring receiving the other as a precondition.<sup>190</sup> Assemblymember Warren Furutani (D, Dist. 55, \$0) introduced AB 2662 on February 22, 2008 to make technical, nonsubstantive changes to the Aid to Families with Dependent Children – Foster Care Program. Furutani allowed Assemblymember Mervyn Dymally (D, Dist. 53, \$500), who chaired the Assembly Health Committee, to amend it to modify tobacco use cessation benefits provided by the MediCal program for low income Californians.<sup>190</sup> It also required the Department of Health Care Services to implement an outreach and education program to inform MediCal participants, providers, and managed care contractors of the tobacco cessation benefit.<sup>190</sup> AB 2662 was further amended in the Assembly Appropriations Committee to eliminate the requirement for an outreach and education program.

The amended AB 2662 passed the Assembly 48-29. The Senate Health Committee noted that the Assembly Appropriations committee determined that there would be an immediate \$1-2 million cost to MediCal that would take a while to recover as MediCal beneficiaries quit smoking, because the health effects would not be immediate.<sup>191</sup> The Senate Health Committee amended AB 2662 to clarify language without making any substantive changes.

The bill was supported by the Community Life Improvement Group<sup>190</sup> and the American Cancer Society. The American Cancer Society believed that cessation is more effective with both services, but delinking the counseling and pharmacotherapy would insure individualized treatment to better suit the needs of more smokers.<sup>191</sup>

AB 2662 was then referred to the Senate Appropriations Committee. Senator Tom Torlakson (D, Dist. 11, \$0) a supporter of tobacco control efforts, was chairing the Appropriations Committee. The staff analysis for the Appropriations Committee noted that cessation success is increased if both personal counseling and pharmacotherapies are used, and that substantial loss of cost savings from smokers quitting could be incurred from this legislation.<sup>192</sup> AB 2662 was placed on the Appropriations Committee suspense file where it died at the end of the Session.

***California received a "D" grade in Cessation Coverage***

## ***2008-2009***

***SB 220: Requiring California health plans had to provide for Tobacco Cessation Services, Vetoed***

In 2009 it was estimated that 81.7% of California's health plan enrollees already had full or partial coverage for smoking cessation-related counseling; 57.4% have full or partial coverage for over-the-counter smoking cessation treatment; and, 77.8% have full or partial coverage for

prescription smoking cessation treatment. Medi-Cal already provided comprehensive smoking cessation benefits and would not be subject to the mandate.<sup>193</sup>

Senator Leland Yee (D, Dist. 8, \$0) introduced SB 220 on February 23, 2009. Yee was interested in ensuring that 100% of health plans provide both counseling and pharmacotherapy support, which is what this bill required. It was a top priority of the American Lung Association, American Cancer Society, and American Heart Association as SB 576 had been in 2006<sup>65</sup>.

The voluntary health organizations supported SB 220 with testimony at hearings and mobilization of their grassroots networks. They emphasized the cost of having 4 million smokers in the state, and thought the cost savings that would result from wide-spread availability of comprehensive smoking cessation services would be welcomed by the Legislature during the recession.<sup>116</sup> The voluntary health organizations recognized that the cost savings would be realized over time, and that there would be an initial cost to the State and insurers.<sup>116</sup>

The bill moved through the Legislature, with support largely by Democrats, though two Republicans, Senator Blakeslee (R, Dist. 15, \$0) and Assemblymember Nathan Fletcher (R, Dist. 76, \$31,500), supported it. In addition, the bill had the support of Senate President Pro-Tem Darrell Steinberg (D, Dist. 6, \$0) and Assembly Speaker John Perez (D, Dist. 53, \$27,000).<sup>194</sup> Amendments were added that required an accountability measure that the law would sunset by 2014 if the University of California could not prove there was a cost savings to the State.<sup>195</sup>

SB 220, as passed by the Legislature, specified what services and pharmacotherapies California health plans had to provide for tobacco cessation services under the federal Patient Protection and Affordable Care Act (ACA). Specifically, it required cessation services such as nicotine patches, nasal sprays, inhalers, gum, prescription medications, and counseling.<sup>196</sup> The ACA requires preventive benefits, including tobacco cessation treatment, to be covered with no co-payments, co-insurance and deductibles.<sup>197</sup> Beginning September 23, 2010, according to federal law, non-grandfathered group coverage and non-grandfathered individual health insurance policies had to cover cessation benefits. However, the federal guidelines for what cessation services should be covered were not clear.<sup>197</sup>

The voluntaries were able to build a large coalition of supporters for the bill including the California Medical Association, California Psychological Association, San Francisco Firefighters Local 798, San Francisco Medical Society, National Council of Asian & Pacific Islander Physicians, American Federation of State, County and Municipal Employees, AFL-CIO, The Hispanic Chamber of Commerce, and California Nurses Association<sup>198</sup>. The Association of California Life and Health Insurance Companies opposed the measure and argued that in an era of escalating medical costs, mandating additional benefits in all health insurance policies, while well-intended, is counterproductive to its efforts to make health insurance more affordable and available to all Californians.<sup>199</sup> Despite the veto, the governor's office was willing to listen to the advocates, and they were impressed with how far the bill came with major insurance companies opposing it.<sup>116</sup>

***Yee was interested in ensuring that 100% of health plans provide both counseling and pharmacotherapy support.***

Governor Schwarzenegger vetoed SB 220 on September 30, 2010:

I am returning Senate Bill 220 without my signature. This bill represents a costly health mandate that goes beyond current federal law and removes the ability to manage the ever-increasing costs of prescription drugs .

Instead, I am signing Assembly Bill 2345 to ensure that the new federal health reform legislation for preventive services is fairly and consistently enforced by the Department of Managed Health Care and Department of Insurance. Californians will immediately benefit, starting on September 23, 2010, from the preventive services now required to be covered by all plans, without cost-sharing requirements. Some of these important preventive services include tobacco cessation; cholesterol tests; counseling for weight loss, alcohol use and improved nutrition; vision testing; childhood and adult immunizations; cancer screening; well-baby and well-child visits; and diabetes management and treatment.

Assembly Bill 2345 ensures that consumers get the right preventive care without co-pays. Because Senate Bill 220 goes beyond federal requirements, it will expose California to potentially significant unreimbursed mandate costs in 2014 when the remaining provisions of federal reform take effect.

For this reason, I am unable to sign this bill.<sup>200</sup>

AB 2345 merely required the health plans to comply with ACA in providing preventative health services, but made no specific requirements on smoking cessation, the very ACA shortcoming that SB 220 was intended to fix.

There was no attempt to override the veto.

With the new requirements under the Affordable Care Act for health insurers to provide tobacco use prevention services without a copayment, this type of cessation legislation is probably no longer necessary.

### **Definition of “Cigarettes”**

After the Master Settlement Agreement (MSA) was signed in 1998, California introduced laws to implement it. One issue that arose was that the definitions of “cigarette” in the MSA and the California laws implementing the MSA, were different from the previous definitions in California law.<sup>201</sup>

### ***2009-2010***

#### *AB 689: Changing the Definition of A Cigarette*

As some of the tobacco companies introduced tobacco-derived products, such as RJR's Camel Orbs, a lozenge-like pellet containing less than 50% tobacco according to manufacturers, the

distributors became concerned that at some point there could be a decision that these products would be taxed at the higher rate that cigarettes were taxed and became concerned that such a decision could make them liable for back taxes.<sup>202</sup> To address this problem, the California Distributors Association sponsored and Assemblymember Charles Calderon (D, Dist. 58, \$28,500) introduced AB 689 on February 26, 2009, which would have changed the definition of “tobacco product” for the purposes of the Cigarette and Tobacco Tax Law from “containing at least 50%” tobacco to “containing tobacco.”<sup>203</sup> Assemblymember Calderon argued the 50% threshold was an arbitrary rule.<sup>203</sup> (The bill was estimated to increase General Fund revenue by \$100,000, which was not significant.<sup>203</sup>) The amendment was needed to ensure that all tobacco products were taxed properly because the state relied on the manufacturers to inform it of the tobacco content of each tobacco product.<sup>203</sup>

AB 689 passed the Assembly Governmental Organization Committee, Revenue and Taxation Committee, and Assembly Appropriations Committee with Democratic support and Republican opposition, but after second reading, Calderon author moved to place it in the inactive file where it died. The bill faced a 4/5 vote requirement because it changed the definition of tobacco products in Proposition 99, making passage unlikely. All Republicans had voted no on it in the committee process.<sup>203</sup>

The American Heart Association and American Lung Association reported lobbying for the bill, but did not take a formal position. The American Cancer Society did not think the issue was important enough for them to take a stance on it.<sup>115</sup> It was supported by the California Grocers Association and the Distributors Association who were usually allies of the tobacco industry on tobacco legislation.<sup>202</sup> The bill was opposed by the California Chamber of Commerce because it would amount to a tax increase.

The various definitions of “cigarette” in California law remains an issue. The California Board of Equalization had sought to create a uniform definition of cigarette,<sup>65</sup> the BOE solved the problem of taxation of “little cigars” that look like and are marketed like cigarettes by simply declaring them to be “cigarettes for the purposes of the Cigarette and Tobacco Tax Act in 2010.”<sup>204</sup> That action has never been challenged.

### **Tobacco Retailer Licensure**

Licensure of tobacco retailers is used to ensure that retailers comply with laws prohibiting the sale of tobacco products to youth. Between 2007 and 2013, the legislature considered eight bills dealing with tobacco retailer activity.

The California State Legislature enacted the Cigarette and Tobacco Products Licensing Act of 2003 (AB 71) to enforce tobacco taxes and point of sale laws by identifying tobacco retailers.<sup>65</sup>

The Licensing Act also authorized the BOE to impose license-related penalties on licensees for violations of the Stop Tobacco Access to Kids Enforcement (STAKE) Act and Penal Code §308(a) that prohibit sales of tobacco products to minors. The STAKE Act is enforced primarily by the California Department of Public Health, but may also be enforced by the Attorney General’s Office and local law enforcement agencies. Penal Code §308(a) is criminally enforced by local law enforcement agencies, and a city attorney, county counsel, or district attorney may

bring a civil action to enforce it. If a violation of the STAKE Act or Penal Code §308(a) was reported to BOE, it can impose a license-related penalty ranging from a fine, to suspension and finally revocation.

The Licensing Act created several impediments to BOE license-related penalties being effective in enforcing the STAKE Act and Penal Code §308(a). First, the Licensing Act prevented the BOE from imposing any license-related penalty if the California Department of Public Health's annual youth purchase survey showed that, on a statewide basis, less than 13% of youth were able to purchase cigarettes.<sup>65</sup> As of early 2014, this threshold had been reached only twice and no BOE penalties were assessed because no violations were reported to BOE.<sup>205</sup> Second, BOE's power to impose licensure penalties was subject to a schedule of escalation from a warning letter through fines and suspension of license for 90 days for the fourth violation at the same location within 12 months, to revocation for the eighth violation within 24 months.

As a result of these limitations on BOE enforcement powers, local cities and counties adopted local tobacco retailer licensing ordinances that included annual renewal fees to pay for enforcement measures, in order to reduce illegal sales to minors; most of the local licensing laws start with a first violation penalty of license suspension of up to 60 days.<sup>206</sup> As described in Chapter 4: Local Tobacco Control Policymaking, by 2014, 110 strong local ordinances requiring tobacco retailers to obtain a local license had been enacted. One study in Santa Clara County published in February 2014 showed that the implementation of a county tobacco retailer licensing ordinance with annual renewal fees had the unexpected positive impact of some retailers opting out of the retail tobacco business.<sup>207</sup>

***74 percent of local youth access enforcement agencies reported issuing warnings to merchants selling tobacco products to minors***

California's Department of Public Health's California Tobacco Control Program 2006 survey found that 74 percent of local youth access enforcement agencies reported issuing warnings to merchants selling tobacco products to minors. The California Tobacco Control Program survey also found that local law enforcement agencies continued to rank the suspension or revocation of retailer licenses and civil and criminal penalties for owners and clerks as effective strategies to reduce youth access to tobacco.<sup>208</sup> This evidence shows that local licensing laws are effective, in contrast to the lack of enforcement power of BOE.

A third problem with the Cigarette and Tobacco Products Licensing Act of 2003 was that the one-time fee for a retail license generated only about 10% of the funds needed by BOE to enforce the Act, and the other 90% was appropriated by the Legislature from the Proposition 99 revenue accounts that funded the California tobacco control programs, leading to a loss in funds available for use by the CTCP, as described in Chapter 1: State Tobacco Control.

***Businesses who wished to sell tobacco products register with the Board of Equalization (BOE) and pay a one-time \$100 Fee for each retail location.***



Beginning in 2008, several legislative attempts were made to fix all three of these problems, by 2014, only the first two problems had been eliminated.

## **2007-08**

### *AB 2344: Imposing an Annual Licensing Fee for Retailers*

The 2003 Cigarette and Tobacco Products Licensing Act required only a onetime fee for a retail license, with no fee for renewals. The Legislative Analyst's Office reported that it cost BOE \$9.1 million annually to administer the Act, and the fees collected under the 2003 Act was only \$1.2 million annually. The balance came from Propositions 99 and 10 tobacco tax funds, the General Fund and the Breast Cancer Research Fund.<sup>209</sup> As described in Chapter 1, state money would be diverted from the CTPC programs to backfill BOE funding, one of the major funding problems the CTCP would face. The American Cancer Society, American Heart Association, and the American Lung Association, along with the Lung Cancer Alliance of California, Breathe California, and other health organizations sought to increase the licensing fee to cover the BOE's costs of implementing the licensing program. AB 2344 sought to address this problem by creating an annual renewal fee of \$100 for retailers for each location and increase the annual renewal fee from \$1,000 to \$1,500 for distributors and wholesalers for each location to fund the Board of Equalization's enforcement program.<sup>209</sup>

AB 2344 was originally introduced on February 21, 2008 by Assemblymember Jim Beall (D, Dist. 24, \$1,000) as a spot bill to create a publicly accessible database of information on alcohol and other drug abuse providers in the state. In the Assembly Governmental Organization Committee the author's amendment to AB 2344 was accepted which would amend the California Cigarette and Tobacco Products Licensing Act of 2003 to impose an annual renewal fee of \$100 for retailers and increase the annual renewal fee from \$1,000 to \$1,500 for distributors and wholesalers to fund the Board of Equalization's enforcement program.<sup>63</sup> AB 2344 would generate about \$7 million that would offset most of the BOE enforcement shortfall.

Beall's purpose was three-fold: Harmonizing the licensing provisions of the 2003 Cigarette and Tobacco Products Licensing Act with other state licensing laws that require annual renewals, provide sufficient funding for BOE to adequately enforce the Act, and restore monies for Proposition 99 and Proposition 10 programs, Breast Cancer Research Fund and the General Fund that had been diverted to cover the enforcement funding shortfall.<sup>210</sup> Breathe California and the American Lung Association supported AB 2344 from the beginning; by the time it was passed in the Senate, the Lung Cancer Alliance, American Cancer Society, the National Council on Alcoholism and Drug Dependence, and several local public health alliances had joined in support. Breathe California started a letter writing campaign and worked on press.<sup>211</sup>

Early opposition came from 7-Eleven Stores, Inc., California Distributors Association, and California Retailers Association. The California Grocers Association joined the opposition later. None of the cigarette manufacturers reported lobbying against AB 2344.

Beall amended AB 2344 in the Assembly Governmental Organization Committee to increase the annual retailer renewal fee to \$185 and to delete the increase in the distributor/wholesaler

renewal fee. It passed in the Assembly 43-33. In the Senate, no amendments were made and it passed 22-17. The final version of AB 2344 that passed both houses required a \$185 annual renewal fee for a retail license and left the annual distributor/wholesaler license renewal at \$1,000.<sup>209</sup> Breathe California started a letter writing campaign and worked on press.<sup>211</sup> It was publicly opposed by the California Grocers Association, the California Retailers Association, 7-11 Stores, Inc. and the California Distributors Association.

Governor Schwarzenegger vetoed AB 2344 on September 27, 2008:

***With the 13% limitation on BOE enforcement power, not a single retailer had ever been penalized by BOE for selling to a minor.***

This bill would increase license fees on retailers that sell tobacco. I do not believe it is fair to the thousands of small retailers impacted by this bill to increase fees at this time. There is a significant surplus of funds from Proposition 10 available to cover the enforcement costs of this program.

For these reasons, I am returning this bill without my signature.<sup>64</sup>

There was no attempt to override the veto.

## **2009-2010**

### *AB 2757: Limiting Youth Access to Blunt Wraps*

The American Lung Association felt that blunt wraps (a tobacco product like a small cigar) had been increasingly marketed towards children by offering them in flavors that appeal to youth. Blunt wraps were often used by youth to conceal marijuana use by hollowing them out and filling them with marijuana as the flavors tend to mask the odor of the marijuana; they are also sold as singles making them affordable to youth.<sup>212</sup> Additionally, these products are offered in convenience stores, which have some of the highest sales to youth<sup>116</sup> and ALA sought a bill that would curb the sale of blunt wraps to minors. They sought a bill modeled after SB 322 (and authored by Senator Deborah Ortiz) that passed in 2001 limiting the sale of bidis.<sup>116</sup>

As introduced, AB 2757 by Assemblymember Steven Bradford (D, Dist. 51, \$18,700) would have regulated the advertisement for certain fertility services. It was referred to the Assembly Governmental Organization Committee, which adopted the author's amendment to require that blunt wraps be sold only in establishments that prohibited the presence of persons under the age of 18.<sup>213</sup>

AB 2757 was referred then to the Assembly Appropriations Committee where it was placed in the suspense file; it died with the end of the session. The bill was supported by the American Lung Association, and the Cigar Association of America, and opposed by the Roll Your Own Cigar Association, which objected to blunts being singled out.<sup>212</sup> The American Heart Association just monitored the legislation.<sup>123</sup> The Cigar Association saw its members as a purveyors of premier cigars, which are different from blunt wraps.<sup>116</sup> The Cigar Association supported AB 2757 because blunts are marketed as "legitimate cigar products" but are used for illicit purposes and availability of blunts to youth should be limited.<sup>212</sup> The voluntaries did not

actively lobby or do anything in conjunction with the Cigar Association. Philip Morris, Reynolds American, and the California Distributors Association reported lobbying on the bill. (The lobbying reports do not require a support/oppose designation on lobbying activity)

The bill died at the end of the Session suggesting leadership did not support the legislation.

#### *SB 601: An Attempt to Limit Tobacco Sales Around Schools*

Passed in 1994, the Stop Tobacco Access to Kids Enforcement Act (STAKE Act) makes it illegal to sell tobacco products to anyone under the age of 18 and gives authority to CDPH and other law enforcement agencies to conduct compliance checks of tobacco retailers and enforce civil penalties for infractions. Anyone who sells tobacco products to a minor may also be subject to criminal prosecution, punishable by a fine.<sup>214</sup> In 2008, the City of Los Angeles, part of which was represented by Senator Alex Padilla (D, Dist. 20, \$0), conducted a sting and found 24 retailers were violating the STAKE Act by selling to children. Most of these retailers were located near schools.<sup>215</sup>

On February 27, 2009 Senator Padilla introduced SB 601 as part of his tobacco bill package (see also SB 600, Tobacco Taxes, above, and SB 602, BOE enforcement and SB 603, retailer concentration below), which would have prohibited the Board of Equalization from issuing any tobacco retailer license for a location within 1,000 ft of any public or private elementary or secondary school and would have restricted licenses to “traditional retail locations” which included only grocery stores, convenience stores, pharmacies, liquor stores and tobacco and cigar stores.<sup>216</sup>

Padilla later amended SB 601 to reduce the limitation of location to 600 feet, and to add gas stations, smoke shops, wine and cigar stores and superstores to the list of “traditional retail locations.”<sup>216</sup> The reduction in distance to 600 feet was to conform to the licensing restrictions for alcoholic beverages.<sup>217</sup> It passed in the Senate Revenue and Taxation Committee (5-3) with Democrats supporting it and Republicans opposing it, but died in the Senate Appropriations Committee, where all members voted to put it on the suspense file, and Senate leadership decided to keep it there.<sup>218</sup>

SB 601 was supported by the American Cancer Society, American Lung Association, American Heart Association, the California Medical Association, and the California Dental Association. None of these organizations mounted a substantial campaign to get the bill passed. It was lobbied against by Philip Morris, Reynolds American, United States Smokeless Tobacco, California Grocers Association, California Distributors Association, and California Retailers Association.<sup>217</sup>

The BOE claimed that the bill would have placed significant administrative burdens on BOE related to determining the proximity of an applicant's retail location to schools, and that the funds for enforcing the Cigarette and Tobacco Products Licensing Act of 2003 (AB 71) were already lower than what they needed to enforce existing requirements.<sup>217</sup>

#### *SB 602: An Attempt to Limit the Overconcentration of Tobacco Shops*

On the same day Sen. Padilla introduced SB 601, he introduced SB 602 which would have removed a limitation in the Cigarette and Tobacco Tax Act that no enforcement action could be taken against a retailer if the state's youth purchase survey showed less than 13% of youth were able to purchase cigarettes. Additionally, it would have restricted the BOE from issuing new tobacco licenses in areas of overconcentration in which the ratio of retail licensees to population in the census tract is greater than the ratio of retail licensees to population in the county overall.

The American Cancer Society supported the bill, arguing that the overconcentration of cigarette retailers was increasing youth access to tobacco.<sup>219</sup> Additionally, with the 13% limitation on BOE enforcement power, not a single retailer had ever been penalized by BOE for selling to a minor.

SB 602 was supported by the American Cancer Society, American Heart Association, American Lung Association, Breathe California, California Medical Association, and the California Dental Association. Philip Morris, Reynolds American, California Distributors Association, and UST lobbied against the bill.

SB 602 passed the Senate 23-13 and was sent to the Assembly on June 3, 2009. The Assembly Governmental Organization Committee accepted the author's amendments which stripped out all of the existing language and substituted language relating to food safety, effectively killing the original bill.<sup>220</sup> Padilla had already amended his SB 603 in the Senate Appropriations Committee to include the provisions of SB 602.

### *SB 603: Retail Licensing Fees*

Senator Padilla introduced SB 603 on February 27, 2009, the same day that he introduced SB 601 and SB 602, to limit the number of retail tobacco licenses available to 1 per 2,500 people in a county and to impose a \$100 annual license renewal fee.<sup>221</sup>

On June 1, 2009, Padilla amended SB 603 in the Senate Appropriations Committee to add the language from SB 601 that prohibited the issuance of any new retailer license within 600 feet of any public or private elementary or secondary school or in any area with an overconcentration of licensed retailers, which was defined as an area where the ratio of retail licenses to population is greater than the ratio to population in the county overall.<sup>222</sup> The amendment also removed a limitation in the Cigarette and Tobacco Products Tax Act that no enforcement action could be taken by BOE against a tobacco retailer for a violation of the STAKE Act if the youth purchase survey under the STAKE Act showed less than 13% of youth were able to illegally purchase cigarettes. The effect of these changes was to make SB 603 a combination of SB 601 and SB 602. The amendment also removed the prohibition in the 2003 retailer licensure act that licenses were non-transferrable; a license could now be transferred in the course of the sale of the business to be operated at the same location.

Once the bill arrived in the Assembly Governmental Organization Committee, Padilla was required to agree to propose amendments that would grandfather in all existing licenses, allow "traditional retailers" with certain alcohol licenses to be exempt from the "600 feet buffer zone"

provisions, and preempt local jurisdictions from expanding the prohibition of licenses “within 600 feet” to get the bill passed in the Committee, which seriously weakened the bill and would prevent stronger local laws.<sup>223</sup> All of the voluntaries withdrew support and the American Cancer Society came out in opposition to the bill stating they thought it would do little to curb sales to youth. The California Medical Association continued to support the bill.

Philip Morris, California Distributors Association and UST lobbied the bill. It was also initially opposed by the California Grocers Association, California Distributors Association, and the California Independent Grocers Association; once they got the amendments they sought from the Assembly Governmental Organization Committee, they withdrew opposition.<sup>223</sup> With the lack of support from the voluntary health organizations as a result of the compromises it would take to pass the bill, it died in the Assembly Governmental Organization Committee after the author requested the hearing on the bill be cancelled.<sup>223</sup>

#### *AB 2733: Tobacco Retail License Suspension Fines*

The Board of Equalization sponsored, and Assemblymember Ira Ruskin (D, Dist. 21, \$0) authored, AB 2733 introduced on February 19, 2010, prohibited the gifting or display of cigarettes or tobacco products during the period of suspension or revocation of the retailer’s license.<sup>224</sup> It also required notices be posted during a time of license suspension, and implemented a civil penalty of \$1,000 for violations of either the display or posting provisions. It was prevented from fining for violations of the STAKE Act because it had no jurisdiction to fine if the statewide Synar compliance percentage was below 13%. The BOE stated that the measure was necessary to clarify the status of cigarettes and tobacco products in the possession of a retailer during a period of the suspension or revocation of the retailer’s license to sell cigarettes and tobacco products. Under existing law, during such period of suspension or revocation, only the sale of cigarettes or tobacco products was a crime, and it was punishable, in part, by the seizure and forfeiture of all of the retailer’s stock of cigarettes and tobacco products, which BOE felt was an unfair forfeiture.<sup>224</sup>

AB 2733 was supported by the BOE and Breathe California; however the American Cancer Society, American Heart Association, and American Cancer Society never took a position on the legislation.<sup>224</sup> Philip Morris and California Distributors Association lobbied on the bill. (Lobbying reports do not say if they supported or opposed it.)

#### *AB 2496: Requiring the Registration of Non-Participating MSA Manufacturers*

The Master Settlement Agreement (MSA) encourages states to impose escrow requirements on Nonparticipating Manufacturers (those who do not sign the MSA) based upon their sales in each state. The escrowed funds give states a source of recovery for tobacco-related liabilities and reduce the cost advantage Nonparticipating Manufacturers would otherwise have over Participating Manufacturers.<sup>225</sup> If a state does not exercise “diligence” in enforcing such escrow requirements, the MSA Participating Manufacturers can use that lack of diligence to obtain a

reduction in the amounts they pay to the violating state under the MSA. The Office of the Attorney General sponsored, and Assemblymember Pedro Nava (D, Dist. 35 \$0) authored, AB 2496 which was introduced on February 19, 2010. The bill made a number of amendments to

several existing laws to tighten up the state's ability to enforce the laws applicable to Nonparticipating Manufacturers.<sup>226-225</sup> The Department of Justice would have to make publically available a list of tobacco retailers. Additionally, AB 2496 clarified the different roles of the Department of Justice and the Board of Equalization in administering Cigarette and Tobacco Product Tax Act.<sup>226</sup>

The American Lung Association lobbied in support of the bill. The Lung Association stated it was necessary to help better enforce the MSA and control below-market prices of cigarettes.<sup>227</sup>

Nava drafted the bill to be similar to laws in place in other states, such as Virginia, to protect California from Participating Manufacturers claiming the state did not enforce the laws with regards to NPMs to the same degree it enforces the MSA for PMs.<sup>227</sup>

The BOE stated the bill was intended to allow for better enforcement of laws regulating internet and other delivery sales of cigarettes and tobacco products in this state, strengthen the Attorney General's and BOE's ability to diligently enforce MSA requirements. Existing law prohibited the sale of any cigarette brand made by a tobacco manufacturer that was neither a PM or a NPM in compliance with the MSA and thus not listed on the Department of Justice's Tobacco Directory; AB 2496 would also provide distributors, wholesalers and retailers relief from financial hardship resulting from cigarettes and tobacco product inventory that immediately becomes illegal to sell upon their removal from the Department of Justice's Tobacco Directory by requiring the noncompliant manufacturer refund the price paid for the noncompliant cigarettes.<sup>227</sup>

***In the early 2000s, youth who attempted to purchase cigarettes in San Mateo County were able to do so more than 50% of the time.***

Philip Morris, Reynolds American and the California Distributors Association reported lobbying on the bill (lobbying reports do not require them to say if they supported or opposed the bill), but there was no formal support or opposition filed on this noncontroversial bill.

AB 2496 was signed into law by the governor on September 23, 2010.

## **2011-2012**

### ***SB 330: Increasing the Tobacco Tax***

Senator Padilla (D, Dist. 20, \$0), who sponsored bills on licensing and sales near schools in 2009, introduced on February 15, 2011, SB 330, SB 330, would have raised the tax on cigarettes by \$1.50 per pack with an equivalent increase in the tax on tobacco products, with the rate adjusted annual using the Consumer Price Index. It was referred to the Senate Health Committee and the Senate Governance and Finance Committee.<sup>228</sup> On January 4, 2012, the Health Committee adopted the author's amendment which stripped out all of the language and replaced it with provisions requiring the Department of Public Health to develop a Tobacco License Query System with a database that the public could use to track retailer violations of STAKE and other retailer acts.<sup>228</sup> The author's purpose was to create a data base of violations based on both

state and local compliance checks to capture all of the STAKE Act violations in one database.<sup>228</sup> Because the Department of Public Health was tasked with creating this system, it raised concerns with the practicality and fiscal effect of the legislation. The bill was never heard in Senate Health Committee, not pursued by the author, and died.<sup>228</sup>

### *SB 331: Another Attempt to Limit Tobacco Retail Licensing near Schools*

Continuing his fight to restrict the density of tobacco retailers and to prevent their location near schools, SB 331 was introduced by Sen. Alex Padilla on February 15, 2011 to preclude the BOE from issuing a tobacco retailer license for a location within 600 feet of a public or private school.<sup>229</sup>

SB 331, was similar to SB 601 introduced by Sen. Padilla in 2009, but in a response to the funding issue raised by the BOE in opposition to SB 601, it took a less costly approach to retail licensing by requiring the license applicant to self-certify that a retail location is not near a school, and allowing for the cancellation of a license if CDPH determined that a license was issued for a retailer in violation of the prohibition.<sup>229</sup>

SB 331 was initially supported by the American Cancer Society, American Heart Association, American Lung Association, and the Latino Coalition for a Healthy California, and opposed by several tobacco retailer organizations, California Manufacturers & Technology Association, and California Taxpayers Association. During Senate Committee on Governance and Finance hearing, Padilla agreed to amendments grandfathering in existing businesses, at which time the voluntaries then withdrew their support and the retailer organizations withdrew their opposition.<sup>230</sup> It was referred to the Senate Appropriations Committee where it failed passage on January 19, 2012.

### *AB 1301: Giving the BOE Broader Enforcement Power*

Assemblymember Jerry Hill (D, Dist. 19, \$0) developed what became AB 1301 to eliminate jurisdictional limitations on BOE enforcement powers in 2011 after a meeting with young leaders from the Youth Leadership Institute, a non-profit located in San Mateo County and San Francisco, that worked on developing healthier communities.<sup>231</sup> The youth presented Hill with the findings of their research on underage tobacco use and access in San Mateo County. In the early 2000s, youth who attempted to purchase cigarettes in San Mateo County were able to do so more than 50% of the time.<sup>231</sup>

The Cigarette and Tobacco Products Licensing Act prevents the BOE from imposing the penalties on tobacco retailers for violations of the STAKE Act for illegal tobacco sales to minors if the California Department of Public Health's annual youth purchase survey showed that less than 13% of youth were able to purchase cigarettes. This condition was met twice, but BOE received no reports of violations either time. BOE's power to impose licensure penalties was also subject to a schedule of escalation from a warning letter through lengthening periods of license suspension to revocation for the eighth violation in 24 months; for example, the Act allowed for the first suspension of the retailer's license only after four violations at the same

location in a 12-month period. As a result, local cities and counties adopted local tobacco retailer licensing ordinances in order to reduce illegal sales to minors.

Because of the "13% rule" on BOE's power and to enhance the monetary penalties under STAKE, Assemblymember Jerry Hill (D, Dist. 19, \$0) introduced AB 1301 on February 18, 2011 as a spot bill to amend the STAKE Act. Hill amended AB 1301 in the Assembly Governmental Organizations Committee on March 29, 2011 to delete the provision of the Cigarette and Tobacco Products Licensing Act of 2003, which conditioned the BOE's authority to take action against retailers on the results of the youth purchase survey and lengthened the license suspension penalty imposition period in the Act from 12 months to 5 years.<sup>232</sup>

The AB 1301 that passed in the Legislature and signed by Governor Jerry Brown (D) on September 15, 2012 significantly strengthened the power of the BOE to use license-related penalties to enforce the STAKE Act and Penal Code §308(a). The 13% threshold for any BOE action was repealed. The Department of Public Health was required to report to BOE any civil penalty for third, fourth and fifth violations of the STAKE Act or Penal Code §308(a) assessed sanctioned by the Department or any other enforcing agency, by a tobacco retailer. Upon receipt of that report, the BOE is required to assess a civil penalty of \$250 and to suspend the retailer's license for 45 days for the third violation at the same location within 5 years, for 90 days for the fourth violation at the same location within 5 years, and to revoke the license for the fifth violation at the same location within 5 years. AB 1301 went into effect January 1, 2013.

AB 1301 was supported by the American Cancer Society, American Heart Association, American Lung Association, Breathe California, several law enforcement organizations and the Tobacco Education and Research Oversight Committee.<sup>233</sup> The American Heart Association thought the bill was very comprehensive and was in constant contact with the author's office, but took no outside action to support it.<sup>123</sup> There was no registered opposition to the bill.

## **Electronic Cigarettes**

Through 2014 implementing statewide policies regulating e-cigarettes would be challenging due to the rise of an aggressive e-cigarette lobbying force, a lack of support from public health advocates, the failure of the FDA to take a position on regulating them, and the challenge of defining e-cigarette.

According to the Tobacco Control Legal Consortium "To avoid confusion about what constitutes an e-cigarette (or "electronic nicotine delivery system"), definitions should be explicit about what they cover yet broad enough to anticipate future product innovations. This eliminates ambiguity if new products or components are released that are similar to those already in existence but would not fall under a narrow definition. For example, when these products were first introduced they looked like cigarettes, but now they take a variety of forms."<sup>234</sup>

***Through 2014 implementing statewide policies regulating e-cigarettes would be challenging due to the rise of an aggressive e-cigarette lobbying force, a lack of support from public health advocates.***



*SB 400: Prohibiting the Sale of Electronic Cigarettes*

Senator Ellen Corbett (D, Dist. 10, \$0) introduced SB 400 on February 26, 2009 to promote use of green vehicles. It passed the Senate as a green vehicles measure. On July 8, 2009 the Assembly Governmental Organization Committee adopted the author's amendments to strike the green vehicle language and instead to prohibit the sale, distribution, or offering for sale of electronic cigarettes that had not been approved or cleared by the federal Food and Drug Administration. The idea for the amendment had come from Community Advocate Teens of Today, an anti-tobacco teen group supported by the Santa Clara County Public Health Department, located in the Senator Corbett's District.<sup>235</sup> They had seen the sale of e-cigarettes in local mall kiosks and were concerned that the products were being targeted at minors, and the Santa Clara County Public Health Department issued a public health advisory for youth.<sup>235</sup> SB 400, as amended in the Assembly Governmental Organization Committee, passed the Assembly 50-29; the Senate concurred in the amendments 24-14.

SB 400 was supported by Breathe California, the California Medical Association, and the California Tobacco Control Alliance. The American Heart Association, American Cancer Society and American Lung Association had indicated they wanted more direction from the federal government on how to regulate e-cigarettes so did not take a position on the bill.<sup>116</sup> There was no registered opposition. Governor Schwarzenegger vetoed it on October 10, 2009:

While I support restricting access of electronic cigarettes to children under the age of 18, I cannot sign a measure that also declares them a federally regulated drug when the matter is currently being decided through pending [Sotera] litigation.

Items defined as 'tobacco products' are legal for anyone over the age of 18. If adults want to purchase and consume these products with an understanding of the associated health risks, they should be able to do so unless and until federal law changes the legal status of these tobacco products.

For this reason, I am unable to sign this bill.<sup>236</sup>

No attempt was made to override the veto.

*SJR 8: Encouraging the FDA to make a Decision regarding Electronic Cigarettes*

While Corbett's SB 400 was still pending in the Senate as a green vehicle bill, Sen. Corbett authored Senate Joint Resolution 8 pending the decision of the FDA on whether and how to regulate electronic cigarettes (something still pending at the FDA as of March 2014 which would requested the Food and Drug Administration prohibit the sale of all electronic cigarettes until the FDA had found them to be safe.<sup>237</sup> SJR 8 was supported by the American Heart Association and the American Lung Association of California. It passed 22-13, with Republicans opposing it in the Senate; it was referred to the Assembly Governmental Organization Committee on August 20 2009, where it died without having a hearing.<sup>237</sup> The Assembly Governmental Organization

Committee had adopted Sen. Corbett's amendment to SB 400 on July 8, 2009 to prohibit the sale of e-cigarettes that had not been approved or cleared by the FDA.

### *SB 882: Prohibiting Youth Access to Electronic Cigarettes*

In a continuing effort to regulate e-cigarettes in California, on January 14, 2010, Senator Corbett introduced SB 882 that would prohibit the sale, distribution or offering of electronic cigarettes until approved or cleared by the federal Food and Drug Administration. The language was similar to Sen. Corbett's SB 400 vetoed by Governor Schwarzenegger in 2009.<sup>238</sup> As introduced, SB 882 was supported by the voluntary health organizations, but Senator Corbett amended the bill in the Senate Health Committee to limit sales to persons under 18; the voluntary health organizations withdrew support for the bill as amended.<sup>116</sup> The reason the voluntary health organizations gave for withdrawing support is that they wanted something more comprehensive, and not just youth oriented.<sup>116</sup>

The final version of the bill that passed both houses of the Legislature and was signed by Governor Schwarzenegger on September 25, 2010 prohibited the sale or other furnishing of an electronic cigarette to a person less than 18 years of age, probably because it overcame his objection to the SB 400 violation of adults to purchase legal products that led to its veto. Cities and counties were specifically not preempted from enacting more restrictive requirements on the distribution of electronic cigarettes. The Health Officers Association of California and the First 5 Association of California supported the bill as amended;<sup>239</sup> there was no registered opposition, but the California Distributors Association lobbied on the bill.

## **2013**

### *SB 648: Restricting the use and advertising of Electronic Cigarettes*

In her continuing bid to deal with e-cigarettes, Sen. Ellen Corbett (D, Dist. 10, \$0) introduced SB 648 in February 2013. This bill was to include e-cigarettes in any law in California that restricts the use of lighted tobacco products and to prohibit the advertising of e-cigarettes in state-owned and state-operated buildings in the same manner as the advertising of tobacco products is prohibited.<sup>240</sup> SB 648 was supported by ANR, the California Medical Association, Breathe California and the California Black Health Network. Together these networks argued that the safety of e-cigarettes had not been established either for the user or for the bystander. ANR sent letters of support to Corbett. Conspicuously missing in support of SB 648 were the voluntary health organizations who remained unwilling to take a position on e-cigarettes.<sup>240</sup> The opposition was 156 individuals who argued that e-cigarettes had not been shown to harm bystanders.

The American Lung Association didn't support SB 648 because it believed that there had been strong local efforts, including 59 counties and cities, to change the definition of tobacco products that would include more than just e-cigarettes. The belief was that e-cigarettes were the new tobacco product in 2013, but there would be other new products in the future that should be included in the definition.<sup>116</sup> The American Lung Association believed there was a lot more to learn about the product and the adverse health effects of it before attempting to regulate it.<sup>116</sup>

In December 2013, in preparation for the 2014 US Surgeon General's Report, the major health voluntaries, ALA, AHA, and ACS, held a meeting in Washington D.C. where Dr. Stanton, a co-author of this report, criticized the California health voluntaries failure to support e-cigarette regulation at the state level in California. Over the next few months the dialogue on e-cigarettes began to open up and the American Heart Association and American Lung Association began supporting local efforts to include e-cigarettes in clean indoor air ordinances.

***E-cigarettes posed a challenge for regulation as it was a new product with its aggressively marketed with unsubstantiated claims about its benefits for smokers***

Senator Joel Anderson (R, Dist. 36, \$21,000), who opposed the bill, stated in a May 24, 2013 interview that e-cigarettes are a popular alternative for those who are trying to stop smoking.<sup>241</sup> "My phone's been ringing off the hook," Anderson said. "There are so many smokers who this has changed their lives, it's given them a new lease on life. It's gotten them off the cigarettes."<sup>241</sup> SB 648 passed the Senate 21-10 on May 24, 2013.

On August 14, 2013, SB 648 was held in the Assembly Government Organization Committee for hearing, because Sen. Corbett could not garner enough support for the bill to get it out of committee, in part because the major health organizations were withholding their support. Because it had passed in its house of origin, SB 648 carried over to 2014, where it could be further considered.

On June 18, 2014, Sen. Corbett amended SB 648 in the Assembly Governmental Organization Committee to strike all of the language from the bill and substitute provisions adding electronic cigarettes to existing law that prohibits the sale of cigarettes or other tobacco products from vending machines except for premises licensed to sell alcoholic beverages, and adopting the definition of electronic cigarette from the statute prohibiting the sale of e-cigarettes to minors: "Electronic cigarette" means a device that can provide an inhalable dose of nicotine by delivering a vaporized solution (Health & Safety Code §119405).

The bill was amended further to simply prohibit e-cigarette vending machine sales in vending machines within 15 feet of the door of adult establishments. Corbett supported the amendment because she viewed it as a step forward on e-cigarette control. The amendments were supported by the tobacco and e-cigarette industry lobbyists and the Chair of G.O, Hall. The bill also listed e-cigarettes as neither a "cigarette " nor a "tobacco product" which could put them in a special category that possibly exempts them from other regulations such as tobacco taxes. E-cigarette manufacturer NJOY spoke in favor of the bill. Hall moved the amendments forward despite the opposition of ANR, AHA, ACS CAN, and ALA, who thought the bill was a "Trojan Horse" filled with pro-tobacco industry language.<sup>242,232,224,9</sup> Hall stated " I am stricken that they would oppose a bill that would keep kids from getting e-cigarettes" and "if they are against this bill they aren't for kids."

Michael Sweeney, Mayor of Hayward, located in Corbett's Senate district, published an opinion piece in *Capitol Weekly* in August 2014, encouraging the Senator to insist the bill be returned to its original form. Sweeney stated, "what started off as a well-intended effort to protect our children and public health now does just the opposite. As currently written, through some crafty

back-room dealing from high-paid tobacco lobbyists, SB 648 once again puts our children in the cross hairs of tobacco marketing schemes."<sup>243</sup> Despite many of the efforts of AHA ACS CAN, and ALA to convince the Senator to drop the measure, she remained committed to the tobacco industry sponsored legislation. Through their lobbying of the other Assembly members on the Assembly Appropriations Committee, health advocates defeated the measure in vote of 3-2, with 11 Assembly members not voting.<sup>244</sup>

E-cigarettes posed a challenge for regulation as it was a new product with its aggressively marketed with unsubstantiated claims about its benefits for smokers. The science was slow in developing to provide evidence for legislation. Additionally, advocates and policymakers were challenged by issues related to the definition of the product.

While the state Legislature enacted SB 882 which nominally prohibited the sale of e-cigarettes to minors, it had no enforcement provisions. The regulation of e-cigarettes at the local level was continuing apace (Chapter 4), from small towns and major metropolitan areas including Los Angeles and San Francisco despite the lack of federal and state action. As a result, by August 2014, 41% of California's population was covered by local restrictions on use of e-cigarettes where cigarettes were not permitted.

*Hall moved the amendments forward despite the opposition of ANR, AHA, ACSCAN, and ALA, who thought the bill was a "Trojan Horse" filled with pro-tobacco industry language*

## **Tobacco Advertising**

The tobacco industry spends heavily on the marketing and promotion of its products. The industry must file reports with the Federal Trade Commission. The most recent report of the FTC was issued in 2013 with data from the 2011 filings.<sup>245</sup> The report showed that the industry spent nearly \$8.37 billion in the U.S. on advertising and promotion in 2011. Of that, \$103.5 million was spent on advertising in print media, outdoor and point-of-sale advertising. The largest category of expenditure for promotion of \$7.0 billion was for price discounts to wholesalers and retailers.

### **2011-2012**

#### *AB 1218: Denying Tax Deductions for Cigarette Manufacturers*

As originally filed, AB 1218 made a technical change to the sales and use tax law. With the support of the American Cancer Society who approached the author, the bill was amended in Assembly Revenue and Taxation Committee on April 7, 2011 by Assemblymember Richard Pan (D, Dist. 9, \$0), AB 1218 denied a deduction, for both personal and corporate income taxes, of expenses incurred by cigarette or tobacco products manufacturers, distributors or retailers to advertise the sale, use or other consumption of cigarettes or other products containing tobacco.<sup>246</sup> The bill was re-referred to the Assembly Revenue and Taxation Committee, set for a hearing, but the hearing was cancelled at the request of the author because of the author's lack of interest in

the bill and the 2/3 needed for passage, and the bill died at the end of the Session. The bill would have required a 2/3 majority because it would have raised taxes by ending a tax deduction.<sup>246</sup> The measure was not heavily pursued by the author, so the American Heart Association did not take a position.<sup>123</sup> The American Lung Association supported the measure.<sup>116</sup>

## **State Subsidies of the Motion Picture Industry**

### **2011-2012**

#### *AB 2026: Removing Cigarettes from Movies Who Receive Tax Deductions*

State subsidies, usually in the form of tax credits, are used to lure film and television production companies to do at least some part of the production in the state. The argument is made by the supporters of the subsidies that the subsidies provide employment opportunities for state residents. The California film subsidy program started in 2009 with a cap of \$100 million per fiscal year to be allocated by the California Film Commission to qualified productions. In February 2012, the funding for the subsidies would expire June 30, 2015. Assemblymember Felipe Fuentes (D, Dist. 39, \$5,400) introduced AB 2026 on February 12, 2012 to extend for 5 years the tax credit program administered by the California Film Commission which offers income, property, sales and use tax credits to companies making motion pictures and television productions in California employing Californians.<sup>247</sup> The maximum available to the Film Commission each year for the program was \$100 million.<sup>247</sup> :

***The American Heart Association, aided by the American Cancer Society, mounted a campaign to deny any credits to motion pictures in which tobacco use was depicted.***

The American Heart Association stated in a letter to the Assembly Arts, Entertainment, Sports, Tourism, and Internet Media Committee in opposition to AB 2026:

There are many organizations interested in this issue and the opportunity AB 2026 provides to reduce the smoking prevalence among our youth. California has been a leader in the tobacco control movement. The State's Tobacco Control and Prevention Program is excellent and a model program recognized both nationally and internationally. It is incongruent to have such a strong state program while at the same time providing subsidies for movie productions that depict the use of tobacco which we know will increase the use of tobacco among our youth.

The AHA believes that California's film tax credit program should not conflict with the public health priorities of our state and nation. AB 2026 provides California with the opportunity to do this and implement the CDC and WHO recommendations by limiting subsidies for movies to only those that do not have tobacco-related imagery.<sup>248</sup>

The motion picture industry is a powerful lobbying organization, based in Assemblymember Fuentes' district. The motion picture industry would not support amending the bill, and the author was against amending the legislation to include provisions that his sponsors did not

like.<sup>115</sup> Assemblymember Fuentes was the chair of the powerful Assembly Appropriations Committee and wanted to see the bill move as it was written.<sup>123</sup> The bill was not so amended, passed both houses and was signed by the governor on September 30, 2012. In its final form, however, it extended the program for only two years.

### **Supplemental Reporting Language: BOE Tobacco Licensing Administration Costs**

As reported in Chapter 1: State Tobacco Control, after the passage of AB 71 in 2003, the Board of Equalization was appropriated by the legislature Proposition 99 funds for the cost of enforcing AB 71 which required retail licenses to sell tobacco products. Over the years the amount appropriated to the BOE has grown substantially from approximately \$1.3 million in FY 2000 to \$10 million in FY 2013.

In 2014, First 5, the early childhood education program created by Proposition 10 in 1998, and recipient of Proposition 99 funds, approached members of the Budget Committee about the BOE appropriation.

Budget Subcommittees can require state programs to provide information and reports on financial activities for the purpose of future budgeting requirements. On May 24, 2014 the Assembly Budget Sub-committee No. 4 : State Administration voted unanimously to require that:

1. Cost of Programs Related to Cigarettes and Tobacco Products. By October 15, 2014, the State Board of Equalization (BOE) shall submit to the Joint Legislative Budget Committee and to the fiscal subcommittees of the Legislature a report that provides:

A detailed breakdown of BOE's expenditures on the Cigarette and Tobacco Products Tax Program and on the Cigarette and Tobacco Products Licensing Program for the most recent fiscal year for which information is available. This breakdown shall include the number of hours by classification as well as a description of the activities undertaken by personnel in each classification.

A step-by-step explanation of the methods used to allocate costs for the Cigarette and Tobacco Products Tax Program and for the Cigarette and Tobacco Products Licensing Program among various funds, including, but not limited to, the California Children and Families First Trust Fund.

2. By February 1, 2015, the BOE shall convene a stakeholder meeting to discuss potential approaches for future funding of the Cigarette and Tobacco Products Licensing Program.

3. By April 1, 2015, the BOE shall submit a report describing at least three alternative

***The reporting requirements have given tobacco advocates...an opportunity to report to the legislature the impact the BOE fees have***

approaches for future funding of the Cigarette and Tobacco Products Licensing Program. At least one of these alternatives shall provide for increasing the share of costs covered by licensing fees and another shall include increasing the share of costs covered by the General Fund.<sup>249</sup>

The reporting requirements have given tobacco advocates and the CTCP an opportunity to report to the legislature the impact the BOE fees have had on the ability to allocate resources to important tobacco control programs.

## **Conclusion**

The period 2007-2014 did not see any break-through legislation for tobacco control, but there were several important changes. The Cigarette and Tobacco Products Licensing Act was improved significantly by removing the 13% threshold on sales to minors before any retailer could be punished, and the penalties were increased in a meaningful way. There were many failed attempt to increase tobacco taxes, but the efforts kept the issue in front of the public and the media.

The requirement of a 2/3 supermajority to pass a tax increase gave the Republicans the ability to thwart any tax increases during the Schwarzenegger administration because they held over 1/3 of the seats in both houses. The Democrats achieved a 2/3 supermajority in both houses in the 2012 election, but Governor Brown's commitment to submit any tax increase to the voters posed a problem. Brown had secured voter approval of Proposition 30 in the 2012 election which temporarily raised the state sales tax and taxes on high earners. The governor and legislative leaders were not interested in another tax increase following close on that victory. As shown in Chapter 2, Tobacco Industry Activity to Influence Public Policy, legislation to increase tobacco taxes was met by a significant increase in direct and indirect lobbying expenditures by the tobacco industry. Leadership in the state Assembly played a significant role in the failure of many tobacco control measures. Members of Leadership can have significant impact on committee assignments of bills and can apply pressure on other members of the legislature. Speaker John Pérez (D-53) would be a impediment to tobacco control policies. Additionally, members of key tobacco control committees including G.O. and Revenue and Taxation, were accepting campaign contributions from the tobacco industry.

ACS's Jim Knox stated about the legislature's lack of action on many anti-smoking measures that correlates with an increasing trend to accept contribution from tobacco companies.

Starting in July 2014, ACS CAN sent letters to every candidate for legislative or statewide office and officeholders who were not unable to run for office due to term limits, urging them to reject contributions from tobacco companies and their subsidiaries, and asking this question, "Will you reject the deception, pain and suffering that fund campaign contributions from tobacco companies and will you stand with ACS CAN and help us *Snuff Tobacco Money out of California Politics?*" On September 29, 2014 ACS CAN created a challenge to "just say no" to Big Tobacco campaign money and launched its [www.notobaccomoney.org](http://www.notobaccomoney.org) website, which listed 50 candidates or elected officials who had agreed to publicly not accept tobacco money. The

website is as a step towards encouraging legislators to reject campaign tobacco money, but still does not provide a mechanism to hold accountable those who have.<sup>250</sup>

Fourteen bills were introduced in the period 2007-2014 to restrict smoking, but only three became law. Five were introduced during the Schwarzenegger administration, two passed and both were vetoed. Nine were introduced during the Brown administration through 2014, five passed in the Legislature and Brown signed three of them. AB 746 in 2013 was an unsuccessful attempt to restrict smoking in multi-unit housing; despite this failure California has been a leader on local multi-unit housing activity (Chapter 4). Advocates hoped that this success would propel state-wide legislation in the future.

E-cigarettes emerged as a new, unregulated threat to public health and tobacco control, and several unsuccessful attempts were made to control them. The only bill that became law was SB 882 that prohibited the sale of e-cigarettes to minors.

Despite these problems, the voluntary health organizations continued to show determination to keep moving the agenda forward. They showed strong advocacy efforts in sponsoring and supporting tobacco tax increases in SB 600 (2009) and SB 768 (2013); they were selective in choosing to support other tobacco control measures. The voluntaries were committed to the issue by also leading the campaign for Proposition 29 that would have increased the cigarette tax by \$1.00.





## **CHAPTER 4: LOCAL TOBACCO CONTROL POLICYMAKING, 2007-2014**

- Progress on tobacco control has been concentrated at the local level where policymakers are relatively more sensitive to public support for public health and less susceptible to industry campaign contributions and lobbyists.
- In contrast to the state, local government has been addressing the e-cigarette issue.
- As of August 2014, 31 cities and counties in California, including Los Angeles and San Francisco, included e-cigarettes in their clean indoor air laws, prohibiting use of electronic cigarettes in workplaces, restaurants, bars, and casinos.
- 15 cities and counties, including Los Angeles and San Francisco included e-cigarettes in local retail licensing legislation.
- Local policymaking also filled loopholes in the state smokefree law, particularly by prohibiting smoking in multi-unit housing, declaring secondhand smoke a nuisance, and prohibiting smoking in some outdoor venues.
- California led the nation on the efforts to introducing multi-unit housing ordinances. By 2014, 37 localities had passed ordinances restricting smoking in multi-unit housing.
- Between 2007 and 2014, 14 strong local tobacco retail licensing ordinances passed.
- The California Tobacco Control Program facilitated local action through funding Local Lead Agencies and competitive grantees and through the use of effective media campaigns.

### **Introduction**

Social norms regarding indoor air quality and secondhand smoke exposure have drastically changed in California between 1976, when the state's first local clean indoor air ordinance passed, and 2014. Because of the fact that almost all workplaces and enclosed public places were already smokefree by 2000, local tobacco control policymaking in the 2000s shifted to passing laws to restrict smoking in multi-unit housing, classifying secondhand smoke as a public nuisance (which empowers individuals to sue to obtain smokefree multi-unit housing), restricting smoking in outdoor areas, including e-cigarettes in existing smokefree ordinances, and limiting tobacco retail operations.

### **Smokefree Air Ordinances, 2007-2014**

After California's statewide smokefree workplace law (AB13) took effect January 1, 1995, action at the local level moved to restricting smoking in areas exempted by AB 13 including 65% of guest rooms of hotels/motels, designated smoking areas in hotel/motel lobbies, retail or wholesale tobacco shops or private smoking lounges, meeting and banquet rooms (unless food and/or beverages are served), truck cabs, warehouse facilities, patient smoking areas in long-term health care facilities, designated smoker break rooms, establishments with fewer than six employees,<sup>251</sup> outdoor areas and places other than workplaces.

In February 2006, the first broad prohibition on outdoor smoking was the Calabasas ordinance that went into effect prohibiting smoking in virtually every indoor and outdoor area in the city

where any nonsmokers were present except for private residences. Through 2014, 74 cities and counties in California had passed comprehensive outdoor secondhand smoke ordinances which is defined as an ordinance which prohibits smoking in five of the seven following areas: dining areas, entryways, public events, recreation areas, service areas, sidewalks, or worksites<sup>252</sup> (Appendix 4). The new wave of local tobacco control policymaking in California to restrict smoking in multi-unit housing began in 2004 and continuously gained momentum through 2014.

## **Multi-Unit Housing**

The multi-unit housing movement in California began at the local level but was galvanized for broader, statewide action after the California Tobacco Control Program's 2005 Project Directors' Meeting in Sacramento. At that meeting local health departments, community-based organizations, state-funded agencies, and tobacco control advocates requested technical assistance from the CTCPC to support smokefree multi-unit housing interventions. The California Tobacco Control Program (CTCPC) and its funded agencies responded by providing a wide range of technical assistance regarding multi-unit housing interventions including:

***The advocacy for the smokefree multi-unit housing movement initially came from the senior citizen communities.***

- Multifaceted TV, radio, and print media campaign materials which focused on secondhand smoke exacerbating chronic health programs;
- Community organizing strategies from Change Lab Solutions and the ALA's Center for Tobacco Policy and Organizing; and
- Online access to state and county level data to help local health departments prioritize their needs.

The advocacy for the smokefree multi-unit housing movement initially came from the senior citizen communities who were retired, had extra time to attend public hearings and send letters to council members, and had chronic health problems which were exacerbated by drifting secondhand smoke.

In January 2006, after five years of deliberations, the California Air Resources Board designated environmental tobacco smoke (secondhand smoke or SHS) as a "toxic air contaminant." Later that year the US Surgeon General Report *The Health Effects of Involuntary Smoking* concluded that there was no safe level of exposure to SHS.<sup>253</sup> Following both reports cities began introducing laws to restrict smoking in common areas of multi-unit housing. In 2006, the City of Calabasas in Southern California and four local jurisdictions in the San Francisco Bay Area (Pleasant Hill, Dublin, Contra Costa County, and Emeryville) led the way by adopting ordinances that restricted smoking in common areas of multi-unit housing (MUH).

Voluntary smokefree policies in MUHs can restrict smoking in residential units, in indoor and outdoor common areas, and on balconies and patios.<sup>254</sup> Smokefree MUH laws, on the other hand, can legally prohibit grandfather clauses which would otherwise permit smokers to continue smoking inside their residential units after a smokefree ordinance is adopted, declare secondhand

smoke a public nuisance, and require MUH management to disclose the smoking policy to new and potential tenants.<sup>254</sup>

California public health advocates made significant strides in tobacco control toward reducing prevalence of secondhand smoke (SHS) exposure beginning in 1991, shortly after the CTCP was launched. Exposure to SHS in California declined from 88% in 1991 to 40% in 2008.<sup>254</sup> Nevertheless, research conducted in 2010 revealed that vulnerable populations such as young children (54%) and nonsmoking African Americans (56%) were disproportionately affected by secondhand smoke exposure in the United States.<sup>255</sup> Furthermore, the U.S. Surgeon General reported that SHS exposure remained an issue for nonsmokers in their homes.<sup>253</sup>

The MUH smokefree movement started in Southern California with a focus on affordable housing managed by local public housing authorities (PHAs). The first organized effort for a city ordinance was made by the Los Angeles City Council in 2003 after receiving pressure from the organization Smokefree Air for Everyone (S.A.F.E.), a local grassroots group dedicated to advocating for policies and laws that protect the community from secondhand smoke and funded by Community Partners, an organization in Los Angeles that assists groups, foundations, and institutions in developing nonprofit projects, coalition building, and managing philanthropic initiatives.<sup>256</sup> S.A.F.E had also received funding since 2001 from Proposition 99 Tax initiative to run its Smokefree Apartment House Registry for apartment managers to post vacancies of smokefree housing units.<sup>257</sup> Opposition from the City of Los Angeles Housing Authority and other affordable housing advocates was enough to block the ordinance in 2004.<sup>258</sup> In September 2004, following a three-year campaign by local advocates in collaboration with S.A.F.E. and the Ventura County Department of Public Health, Thousand Oaks City Council (Ventura County) unanimously passed a law<sup>259</sup> mandating that developers set aside one-third of new MUH funded by the city as nonsmoking, the first such ordinance in the nation.<sup>258</sup> In March 2007, Thousand Oaks increased the requirement to two-thirds of all new non-supportive housing units and half of all Supportive Housing Program units used for transitioning the homeless into homes, to become smokefree.<sup>260</sup> This effort was led again by S.A.F.E with financial assistance from California's Tobacco Control Program (Proposition 99) and Community Partners.

***Local activity on MUH ordinances in California was aided by two series of competitive grants in 2004-2007 and 2007-2010 awarded by the California Tobacco Control Program***

Local activity on MUH ordinances in California was aided by two series of competitive grants in 2004-2007 and 2007-2010 awarded by the CTCP to Local Lead Agencies and to competitive grantees to foster the voluntary adoption of smokefree multi-unit housing policies.<sup>41</sup> (See Chapter 1 for more details on the scope of CTCP grants to LLAs and competitive grantees).

The American Lung Association of California (ALA) was a driving force behind voluntary policies by housing complexes and ordinances by cities to regulate the indoor and outdoor air of multi-unit housing. In 2004, the ALA applied for and received both cycles of the local competitive grant and achieved substantial success through its Bay Area Smokefree Housing (BASFH) project ran by Regional Director Serena Chen. The objective of the 2004-2007 grant period was to mobilize management of three apartment complexes in the Bay Area to adopt

voluntary smokefree policies and to prompt cities to adopt legislation that declared secondhand smoke a nuisance (discussed later in this chapter).<sup>261</sup>

The California Civil Code §3479 defines nuisance as “Anything which is injurious to health, including, but not limited to, the illegal sale of controlled substances, or is indecent or offensive to the senses, or an obstruction to the free use of property, so as to interfere with the comfortable enjoyment of life or property, or unlawfully obstructs the free passage or use, in the customary manner, of any navigable lake, or river, bay, stream, canal, or basin, or any public park, square, street, or highway, is a nuisance.” By declaring secondhand smoke a nuisance in a local ordinance, the injured party doesn’t have to prove to a court that the smoker’s behavior constitutes an actionable nuisance, but only has to prove that the behavior has resulted in secondhand smoke exposure in the area in which smoking is restricted, indoors or outdoors.

Declaring secondhand smoke as a nuisance is important to the multi-unit housing smokefree movement because it equips residents of MUHs with legal rights to request that their neighbors stop smoking near their apartment or condo. Labeling SHS a nuisance would give MUH residents legal standing to obtain a temporary restraining order against the neighbor when they (meaning the MUH residents who are requesting the change in the smoking behavior of their neighbor) can provide proof that the SHS is infiltrating their home. As part of the nuisance abatement procedure, cities and counties may also enforce a nuisance ordinance.

Nuisance laws can provide a remedy for private citizens to protect themselves through legal action from exposure to secondhand tobacco smoke in multi-unit housing and in other areas, such as parks, recreational facilities, and dining areas not covered by local or statewide smokefree laws.<sup>65</sup> Nonsmokers may file a lawsuit against landlords or fellow tenants on the basis of nuisance, negligence, battery, or intentional infliction of emotional distress because of SHS exposure.<sup>262</sup> Declaring SHS smoke as a nuisance may increase the chances of the court ruling in favor of the plaintiff. However, success in nuisance cases is not guaranteed and can rarely provide large-scale protection against secondhand smoke.<sup>263</sup>

The first ALA grant for 2004-2007 paved the way for the wave of voluntary and legislated smokefree policies in multi-unit housing in the San Francisco Bay Area.<sup>261</sup> Three voluntary policies – at Sojourner Truth Manor in Oakland, Stoneman Village in Pittsburg, and the Alameda Housing Authority in the City of Alameda – passed between 2007 and 2008 with the assistance of the senior citizen community living in these complexes. The second cycle of the ALA grant (2010-2013) was used to assist at least three cities within the nine-county San Francisco Bay Area to adopt strong smokefree multi-unit housing ordinances.<sup>255</sup>

### ***Sojourner Truth Manor Adopts Smokefree Policy in 2007***

Several factors contributed to Sojourner Truth Manor, a three building public senior housing complex in Oakland, becoming the first multi-unit housing project to receive funding from the ALA's Bay Area Smokefree Housing Project, which allowed Chen and her staff to dedicate one-on-one time with the housing complex administration. The effort progressed for three reasons: First, advocacy surrounding smokefree housing came from the senior citizen community because of their higher rates of chronic health conditions and because most of their time was spent in

their close live-in quarters where secondhand smoke easily drifted into the houses of nonsmokers. Second, the first multiunit housing television advertisement aired by the California Tobacco Control Program in late 2006 (in English and Spanish) which focused on the dangers of secondhand smoke exposure in multi-unit housing complexes. Third, in 2004, Sojourner Truth Manor had a smoking-related fire caused by the malfunctioning oxygen tank of one of its smoking residents, which killed the resident and a neighbor whose door had been left ajar. Three other residents were hospitalized. The memory of the devastating fire lingered in the minds of the tenants and the housing complex board. The administration had changed the house rules immediately following the fire to: 1) no smoking in unit when oxygen is in use 2) signage outside resident's door when oxygen in use and 3) doors to units closed at all times.

The Sojourner Truth Manor administrator and social worker also arranged to have on-site smoking cessation classes in 2004. The Sojourner Truth Manor administration discontinued the classes because they were poorly attended. Without prohibitions against smoking other than for residents while on oxygen, tenants were not motivated to quit.

It was not until late 2006, that the Sojourner Truth Manor Administrator and the Resident Services Manager were able to move forward on reducing smoking in the complex. In 2006, Donna Murphy, the Sojourner Truth Resident Services Manager, attended a networking event where she met the ALA's East Bay Smokefree Housing (EBSFH) coordinator, Carmen Castro-Rojas, who worked for the American Lung Association of the East Bay. Murphy, concerned for the health of her residents, told Castro-Rojas that Sojourner Truth Manor management wanted to adopt a smokefree policy. The two discussed converting the Sojourner Truth Manor units into nonsmoking. The EBSPH coordinator introduced Murphy to Serena Chen, Regional Advocacy Manager of the Greater Bay Area for the American Lung Association in California.

After the fire in 2004, the management had contacted the US Department of Housing and Urban Development (HUD) inquiring about how to convert their complex into nonsmoking. HUD's Richard Rainey, a conservative former police chief in Contra Costa County, informed the administration that if they were to convert their building to nonsmoking, they would have to grandfather in smokers and could not cluster smokers into one building, which was the original idea of Sojourner Truth Manor administration to reduce nonsmoking tenants' exposure to secondhand smoke. He suggested minimalist recommendations in accordance with his interpretation of the US Department of Housing and Urban Development handbook such as: (1) adopt rules that people on oxygen tanks cannot smoke, and (2) require all tenants to keep doors closed at all times. His recommendations limited the power of senior housing complexes to convert to 100% smokefree housing units and were inconsistent with HUD's policy at the time, which did not require or preclude PHAs from implementing smokefree policies.<sup>264</sup>

In addition, in 2006 Bruce Fiedler (an advocate for the smokefree indoor air movement in 1993) and then an administrator for a senior housing complex in Pleasanton, introduced Chen to Leading Age, a nationwide organization with local and statewide chapters of people who provide services to seniors, most notably housing services.<sup>261</sup> According to Chen, Leading Age (known as the American Association of Homes and Services for Aging [AAHSA] before July 2014, a national network of not-for-profit organizations that provide care and services to the aging<sup>265</sup>)

was the first national organization to support smokefree senior citizen housing complexes and encouraged its membership organizations and local chapters to adopt smokefree policies.

In 2006, Chen used part of the grant money to promote AAHSA's webinar "Establishing a Non-Smoking Environment for Your Community: What you Need to Know," to discuss implementing smokefree policies in senior citizen housing. Chen invited people in her network of affordable housing contacts to the webinar. Donna Murphy, Resident Services Manager for Sojourner Truth Manor, attended the webinar.

Chen worked with Murphy to mobilize the Sojourner Truth Manor Board to accept Murphy's request for a smokefree policy that designated smokefree common areas and smokefree units. Before introducing the idea to the Board, Chen and Murphy created a six-person health advocacy unit for the complex, awarding \$100 per person for their participation in the smokefree advocacy work. Members of this health advocacy unit, composed of two residents from each of the three buildings (for a total of 6 residents), became the complex's smokefree ambassadors and conducted resident surveys to determine the residents' willingness to go smokefree. The results were positive and in 2007, without any organized opposition, the Board agreed to voluntarily convert Sojourner Truth Manor into a smokefree facility by changing the house rules that all units were designated as non-smoking.

The Board did, however, grandfather in five units (out of a total of 87 units).<sup>261</sup> Because the complex was federally-subsidized Section 8 Housing, HUD recommended changing the house rules rather than changing the lease because of the legal difficulties in changing tenant lease contracts subsequent to HUD approval.<sup>261</sup>

### *Stoneman Village*

Stoneman Village I & II, a HUD subsidized complex for seniors and disabled adults in Pittsburg, California, became the second multi-unit housing complex to adopt a voluntary policy in California. Karen Bodiford, administrator for Stoneman Village, was contacted by Yvonne Beals of the East Bay Smokefree Housing campaign team and policy coordinator for the Contra Costa Tobacco Education Program, in April 2007. Bodiford was open to the policy and accepted the assistance of the American Lung Association. After presenting the idea to the Board of Stoneman Village, the Board strongly urged Bodiford to move forward. There was no opposition to the policy.<sup>266</sup>

Even though the American Lung Association advised Bodiford in October 2007 against grandfathering in existing smokers, Bodiford ignored the recommendation. At an October 17 meeting, the American Lung Association was invited to speak with the residents of Stoneman Village where out of 145 apartments, 45 residents were in attendance. Bodiford announced at this meeting that all new units and new residents would have to accept the house rules prohibiting smoking in the units and smoking outdoors had to be 20 feet away from doorways and windows by January 1, 2008. The complex would become 100% nonsmoking by January 1, 2009, giving the smoking residents time to quit smoking in the units.<sup>266</sup>

### ***City of Alameda Public Housing Ordinance***

In 2008, the City of Alameda Housing Authority became the first housing authority in the San Francisco Bay Area to go smokefree and the third voluntary smokefree housing conversion covered by the 2004-2007 grant from the California Tobacco Control Program.

The move to change the Housing Authority's policy began in 2007 after Chen was contacted by a tenant from one of the Housing Authority's senior housing complexes, Independence Plaza, a 186-unit senior citizen complex in the City of Alameda. The tenant, Kenny Leung, was determined to change the smoking policy. Leung, a former smoker, had emphysema and had lived in a two story complex above a heavy smoker until management moved Leung in an effort to address his health issues and to reduce his SHS exposure. In April 2007, the Housing Authority refused to take further action because the Authority viewed Leung's problem as having been "resolved." Nevertheless, Leung together with eight other residents returned to the next meeting of the Housing Authority Commission, with letters of support signed by an additional nine tenants (there are a total of 186 units in the senior housing complex) to call attention to the negative health effects of SHS and the experiences they had with drifting SHS into their apartments from other smokers in the building in April 2007.

***In 2008, the City of Alameda Housing Authority became the first housing authority in the San Francisco Bay Area to go smokefree***

Also in April 2007, the ALA sent a letter to the Alameda Housing Authority's executive director to offer technical assistance for adopting a voluntary smokefree policy in multi-unit housing.<sup>261</sup> Leung read about Chen in the Chinese language media after the ALA had sent press releases to local media on the importance of smokefree housing.<sup>261</sup>

In response, in April 2007 the City of Alameda Housing Authority requested that the Alameda Housing Commission establish a Smoking Policy Committee to study how best to increase smokefree protections. The Smoking Policy Committee was composed of Alameda (City) Housing Commission members (2), Alameda Housing Authority housing management staff (3), American Lung Association staff (2), and Independence Plaza residents (5 total, one from each building). A window of opportunity presented itself for organizing this committee when Ruth Malone, a Professor of Nursing at UC San Francisco, called Chen informing her that Malone had two nursing students who needed health policy internships. Coincidentally, Chen needed assistance with organizing the Independence Plaza multi-unit housing effort and so she assigned Malone's nurses to work on the smoking policy committee in June 2007.<sup>261</sup>

The Smoking Policy Committee met monthly beginning in July 2007. The American Lung Association provided assistance by meeting with property management staff, conducting secondhand smoke training for the Smoking Policy Committee members, providing sample lease addendums and model policies, conducting secondhand smoke presentations, and attending Alameda Housing Commission meetings and an Independence Plaza meeting to answer questions about the proposed policy.<sup>267</sup>



Another opportunity arose in July 2007 when the Executive Director of the Housing Authority wanted to see if there was tenant support for a smokefree policy. In response, Chen developed a survey to distribute to the different buildings of the senior citizen apartment complex and Kenny Leung translated the survey into Mandarin to ensure that tenants were not excluded from participating because of a language barrier.

The survey results were more supportive of strong smokefree restrictions than what Chen had expected. In a 2013 interview for this report, Chen recalled:

So we asked a hypothetical question. Should smoking no longer be allowed in the buildings, where do you think smoking outside could take place? So we had little boxes. "In the courtyard, in the parking lot," into this, into that. The item that got checked the most was the box which said, "The Street."<sup>261</sup>

Forty-four percent of the 126 participants in the survey favored a "No Smoking" rule in some of the units while fifty-six percent favored "No Smoking" in all units. When asked where tenants suggested that smokers should smoke, 44% of the respondents said "the street", 33% said "the parking lot", and 23% said "courtyard."<sup>268</sup>

The Smoking Policy Committee presented the results to the Housing Authority Board in May 2008 at the Independence Plaza residents' meeting. It recommended that the Housing Authority executive director convert all units and outdoor property to nonsmoking. At the residents' meeting, residents who were not part of the Smoking Policy Committee defended the 100% smokefree policy because the members of the Smoking Policy Committee had educated them on the importance of the policy. The executive director was convinced and recommended that the Housing Commission adopt a 100% smokefree policy for complexes managed by the City of Alameda's Housing Authority (12 total), starting with Independence Plaza. There was no opposition to the policy.<sup>267</sup>

***Forty-four percent of the 126 participants in the survey favored a "No Smoking" rule in some of the units while fifty-six percent favored "No Smoking" in all units.***

As a result, in April 2008 the City of Alameda Housing Commission (the governing body of the Housing Authority of the City of Alameda) voted unanimously to convert all of their properties to 100% smokefree campuses, including all units, starting with Independence Plaza. Tenants, including existing tenants, were required to sign smokefree lease addendums in June 2008, The 100% smokefree policy and it became fully implemented on August 1, 2008.

As a result of Leung's activism, with technical assistance from the American Lung Association, the Housing Commission mandated that smoking be prohibited in all City of Alameda Housing Authority owned and managed apartment complexes (approximately 500 units), including but not limited to: inside apartments, balconies, common areas, and on campus grounds.<sup>267</sup>

### ***Dublin Declares Secondhand Smoke as a Public Nuisance***

In 2006, the City Council of Dublin amended its Smoking Pollution Control Ordinance and became the second city in California to declare secondhand smoke a public nuisance (the first city was Calabasas in 2006<sup>65</sup>) in order to make it easier for people living in MUH to take private legal action to protect themselves from SHS originating in other units. The law went into effect on January 2007.

Though passing a city enforced secondhand smoke ordinance for MUH is ideal compared to a nuisance law, the advantage of declaring secondhand smoke a public nuisance is that it removes the difficulty of having to establish that SHS is a nuisance in court.

Dublin City Councilmember Kasie Hildenbrand, a liberal member of the predominately conservative city government,<sup>261</sup> proposed an ordinance which declared secondhand smoke (SHS) a public nuisance after Shirley Wassom, a senior citizen in the Dublin area, sought assistance from the city council to resolve the health problems she was facing as a result of the smoke that drifted into her house from her neighbor's patio.<sup>261</sup> In her close live-in quarters, Wassom was exposed daily to SHS. Every member of the city council received a letter from Wassom. However, because Hildenbrand personally knew the Wassom family, she decided she would take action.

The release of the 2006 US Surgeon General Report *The Health Effects of Involuntary Smoking* which concluded that there are no safe levels of exposure to SHS,<sup>253</sup> and the California Air Resources Board designation of environmental tobacco smoke a toxic air contaminant<sup>269</sup> further galvanized Hildenbrand's decision to take action on involuntary secondhand smoke exposure in private residences.<sup>270</sup>

In March 2006, after receiving the letter from Wassom, Hildenbrand referred to a ChangeLab Solutions handout titled "10 Ways You Can Do Tobacco Control in Your City." Realizing that Belmont had accomplished everything on the list aside from nuisance, Hildenbrand decided she would introduce a nuisance ordinance at the March 2006 meeting. This effort was aided by the CTCP which, between 2004 and 2010, supported local lead agencies and competitive grantees in their efforts to restrict secondhand smoke exposure in MUH. (See Chapter 1 for a detailed scope of the California Tobacco Control Program's support of local tobacco control activity)

At the March 21, 2006 meeting, Councilmember Hildenbrand requested that the Dublin City Attorney prepare a staff report on the issue of secondhand smoke in order to prepare the council for the consideration of an ordinance that would declare secondhand smoke a nuisance. In June 2006, the staff returned with the report and provided three policy options if the Council chose to amend the Dublin Municipal Code on nuisances. In Dublin vehicles, vicious dogs, flies, rodent infestation, unreasonable noise, and weeds were considered a nuisance under its city code in 2006.

With technical assistance from ChangeLab Solutions, City Attorney Elizabeth Silver prepared three policy options for the Dublin City Council to consider so that Silver could prepare an ordinance for a later date. The options were:

Option 1: Ordinance declaring secondhand smoke a nuisance, providing for abatement of the nuisance by a private party, based on a private nuisance action, and indicating City policy not to spend City resources to bring abatement actions;

Option 2: Ordinance declaring secondhand smoke a nuisance, providing for abatement of nuisance by private party, based on a private nuisance action, and indicating City policy to abate nuisances only if the Council specifically authorizes expenditure of funds to enforce the declaration;

Option 3: Ordinance declaring secondhand smoke a nuisance and providing for enforcement by established policy, such as complaint-based enforcement only.<sup>271</sup>

On June 6, television station KTVU news aired a story about the city council's efforts to make secondhand smoke a nuisance and listed the three above referenced options the city was considering. Serena Chen of the American Lung Association received a phone call from her former advocate Bruce Fiedler informing her that the city council would take up the issue at an August 16, 2006 hearing.

In August 2006, the Dublin City Council preliminarily agreed to pass the nuisance law by a vote of 3 to 2 and chose "Option 1" where citizens could take smokers to small-claims court for damages of up to \$7,500.<sup>272</sup> With a fiscally conservative constituency, the Dublin City Council chose "Option 1" because it would not create a fiscal impact on the city. In speaking about the ordinance, Hildenbrand declared: "We have to legislate civility at times...The state of Utah and the City of Calabasas already have secondhand smoke nuisance laws on the books."<sup>273</sup>

Mayor Janet Lockhart and Council members Hildenbrand and Claudia McCormick voted for the ordinance whereas Councilmember George Zika and Vice Mayor Tony Oravetz voted against the measure arguing that it was a violation against a citizen's civil liberty to smoke.

Only one resident smoker was against the ordinance. The rest of the speakers at the hearing, including Chen, spoke in favor of the nuisance law, citing the 2006 U.S. Surgeon General Report on the danger of secondhand smoke exposure as reason enough for the ordinance.<sup>253</sup>

The ordinance was scheduled for a second reading on September 6, 2006.

Even though only one member of the community opposed the ordinance at the public hearing on August 16, 2006 Councilmember Hildenbrand and Mayor Janet Lockhart received death threats from smokers' rights groups: Smoking Lobby Forum for Smokers' Rights, Smokers' Club International, and SpeakEasy Forum. Both had to be escorted to their offices for months following the ordinance.<sup>261</sup>

The day after the city council voted to make secondhand smoke a nuisance, the *Tri-Valley Herald* published an editorial entitled "Dublin Liberties go up in smoke."<sup>274</sup> The editorial claimed that the ordinance was an attack on civil liberties and argued that Hildenbrand was creating a controversy to avoid tackling real issues.

After receiving a phone call from Mayor Janet Lockhart, who was worried about the ramifications of the editorial for the second reading of the ordinance, Chen wrote a letter to the editor of the *Tri-Valley Herald* entitled "Secondhand Smoke Editorial Mised Readers." On August 24, 2006, the *Tri-Valley Herald* published her letter which cited the 2006 U.S. Surgeon General Report as a clear reason to move forward with protecting people from secondhand smoke exposure using Dublin's proposed ordinance. She countered the editorial's claim that it is a violation of civil liberties with "the civil liberty we should be concerned about protecting is the right to breathe clean air."<sup>275</sup>

At the September 5, 2006, second reading of the ordinance, Councilmember Claudia McCormick, Mayor Janet Lockhart, and Councilmember Hildenbrand continued to support the ordinance despite attacks and ridicule from local and national media.<sup>276</sup> The other two council members, Zika and Oravetz, opposed the ordinance. It passed 3 to 2 only needing a simple majority. The law went into effect 30 days later.

### ***City of Belmont Becomes the First City to Pass a 100% Smoke Free Community Ordinance***

In October 2007, the City of Belmont (San Mateo County) passed an ordinance prohibiting smoking in most indoor and outdoor venues, exempting only detached single family residences. It also prohibited smoking in all indoor areas of market-rate MUH units for all new leases, with the prohibition for existing occupants phased in over 14 months. All outdoor smoking had to be more than 20-feet from any public entrance or exit, or operable window. All market-rate (unsubsidized housing) MUH units had to be 100% smokefree by January 9, 2009.<sup>258</sup>

### ***Origins of the Belmont MUH Ordinance***

Residents of a senior citizen community in Belmont, Bonnie Brae Terrace, were motivated to take action after reading the news coverage of the Dublin City Council passing its SHS public nuisance ordinance (detailed above).

After the City of Dublin had passed its SHS public nuisance ordinance in 2006, resident Ray Goodrich and Becky Husman went to the Belmont City Council and demanded that the city pass a secondhand smoke nuisance law.

The triggering event that led to the Belmont effort dated back to May 2003, when a smoker fell asleep

***The triggering event that led to the Belmont effort dated back to May 2003, when a smoker fell asleep and started a fire.***

and started a fire at the Leslie Foundation, a nonprofit organization that is subsidized by US Housing and Urban Planning and manages six senior citizen complexes in San Mateo County, including Bonnie Brae Terrace complex in Belmont. According to Chen:

An entire floor was gutted. And some of the tenants from that floor -- not the smoker, but the other tenants had spent months [some three months] in the hospital from the smoke inhalation and the entire thing.<sup>261</sup>

Following the fire, in October 2003 the Bonnie Brae Terrace Board voted to convert the entire complex into nonsmoking but exempted 29 smokers currently living there because of HUD's guidelines at the time.

#### *Problems Arise in 2004 after Bonnie Brae Terrace Grandfathers in Smokers*

In 2004, problems arose between smokers and nonsmokers because the smokers took the grandfather exemption to mean that they had a right to smoke. Smoke was still drifting into the apartments of nonsmoking residents who considered their health and safety compromised by the secondhand smoke.

The Board wanted to resolve the issue by moving all smoking residents into the same building but felt stymied by the HUD Regional Director's Richard Rainey statement that he did not think it "reasonable to require existing smokers to move to other units" in order to cluster the smokers' units together. As a result, management moved nonsmokers to "safer" buildings, an attempt which failed because new tenant smokers who were not grandfathered in began smoking when they saw grandfathered tenants smoke in their units.

#### *Nonsmoking Senior Citizens Begin to Mobilize in 2005*

The nonsmoking residents, led by resident Ray Goodrich, organized in 2004. Beginning in 2005, nonsmoking residents of Bonnie Brae Terrace conducted surveys, met with staff, circulated petitions, and sent letters to HUD complaining of the unsafe conditions they faced in their private homes. In December 2005, the residents took their issue to the media, without effect.

In 2006, the nonsmoking residents of Bonnie Brae Terrace contacted Smokefree Air for Everyone (S.A.F.E) for technical assistance. S.A.F.E. was a nonsmokers' rights organization that began working on smokefree multi-unit housing advocacy in Los Angeles County beginning in 2001. In 2004, S.A.F.E. assisted in the failed attempt to pass an ordinance in Los Angeles which would have prohibited smoking in at least fifty percent of all new affordable housing projects subsidized by the city. The ordinance died due to heavy opposition by the Los Angeles Housing Department and various affordable housing coalitions.<sup>65</sup>

When Ray Goodrich contacted S.A.F.E in mid-2006, a representative from the organization informed him about the efforts in Dublin to pass a nuisance ordinance and suggested they take their issue to the city council with the same mission.

*Senior Citizens of Bonnie Brae Terrace Request the Belmont City Council Declare SHS a Nuisance*

In October 2006, Goodrich and his daughter Becky Husman contacted the Belmont City Council and demanded they pass a nuisance ordinance similar to the City of Dublin. At the same time, they also contacted the American Lung Association in California, who worked on the Dublin City ordinance.

On October 24, 2006 the Belmont City Council instructed the City Attorney to prepare an ordinance which would declare secondhand smoke a public nuisance. The only opposition to the city considering an ordinance at the hearing was the manager of the Bonnie Brae Terrace who was told by the Richard Rainey of the US Department of Housing Urban and Development that it would violate HUD policy.

Meanwhile, Husman collected medical history and had the residents write secondhand smoke diaries which detailed how their health problems were exacerbated by drifting SHS into their private homes.<sup>277</sup>

*Health Advocates push for the Adoption of a Smokefree Ordinance including a Nuisance Law*

At the November 14, 2006 city council meeting, City Attorney Zafferano provided a model ordinance from ChangeLab Solutions for restricting smoking in multi-unit complexes. Zafferano recommended that the city adopt a nuisance ordinance which granted the city the ability to intervene in a case-by-case basis. He recommended a nuisance law rather than a comprehensive smokefree multi-unit housing law because there were "conflicting opinions regarding the establishment of smoking prohibitions in HUD facilities."<sup>278</sup>

***Zafferano recommended that the city adopt a nuisance ordinance which granted the city the ability to intervene in a case-by-case basis.***

Smokefree advocates at Bonnie Brae Terrace, along with the American Lung Association, Breathe California, California's Clean Air Project (a nonsmoker advocacy organization that promotes smokefree tribal casinos in California)<sup>279</sup>, and San Mateo County Health Department Tobacco Prevention Enforcement, however, argued that a nuisance law was not enough and that the city must adopt strong antismoking laws for multi-unit houses. Husman spoke on behalf of the senior citizens by reading their secondhand smoke diaries aloud to the city council. In preparation for the city council hearing, Husman had arranged for tenants of Bonnie Brae Terrace to document how drifting secondhand smoke exacerbated their chronic health problems. Testimony came from residents of Bonnie Brae Terrace, the American Lung Association, and local Belmont residents.

Following testimony from the American Lung Association, Breathe California, California's Clean Air Project (CCAP), San Mateo County Health Department Tobacco Prevention Program, and other local citizens, on the dangers of secondhand smoke, and considering ordinances passed

in other cities and the nature of drifting smoke in multi-unit housing, the Belmont City Council asked the City Attorney to draft a comprehensive smokefree ordinance for the city and bring it back for consideration for the December 12, 2006 meeting.<sup>278</sup>

The Belmont City Council, specifically Mayor Coralin Feierbach and Council members Dave Warden and Phil Mathewson,<sup>277</sup> were moved by the testimonies of the Bonnie Brae Terrace residents. These stories prompted Councilmember Warden to make a motion, seconded by Mayor Feierbach, to direct staff to prepare an ordinance that went beyond the City of Dublin ordinance. Supportive council members wanted to prohibit smoking everywhere, except in single-family detached residences, including yards and decks. Councilmember Warden directed staff to write an ordinance that would also include secondhand smoke as a nuisance with enforcement to be complaint-driven.

At the December 12, 2006, meeting the City Attorney was still in the process of working on the comprehensive ordinance and told the city council he would bring the proposed ordinance to the city council in February 2007. However, it was not until March 2007 that the city council considered the city attorney's proposed ordinance.

#### *Belmont City Council Hears Public Testimony at March 2007 Hearing*

Members of Belmont's business community, including restaurant and bar owners, American Hotels/Holiday Inn Express, the Tri-County Apartment Association, the Belmont Chamber of Commerce President Doug Mottern, argued against the ordinance because it would negatively affect businesses and violate the personal freedoms of constituents.

The public health community, which included members of the American Lung Association, American Cancer Society, Breathe California, California Clean Air Project, San Mateo Asthma Coalition, San Mateo County Tobacco Coalition, and local citizens, came out in full force to support the ordinance. Advocates countered the opposition's arguments by citing that the 2006 California Air Resources Board (CARB) decision to officially list secondhand smoke as a toxic air contaminant provided enough support for the city to move forward with restricting smoking in multi-unit housing and outdoor public areas. However, Mayor Feierbach did not move forward with the ordinance at this meeting and restricted its purpose to a comment-only session.

#### *Action Delayed as Belmont City Attorney Meets with Various Stakeholders*

Even though the Belmont City Council had overwhelming support for a comprehensive smokefree ordinance, the City Attorney and the City Manager did not meet with ChangeLab Solutions, the American Lung Association, and California's Clean Air Project to receive comments, feedback, and input on the proposed ordinance until June 2007.

After the City Attorney met with public health stakeholders, the Belmont City Council held a meeting on June 12 to address concerns about the draft model ordinance provided by ChangeLab Solutions. At that meeting, the Council determined that there was majority support for prohibiting smoking in all indoor (smoke shops exempted) and outdoor workplaces, declaring secondhand smoke a nuisance, prohibiting smoking in outdoor public places, service lines,

imposing a "reasonable" distance requirement from any place which prohibits smoking, prohibiting smoking in multi-unit housing complex common areas, inside units, and designating smoking areas within a "reasonable distance" from an entryway.

There was less support for banning smoking on all city streets and sidewalks at all times because the bar owners focused on combating the sidewalk smoking ban, citing common industry tobacco arguments that patrons would go to adjoining cities to drink at competitor bars so that they could smoke closer to the doorways.<sup>276</sup> Such opposition led to the Belmont City Council to limit the ban to doorway buffer zones.

### *Opposition to the Belmont Ordinance*

After the June 12 meeting, the City Attorney's office met with other key stakeholders, the San Mateo County Association of Realtors and the Apartment Association, to address their concerns. The San Mateo County Association of Realtors expressed concern about including condominiums and townhomes in the proposed ordinance because it would violate private property rights of individual owners, which was not based on legal issues but rather political ideology.

***The San Mateo County Association of Realtors in July 2007 sent postcards...to all Belmont residents, arguing that the proposed ordinance would take away property rights of owners to smoke in their own homes***

The Apartment Association also opposed the proposed smokefree ordinance and fought not to include a "reasonable distance" requirement from areas where smoking is prohibited in multi-unit housing complexes. The Association argued that a 20-foot requirement, which was proposed by the City Attorney after consulting with ChangeLab Solutions, may endanger smokers who would have to go into the "unsafe areas" (parking lots and streets), but provided no evidence that the 20-foot requirement actually would endanger smokers. The Apartment Association advised the City Attorney to rewrite the ordinance that would allow apartment complex owners to designate outdoor smoking areas.

To motivate Belmont constituents against the restriction that would ban smoking in condominiums and townhomes, the San Mateo County Association of Realtors in July 2007 sent postcards (Figure 4.1) to all Belmont residents, arguing that the proposed ordinance would take away property rights of owners to smoke in their own homes and that this would prompt city police to spy on residents.

### *Mayor Feierbach Calls the Smokefree Ordinance Out of Order for Immediate Consideration*

At the August 14, 2007 City Council hearing, the City Council was originally going to continue discussion and direction of the proposed smokefree ordinance. However Mayor Feierbach took the item out of order and placed it for immediate consideration following the Consent Calendar and before Public Hearings.



Mayor Feierbach instantly insisted that townhomes be treated as single-family homes, thus exempting them from the smokefree multi-unit housing provision of the ordinance. The original intention of the ordinance prior to the August 2007 City Council meeting was to include them in the city's anti-smoking law.

***Though the multi-unit housing smokefree movement in California began in Southern California, most of the progress took place in Northern California particularly in the San Francisco Bay Area***

places violated the constitutional rights of people to smoke in their private homes, even though there is not such a constitutionally protected right.

A representative from the California Apartment Association came to testify against the ordinance along with the San Mateo County Association of Realtors. Both requested that City Council consider exempting townhomes and condominiums as single-family homes. They also argued that prohibiting smoking in these

When the discussion moved to debating smokefree provisions in multi-unit housing complexes, Mayor Feierbach stated that townhomes should be exempt if there is only one shared wall.

Her two Council allies disagreed (Mathewson, who had introduced the motion to ban smoking in multi-unit housing, and Warden), but Mayor Feierbach was adamant about exempting townhomes because of the new townhomes that were being built in Belmont that year.<sup>276</sup>

***Belmont Sparks Movement in the Multi-Unit Housing Movement in California***

The Belmont City Council voted on October 9, 2007 at the second reading to prohibit smoking in individual units of multi-unit housing complexes, provided they share at least one common floor or ceiling with another unit (both market-rate and affordable housing).<sup>280-281</sup> The law also prohibited smoking in parks, outdoor restaurants, and other public places and declared



**Figure 4.1.** San Mateo County Realtors Association Postcards sent to all Belmont Residents in July 2007

secondhand smoke as a public nuisance. As is typical for such laws, enforcement would be complaint-driven.<sup>277</sup> The law passed by a vote of 3 to 2 with townhomes exempted from smokefree provisions.

The Belmont ordinance received international attention in October 2007 because, according to ALA's Serena Chen, it "broke the glass ceiling" in the smokefree multi-unit housing movement.<sup>261</sup> Even though there was demand for smokefree policies in multi-unit housing, a city had not adopted an ordinance mandating all MUH be smokefree until Belmont. It is uncertain why the tobacco industry was not visibly opposing Belmont's or subsequent local MUH efforts but likely because the tobacco industry realized it was less effective at the local level.<sup>282-283</sup>

During the ordinance campaign, the American Lung Association received triple the number of phone calls as usual, half in San Mateo, from citizens and multi-unit housing administrations on how to pass an ordinance in their city.<sup>276</sup> Because of the news media, nonsmoking rights went viral. The day after the ordinance was passed in October 2007, Jacque Petterson, a colleague of Chen's who, worked for Smoke-Free Housing Consultants in Texas, received calls from property managers and owners from other parts of the country asking for technical assistance on converting their multi-unit housing buildings into nonsmoking complexes. The majority of the calls were coming from California.

Though the multi-unit housing smokefree movement in California began in Southern California, most of the progress took place in Northern California particularly in the San Francisco Bay Area (Table 4.1). Momentum for smokefree homes gained ground in 2007 after the City of Belmont and the City of Alameda Housing Authority passed laws restricting smoking in multi-unit housing. One factor why the Bay Area's political climate was ripe for the MUH smokefree movement was that major health organizations, Americans for Nonsmokers' Rights, American Lung Association in California, and ChangeLab Solutions, were located in the Bay Area.

Nevertheless, the Belmont City Council voted to exempt townhomes by a vote of three to two<sup>261</sup> and faced a second reading scheduled for October 9, 2007. As with most county ordinances in California, the county ordinances applied only to unincorporated areas of the counties, thus excluding any effect in cities and incorporated towns unless those jurisdictions enacted their own ordinance.<sup>284</sup>

### ***Local Communities in California Leading on Smokefree Multi-unit Housing while Efforts Stall at the State Level***

Communities were setting the trend for the rest of the country. By July 2014, thirty-four other states had one or more city and county ordinances (a total of 228 ordinances) regulating smoking in multi-unit housing, but they all applied only to public/affordable housing; no state other than California regulated smoking in market-rate multi-unit housing.<sup>284</sup> Minnesota lead with thirty ordinances, followed by Michigan with twenty-eight and Maine with sixteen.<sup>280</sup>

While a statewide law was enacted in 2011 that permits landlords to prohibit smoking, as of 2014 no statewide law has passed that would require MUHs to be smokefree. As discussed in Chapter 3, the only multi-unit housing law that passed the state legislature was in September

2011, when Senator Alex Padilla (D-Van Nuys) won passage of a statewide law, SB 332, that codified that landlords had the right to prohibit smoking anywhere on their property.<sup>285</sup>

Market-Rate					Affordable Housing		
Municipality	% of Smokefree Units	Effective Date	Patio/Balcony	Condo	% of Smokefree Units	Effective Date	Patio/Balcony
Alameda	100%	1/1/2013	Yes	Yes	100%	11/1/2009	Yes
Albany	N/S	6/18/2008	N/A	Yes	100%	6/18/2008	Yes
Baldwin Park	80%	6/21/2012	N/S	Yes	N/A	N/A	N/A
Belmont	100%	1/8/2009	Yes	Yes	100%	1/8/2009	Yes
Berkeley	100%	5/1/2014	Yes	Yes	100%	5/1/2014	Yes
Burbank	N/S	5/1/2011	N/A	Yes	N/S	N/S	N/A
Calabasas							
Compton	100%	1/1/2013	Yes	N/S	100%	1/1/2013	Yes
Contra Costa County	N/S	1/1/2011		Yes	N/S	1/1/2011	
Corte Madera	N/S	6/5/2015		Yes	N/S	6/5/2015	
Dublin	75%	1/1/2013		N/S	75%	1/1/2013	N/S
Fairfax	75%	9/1/2012		N/S	75%	9/1/2012	N/S
Glendale	N/S	6/27/2013		Yes	N/S	6/27/2013	
Huntington Park	100%	7/1/2013	Yes	Yes	100%	7/1/2013	Yes
Lafayette	N/S	2/10/2014		Yes			
Larkspur	Some	N/S		N/S	Some	N/S	N/S
Pasadena	100%	1/1/2013	Yes	Yes	100%	1/1/2013	Yes
Petaluma	100%	1/1/2014	Yes	Yes	100%	1/1/2014	Yes
Loma Linda	N/S	N/S		No			
Marin County	80%	2/16/2013		Yes	80%	2/16/2013	Yes
Novato	N/S	N/S		N/S	N/S	N/S	N/S
Oakley	N/S	4/1/2014		Yes	Some	N/S	Yes
Pinole	Some	N/S	5/20/2010	Yes	Some	N/S	Yes
Pleasant Hill	Some	N/S	5/5/2010	No	Some	N/S	No
Richmond	100%	1/1/2011	Yes	No	N/S	1/1/2011	Yes
Rohnert Park	50%	N/S		Yes	50%	N/S	Yes
San Rafael	100%	11/14/2013	Yes	Yes	100%	11/14/2013	Yes
Santa Clara County	100%	2/9/2012	Yes	Yes	N/A	N/A	N/A
Santa Monica	Some	N/S	11/22/2012	Yes	Some	N/S	Yes
Sausalito	80%	2/27/2014		Yes	80%	2/27/2014	Yes
Sebastopol	100%	11/2/2011	Yes	Yes	100%	11/2/2011	Yes
Sonoma County	100%	1/12/2013	Yes	Yes	100%	1/12/2013	Yes
South Pasadena	80%	3/3/2011		Yes	80%	3/3/2011	Yes
Temecula	25%	6/7/2012		N/S	25%	6/7/2012	No
Tiburon	100%	7/1/2014	Yes	Yes	100%	7/1/2014	100%
Union City	100%	2/23/2012	Yes	Yes	100%	2/23/2012	Yes
Walnut Creek	100%	1/30/2014	Yes	Yes	100%	1/30/2014	Yes

N/S=Not Specified N/A=Not Applicable

## Outdoor Air Ordinances

Through a combination of then-existing local ordinances and the 1994 California smokefree workplace law (AB 13), by 1998 almost all indoor areas of workplaces and public places, including restaurants and bars in California were smokefree. Local and state level comprehensive indoor air ordinances in California helped shape social norms regarding smoking in general, which influenced local communities to adopt ordinances that would restrict smoking outdoors (Table 4.2). By 2001 the public health and tobacco control community started addressing outdoor air as smokers began moving outdoors and exposing nonsmokers to involuntary secondhand smoke,<sup>286</sup> particularly in close proximity to the smokefree indoor area. Local jurisdictions started passing outdoor air smoking restriction ordinances for a variety of reasons including quality of life (especially for children),<sup>287-289</sup> protecting the environment,<sup>288-289</sup> preventing cigarette butt waste (toxic to marine life),<sup>288,290</sup> nuisance of SHS,<sup>287</sup> and the economic cost of cleaning up waste from cigarette butts.<sup>289-290</sup>

The 2006 U.S. Surgeon General's Report, *The Health Consequences of Involuntary Exposure to Secondhand Smoke*,<sup>253</sup> and the California Air Resources Board (CARB) decision to list secondhand smoke as a Toxic Air Contaminant,<sup>291</sup> provided local politicians the scientific evidence to justify outdoor smokefree restrictions. Though the 2006 U.S. Surgeon General Report did not deal with outdoor air specifically, local health advocates cited the report to demonstrate that there are no safe levels of secondhand smoke exposure.<sup>292</sup>

California Air Resources Board's report also concluded that "For nonsmokers whose work or other activities bring them into contact with outdoor smokers regularly, 100% of their exposure can be attributable to proximity to outdoor smoking."<sup>291</sup> In 2007, Stanford University researchers, Drs. Neil Klepeis, Wayne Ott, and Paul Switzer, published an in-depth study on the levels of secondhand smoke exposure outdoors. The study, "Real-time measurement of outdoor tobacco smoke particles," supported the CARB report's findings that secondhand smoke exposure can be substantial even outdoors.<sup>293</sup> The Stanford University study provided evidence to solidify and continue the outdoor air movement.

***By 2001 the public health and tobacco control community started addressing outdoor air***

Meanwhile, policymakers began working with the American Lung Association and with ChangeLab Solutions to adopt comprehensive indoor and outdoor air ordinances. These efforts came as a result of policymakers wanting to raise the letter grades that the American Lung Association in California awarded California counties and cities for tobacco control policies.<sup>294-295</sup> Local newspapers would highlight cities and counties that received both high and low grades, which embarrassed local policymakers with grades "C" and below. ALA's tobacco control grades mobilized local policymakers to take action.<sup>276</sup> Americans for Nonsmokers' Rights also played a role in the outdoor air movement by continuing to advocate for local governments to close loopholes in California's smokefree workplace law (AB 13).<sup>296</sup> While policymakers were amending or adopting stronger smokefree prohibitions than state law, local health departments,

<b>Table 4.2. Comprehensive Outdoor Secondhand Smoke Ordinances 2007-2014</b>							
City/County	Outdoor Area where Smoking is Prohibited						
	<i>Dining Areas</i>	<i>Entry Ways</i>	<i>Public Events</i>	<i>Recreation Areas</i>	<i>Service Areas</i>	<i>Sidewalks</i>	<i>Worksites</i>
El Cajon Aug 2007	X	X	X	X	X	X	X
Oakland October 2007	X			X	X		
Belmont Oct 2007	X	X	X	X	X		X
Ross Dec 2007	X	X	X	X	X		
Berkeley Dec 2007	X	X		X	X	X	X
Novato April 2008	X	X	X	X	X		X
Hayward May 2008	X	X	X	X	X	X	
Albany May 2008	X	X	X	X	X	X	X
Loma Linda June 2008	X	X	X	X	X	X	X
Thousand Oaks July 2008	X	X	X	X	X		
Dublin Oct 2008	X	X	X	X	X		
Glendale Oct 2008	X	X	X	X	X		X
Pasadena Oct 2008	X	X	X	X	X		
Martinez April 2009	X	X	X	X	X		X
Richmond June 2009	X	X	X	X	X		
Moorpark Sept 2009	X	X	X	X	X	X	X
Santa Cruz Sept 2009	X	X		X	X	X	
Capitola Oct 2009	X	X	X	X	X	X	
Palm Desert Nov 2009	X	X	X	X	X	X	X
Del Mar Dec 2009	X	X	X	X	X	X	X
San Leandro Dec 2009	X	X	X	X	X		X
San Francisco March 2010	X	X	X	X	X		
Santa Barbara County April 2010	X	X	X	X	X		
Pinole April 2010	X	X	X	X	X		
Camarillo April 2010	X	X	X	X	X	X	X
San Luis Obispo April 2010	X	X	X	X	X	X	X
Pleasant Hill April 2010	X	X	X	X	X		
Eureka July 2010	X	X	X	X	X	X	X
Sebastopol Aug 2010	X	X	X	X	X		X
Menlo Park Oct 2010	X	X	X	X	X		X
Contra Costa County Oct 2010	X	X	X	X	X		
Union City Nov 2010	X	X	X	X	X		X

<b>Table 4.2. Comprehensive Outdoor Secondhand Smoke Ordinances 2007-2014 (continued)</b>							
City/County	Outdoor Area where Smoking is Prohibited						
	<i>Dining Areas</i>	<i>Entry Ways</i>	<i>Public Events</i>	<i>Recreation Areas</i>	<i>Service Areas</i>	<i>Sidewalks</i>	<i>Worksites</i>
Santa Clara County Nov 2010	X	X	X	X	X		X
Carpinteria Feb 2011	X	X	X	X	X	X	X
Larkspur April 2011	X	X	X	X	X		X
Fairfax June 2011	X	X	X	X	X		X
Huntington Park Aug 2011	X	X	X	X	X		X
Concord Sept 2011	X		X	X	X	X	
Campbell Sept 2011	X	X	X	X	X		
Sonoma County Oct 2011	X	X	X	X	X		
Compton Oct 2011	X	X	X	X	X		
Hermosa Beach Nov 2011	X	X	X	X	X	X	X
Alameda Nov 2011	X	X	X	X	X	X	X
Solana Beach Dec 2011	X	X	X	X	X		
Laguna Hills Dec 2011	X	X	X	X	X		
Carson Dec 2011	X	X	X	X	X		X
Morro Bay Feb 2012	X	X	X	X	X	X	X
Orland Feb 2012	X	X	X	X	X		
Morgan Hill April 2012	X	X	X	X	X		
Sausalito Aug 2012	X	X	X	X	X		X
San Fernando Sept 2012	X	X	X	X	X		
Mill Valley Sept 2012	X	X	X	X	X		X
San Rafael Oct 2012	X	X	X	X	X	X	X
Daly City Oct 2012	X	X	X	X	X		X
Fremont Nov 2012	X	X	X	X	X	X	X
Temple City Dec 2013	X	X	X	X	X		
Petaluma Jan 2013	X	X	X	X	X		X
San Ramon Feb 2013	X	X	X	X	X		
Arcata July 2013	X	X	X	X	X	X	X
Walnut Creek Oct 2013	X	X	X	X	X	X	X
Coronado Oct 2013	X	X	X	X	X	X	
Lafayette Nov 2013	X	X	X	X	X		

the American Lung Association, and ChangeLab Solutions encouraged policymakers to adopt comprehensive ordinances rather than piecemeal legislation.<sup>276, 296</sup>

### ***Smokefree Parks and Beaches***

Most of the advocacy surrounding outdoor smokefree air for parks and beaches was concentrated in Southern California. The effort to prohibit smoking at parks began when the California Legislature passed the "Smoke-free Tot Lots Law" in 2001 which prohibited smoking and disposal of tobacco-related waste in playground areas or tot lot sandboxes.<sup>297</sup> Because the state law was limited, local governments stepped in to close the loophole and began prohibiting smoking in all areas of parks. These efforts were expanded into smokefree beaches in 2004.

The City of Santa Monica was the first city to prohibit smoking in parks, curb to curb, when it passed its smokefree park ordinance in 2003. This effort was led by Mayor Richard Bloom, who also served as the Santa Monica City Council's Recreation and Parks Commission's liaison, and Robert Berger of the Committee for Smokefree Parks.<sup>298</sup> Robert Berger was the president of Healthier Solutions, a Santa Monica-based company that coordinated smokefree outdoor air committees in Los Angeles County. At a July 2002 public hearing, support for the ordinance came from the American Lung Association, the American Cancer Society, the Santa Monica Boys and Girls Club and the city's Recreation and Parks Commission.<sup>288</sup> The City Council adopted the law 4 to 1 on April 8, 2003.

Work began almost immediately to expand the policy to include the city's famous beaches and pier, which was jump-started when the local chapter of the Surfrider Foundation, which under the leadership of Board Chair Alan Reed became the first environmental organization to take a strong public position in support of smokefree beaches.<sup>299</sup>

Opposition to the smokefree park ordinance came from smokers' rights groups who wrote opinion pieces to the *Santa Monica Daily Journal*.<sup>288</sup> There was no organized opposition at the City Council meetings.

Also in 2003, Berger's Healthier Solutions began providing technical assistance to a coalition in San Diego County initially focused on a smokefree park ordinance in the City of Solana Beach. With the leadership of Solano Beach Councilmember Joe Kellejian, that effort expanded to include the city's beaches, and an ordinance covering both parks and beaches was unanimously passed in September 2003. The ordinance went into effect in November 2003. These efforts were led by San Dieguito Alliance for Drug Free Youth and the Tobacco-Free Communities coalition of San Diego County. Major health voluntary groups, American Heart Association, the American Lung Association, the American Cancer Society and the Youth Tobacco Prevention Corps, also supported the effort. The Surfrider Foundation, was a nontraditional partner which joined the campaign. Advocates in Solana Beach did not see organized opposition to the ordinance.<sup>65</sup>

Solana Beach's breakthrough ordinance helped heat up the smokefree beach movement in Los Angeles County. Robert Berger, Chairman of the Los Angeles County Smokefree Beach task force, led a coordinated city and community effort that included Santa Monica, Los Angeles (including Venice Beach), and Malibu. Berger's organization, Healthier Solutions, was under contract with the Los Angeles County Department of Public Health Tobacco Control and Prevention Program and the California Tobacco Control Program.<sup>299</sup> Supporters included the local chapters of the Surfrider Foundation, the American Heart Association, American Lung Association, and American Cancer Society. The aim of the campaign was to make 1,000 miles of coastline in California smokefree and cigarette butt free.<sup>299</sup>

In 2004, the Los Angeles Department of Public Health Tobacco Control and Prevention Program (TCPP) restructured its tobacco control efforts to focus on local policy adoption in the county (88 cities and one unincorporated area).<sup>300</sup> Local policy has been a key element of the California Tobacco Control Program since its inception in 1989. The Los Angeles TCPP partnered with ALA's Center for Tobacco Policy and Organizing and ChangeLab Solutions to organize local level tobacco policy campaigns and to train staff of the Los Angeles TCPP on coalition building.<sup>300</sup> The Los Angeles County Tobacco Control Program's efforts in support of smokefree beaches focused on protecting the public from secondhand smoke exposure, keeping the beaches (a location where health conscientious people gather) clean,<sup>289</sup> and preventing young children from being in direct contact with cigarette butts.<sup>289-290</sup> Advocates leading the campaign argued that the city council must prevent smokers from using beaches as an ashtray.<sup>301</sup>

***The aim of the campaign was to make 1,000 miles of coastline in California smokefree and cigarette butt free.***

The smokefree beach campaign in Santa Monica led by Robert Berger provided a model example of how other cities could approach restricting outdoor air at beaches. Following the 2003 Santa Monica ordinance, in 2004 the cities of Malibu, Los Angeles, Santa Barbara, Carpinteria, Huntington Beach and San Clemente quickly followed suit, creating a regional movement that not only inspired other California cities to adopt similar policy, but helped spark a national and global movement to protect people and coastal environments. The only opposition to these ordinances came from local smokers after the ordinances passed. Again, these efforts were led by Robert Berger of the Los Angeles County Smokefree Beach campaign, whose firm Healthier Solutions was also funded as a competitive grantee through the California Tobacco Control Program. By 2014, all city and county beaches in Southern California, except for Dana Point (Orange County) had passed smokefree ordinances and a total of 51 beaches in all of California had 100% smokefree policies.<sup>302</sup>

These ordinances did not apply to beaches that fell under the jurisdiction of the state law, which as of August 2014 had not passed a law to prohibit smoking on California state beaches.

These local efforts in cities in California inspired, and in a number of cases assisted, other communities across the country and globe in passing similar legislation. As of July 2014, there were 209 localities that passed laws establishing smokefree beaches in the United States, 51 of which were in California. One hundred and fifty-eight cities in 23 other states across the nation



had implemented similar legislation following the smokefree beach movement in Southern California.<sup>302</sup> The beaches in Northern California are federal or state beaches, so local action is not possible there.

### ***Smokefree Dining Areas***

Smokefree parks and smokefree beaches created the environment in which nonsmoking citizens did not tolerate smoking in other outdoor venues (dining areas, service areas, and public transit areas). With the indoor sections of California restaurants smokefree, outdoor dining areas had become the *de facto* smoking sections of restaurants.

Santa Monica continued to pave the way in restricting smoking in outdoor public spaces by including outdoor dining areas and stand-alone bars in its smokefree provisions. With technical assistance from Robert Berger of Healthier Solutions, the City of Santa Monica launched a voluntary campaign called Fresh Air Dining, which encouraged local restaurateurs to adopt smokefree outdoor dining policies in their restaurants. With the support of the local voluntary health organizations and the Los

Angeles County Medical Association and the continued vision of Santa Monica city leadership,<sup>303</sup> the voluntary effort quickly evolved into a key component of a comprehensive new outdoor policy in 2006 that also added transit stops, service areas, entryways and the Third Street Promenade to existing smokefree outdoor areas.

***The City of Santa Monica launched a voluntary campaign called Fresh Air Dining, which encouraged local restaurateurs to adopt smokefree outdoor dining policies in their restaurants.***

After the City of Belmont adopted amendments to make its smokefree ordinance comprehensive on October 9, 2007 (prohibiting smoking in all outdoor workplaces and public places, city streets, and sidewalks),<sup>65</sup> such action prompted local jurisdictions across California to take action on adopting similar legislation (Table 4.5).

Baldwin Park (February 2007), Burbank (April 2007), Beverly Hills (June 2007), South Pasadena (September 2007), Glendale (October 2008), Pasadena (October 2008), and Culver City (September 2008), Malibu (July 2009)<sup>304</sup> quickly followed suit by passing either stand-alone or comprehensive outdoor smokefree ordinances that included outdoor dining areas. While opposition to these local efforts generally came from a handful of local restaurant owners, a more organized opposition was seen in Beverly Hills with the re-emergence of the Beverly Hills Restaurant Association. The BHRA served as a front group for the tobacco industry in 1987 to oppose the city's 100% smokefree restaurant ordinance and managed to weaken the bill by requiring smoking sections.<sup>305</sup>

Robert Berger continued to lead the outdoor tobacco policy movement as president of Healthier Solutions under contract with the state and L.A. County tobacco control programs. In 2010, Berger accepted a position with the Los Angeles County Department of Public Health as Project Director for its

***More organized opposition was seen in Beverly Hills with the re-emergence of the Beverly Hills Restaurant Association***

Communities Putting Prevention to Work tobacco prevention grant from the Centers for Disease Control & Prevention. The grant specified as one of its priorities to further protect nonsmokers from secondhand smoke, which led Berger and his team to encourage the City of Los Angeles to adopt the Fresh Air Dining program.<sup>306</sup> As a result, in 2011, the City of Los Angeles adopted an outdoor smokefree ordinance which stipulated that smoking is prohibited in outdoor dining areas of restaurants, cafes, and food courts and within 10 feet of these establishments.<sup>307</sup> This success came in the face of the strongest organized opposition to these efforts at the local level to date, led by Cigar Rights of America and an association of Korean restaurants. Consistently strong support from the local chapters of the American Lung Association, American Cancer Society, American Heart Association and the Coalition for a Tobacco Free LA County in support of local community coalitions was key to this success and the growing list of other cities embracing Fresh Air Dining.<sup>299</sup>

### **Regulating Emerging Nicotine Products**

The development of policy regarding electronic cigarettes took place in three stages. First, beginning in 2005, ChangeLab Solutions revised their model definition of tobacco products to broaden the definition in preparation for the emergence of alternative nicotine products and nicotine delivery devices (snus, dissolvables, nicotine lozenges, nicotine water, nicotine lollipops). Prior to 2005, “tobacco products” had been defined to include only those products that contained tobacco leaf. In 2005, the definition was revised to include:

- (1) any substance containing tobacco leaf, including but not limited to cigarettes, cigars, pipe tobacco, snuff, chewing tobacco, dipping tobacco, bidis or any other preparation of tobacco; and
- (2) any product or formulation of matter containing biologically active amounts of nicotine that is manufactured, sold, offered for sale, or otherwise distributed with the expectation that the product or matter will be introduced into the human body, but does not include any product specifically approved by the FDA for use in treating nicotine or tobacco product dependence.<sup>308</sup>

Second, beginning in 2006, local citizens concerned for the health of their community started demanding that cities and county officials adopt stronger secondhand smoke ordinances in entryways, dining areas, multi-unit housing complexes, service areas, and public transit areas. Policymakers worked with ChangeLab Solutions and the ALA's Center for Tobacco Policy & Organizing to pass ordinances which included ChangeLab Solutions' revised tobacco product definition. Even though electronic cigarettes were not a primary focus of these earlier efforts (2006-2010) ChangeLab Solutions' revised definition of tobacco products was written broadly enough to include nontraditional tobacco and nicotine products.<sup>308-309</sup>

***The development of policy regarding electronic cigarettes took place in three stages***

Third, in 2010, when the rising popularity of electronic cigarettes became a concern for parents, educators, and public health officials, municipalities began to specifically include electronic

cigarettes in their smokefree ordinances. Similar to the concerns that usage of tobacco products in public places, restaurants, and bars would increase youth smoking prevalence,<sup>310-311</sup> At the local level in California, beginning in 2010, concerned parents and educators pressured local legislators to adopt ordinances that would restrict public usage and regulate the sale and distribution of these devices (Table 4.3).

In 2010, the State Legislature passed SB 882 which restricted the sale and distribution of electronic cigarettes to adults 18 and over (Chapter 3) but did not include meaningful enforcement provisions. Laws for conventional cigarettes, which set the minimum age to 18, have been widely supported (both politically and financially)<sup>312-</sup>  
<sup>314</sup> by the tobacco industry because they reinforce the marketing message that these products are for adults.<sup>315</sup>

***At the local level in California, beginning in 2010, concerned parents and educators pressured local legislators to adopt ordinances.***

In 2013, the national health voluntaries, ALA, ACS CAN, and AHA refused to take action on including electronic cigarettes in existing clean indoor air legislation in California. In June 2013, the ALA, ACS CAN, AHA, and Campaign for Tobacco-Free Kids (CTFK) released a document that explained that the organizations "supported including e-cigarettes in all new smokefree laws....[but] do not recommend opening up or amending existing state and local comprehensive smokefree laws to specifically add e-cigarettes..."<sup>316</sup> The health voluntaries concluded that amending existing clean indoor air laws may jeopardize the entire law. This stated policy position however, contradicts the focus of the major health voluntaries at the state level which was to close the smokefree workplace loopholes in AB 13 between 2007 and 2014 (Chapter 3).

In the absence of state or federal action, local governments have led the way in regulating the sale, distribution, and use of e-cigarettes. The push for regulating electronic cigarettes at the local level in California came from concerned parents, school boards, and health researchers. In response, local elected officials began amending city and county clean indoor air laws (frequently with the technical assistance of ChangeLab Solutions and Americans for Nonsmokers' Rights) to restrict electronic cigarette use where conventional smoking was prohibited and to require electronic cigarette vendors to obtain a tobacco retail license to sell electronic cigarette devices beginning in 2013 (Table 4.8). Though the primary focus of many of these laws was to restrict access to youth, as of August 2014, thirty-one cities and counties in California restricted the use of electronic cigarettes in workplaces, restaurants, bars, and casinos (Table 4.3).<sup>317</sup>

### ***Eureka Becomes the First City to Include E-cigarettes in its Clean Indoor Air Law***

In July 2010, Eureka (Humboldt County) became the first locality to amend its Smoking Indoor and Outdoor Places city code to include electronic cigarettes. The move to amend the city's smokefree ordinance came from Humboldt County's Department of Health and Human Services, Tobacco-Free Humboldt Program. The Tobacco-Free Humboldt Program was established in 1990 (as the Tobacco Education Program) with Proposition 99 funding..<sup>319</sup> The activities of the Tobacco-Free Humboldt Program between 2010 and 2013 included:

1. Reducing tobacco litter in parks and sports fields;
2. Reducing exposure to secondhand smoke;
3. Building the Capacity of the Smokefree Movement.<sup>319</sup>

The Tobacco-Free Humboldt Program partnered with the American Cancer Society, public schools, United Indian Health Services, and Northern California Indian Development Council.<sup>319</sup> In 2009, the Tobacco-Free Humboldt Program, along with its partners and with assistance from the American Lung Association and ChangeLab Solutions, pushed the Eureka City Council to consider adopting an ordinance to prohibit smoking in dining areas, entryways, public events, recreational areas, service areas, outdoor worksites, MUH common areas, declare secondhand smoke as a nuisance, and require landlords to disclose MUH smoking policy.

The Eureka City Council agreed to strengthen the city's smokefree law for several reasons. First, the release of the 2006 U.S. Surgeon General's Report on secondhand smoke<sup>253</sup> and the

City/County	Workplaces	Restaurants	Bars	Gaming
Eureka July 2010	X	X	X	X
Santa Clara County November 2010	X	X	X	
Union City November 2010	X	X	X	
Fairfax June 2011	X	X	X	X
Tiburon July 2011	X	X	X	
Campbell October 2011		X	X	X
Mountain View February 2012	X	X	X	
Morgan Hill May 2012	X	X	X	
Marin County May 2012	X	X	X	
Mill Valley September 2012	X	X	X	
Contra Costa County April 2013	X	X	X	X
Arcata June 2013	X	X	X	
Walnut Creek October 2013		X	X	X
San Bernardino County December 2013	X			
Carlsbad December 2013		X	X	X
Richmond January 2014	X	X	X	X
Seal Beach February 2014		X	X	X
Temecula February 2014	X	X	X	X
Fremont March 2014	X	X	X	
Los Angeles March 2014		X	X	X
Long Beach March 2014	X	X	X	X
Solana Beach March 2014		X	X	
Santa Maria March 2014		X	X	
San Francisco March 2014	X	X	X	
Beverly Hills March 2014		X	X	X
Del Mar April 2014	X	X	X	
Corte Madera May 2014	X	X	X	
El Cajon March 2014	X	X	X	
San Diego County May 2014		X	X	
La Mesa July 2014	X	X		
San Diego July 2014	X	X		

California Air Resources Board's identification of secondhand smoke as a toxic contaminant in 2006<sup>291</sup>, provided the City Council with the scientific evidence that secondhand smoke exposure is a health hazard to nonsmokers. Second, Stanford University released a report in 2007 on smoking in outdoor spaces, which concluded that outdoor secondhand smoke can pose negative health consequences for nonsmokers.<sup>293</sup> Third, the Eureka City Council had not amended its smokefree law since 1980 which influenced the full Council to move quickly on strengthening its smokefree law.<sup>320</sup> Finally, in 2010, the County Health Department was receiving frequent complaints from nonsmokers about secondhand smoke exposure in dining areas, entryways, and doorways.<sup>321</sup>

***Eureka ...became the first  
locality to amend its Smoking  
Indoor and Outdoor Places  
city code to include electronic***

The Tobacco-Free Humboldt Program presented ChangeLab Solutions' model policy to the Eureka City Council in late 2009.<sup>322</sup> The Eureka City Council agreed to consider amending the city's smokefree regulations and introduced its smokefree ordinance on July 6, 2010.<sup>320</sup> Though Tobacco-Free Humboldt's

primary effort to amend the ordinance was not specifically focused on amending the city's smokefree law to include electronic cigarettes, electronic cigarettes were included in the definition of smoking products provided by the America Lung Association and ChangeLab Solutions.<sup>322</sup> Including nontraditional tobacco and nicotine products early on was important because it placed the public health groups at an advantage since electronic cigarette interests were not organized and thus were not present to block legislation between 2010 and 2013.

The City of Eureka's smokefree ordinance included the following definitions which specifically included e-cigarettes:

“Smoke” means the gases, particles, or vapors released into the air as a result of combustion, *electrical ignition or vaporization*, when the apparent or usual purpose of the combustion, electrical ignition or vaporization is human inhalation of the byproducts, except when the combusting or vaporizing material contains no tobacco or nicotine and the purpose of inhalation is solely olfactory, such as, for example, smoke from incense. The term “smoke” includes, but is not limited to, tobacco smoke, *electronic cigarette vapors*, and marijuana smoke.

“Smoking” means engaging in an act that generates smoke, such as for example: possessing a lighted pipe, lighted hookah pipe, *an operating electronic cigarette*, a lighted cigar, or a lighted cigarette of any kind; or lighting or igniting of a pipe, cigar, hookah pipe, or cigarette of any kind (Emphasis added).<sup>323</sup>

Because the ordinance did not focus specifically on regulating public usage of electronic cigarettes, the amendments did not attract controversy. The local newspaper did not cover the amendments and organized smokers' rights did not appear at the city council meetings to oppose the amendments to the ordinance.

On July 10, 2010, the City Council of Eureka unanimously agreed to amend its Smoking Indoor and Outdoor Places city code which prohibited smoking in workplaces, public places, common

areas of MUH, recreational areas, service areas, dining areas and included electronic cigarettes. The law exempted private residences and 25% of guest rooms of hotels and motels.<sup>323-324</sup> The ordinance went into effect on August 23, 2010. The Tobacco-Free Humboldt Program provided educational materials to citizens of Eureka and supplied "No Smoking" decals for businesses,<sup>325</sup>

Following Eureka's ordinance passage, Santa Clara County amended its existing smokefree ordinance and Union City passed its first smokefree ordinance in November 2010, which both included ChangeLabs Solutions' standard definition of smoking to include electronic cigarettes. There was no organized opposition to these ordinances because electronic cigarettes were not a major factor at this point.

### ***The American Lung Association's Grades Push Policymakers to Adopt Stronger Secondhand Smoke Ordinances***

The push to adopt Union City's first smokefree air ordinance came from Mayor Mark Green who wanted to raise the city's American Lung Association overall grade from a "D" to an "A".<sup>276</sup> In July 2010, Serena Chen of the American Lung Association met with Mayor Green and presented him with a model ordinance that would qualify for an overall grade of "A" for the city. The ordinance was introduced on October 26, 2010, the city council had a first vote on provisions on November 9, 2010, and the full City Council unanimously passed the ordinance on November 23, 2010.<sup>276</sup> Because the Mayor was adamant about raising Union City's grade, there was no opposition to the ordinance. The ordinance:

- Prohibited smoking in outdoor common areas and maintain the restriction on indoor common areas of multiunit housing.
- Required apartment landlords to disclose to potential tenants information about the smoking restrictions at the property.
- Declared secondhand smoke exposure a nuisance.
- Prohibited smoking at public events and in outdoor restaurant and bar spaces.
- Prohibited smoking in recreation areas such as parks and trails, except for designated areas that are 25 feet from any enclosed area where smoking is prohibited and unenclosed areas primarily used by children or for physical activity.
- Maintained the existing restriction on smoking in entryways and service areas.
- Prohibited sampling of tobacco products.
- Established a local retail tobacco license, to be renewed annually, that could be revoked for selling to minors. The penalties would begin with a warning for the first offense in a five-year period. For second, third and fourth violations, the business's license would be revoked for 60 days, one year and five years, respectively.
- Maintained the requirement for a conditional-use permit to establish a retail tobacco store.

Many of the electronic cigarette ordinances that passed between 2010 and mid-2013 were a result of local governments working with the American Lung Association and ChangeLab Solutions on adopting stronger secondhand smoke legislation. The focus was on adopting stronger secondhand smoke provisions than the state law rather than on passing electronic cigarette ordinances. In addition, electronic cigarette advocacy groups such as Consumer Advocates for Smoke-Free Trade Alternatives (CASAA) and Smoke-Free Trade Alternatives

Association (SFATA) did not begin mobilizing against local electronic cigarette ordinances in California until April 2013<sup>326</sup> and January 2014<sup>327</sup> respectively.

### ***Los Angeles Passes E-Cigarette Clean Indoor Air Ordinance in March 2014 Despite Heavy Opposition from Electronic Cigarette Retailers***

Adding electronic cigarettes into local clean indoor air ordinances was proceeding with relatively little controversy or opposition until 2013, when Los Angeles City Council members decided to add electronic cigarettes to their local tobacco control ordinances.

The process of regulating electronic cigarettes in Los Angeles city took place in two steps: first to regulate the sale and distribution of electronic cigarettes which passed in December 2013, introduced by Councilmember Paul Koretz and co-sponsored by Councilmember Mitch O'Farrell, and second to regulate public usage of electronic cigarettes which passed in March 2014, introduced by Councilmember O'Farrell and co-sponsored by Councilmember Koretz. Los Angeles was the first place in California where electronic cigarette retailers, electronic cigarette companies, including their lobbying firms, and major cigarette companies were out in full force, using tobacco industry tactics to oppose, weaken, and delay the adoption of the Los Angeles ordinance.<sup>296</sup> Despite this strong well-funded opposition, the City Council extended its tobacco retail licensing law to include electronic cigarettes by including electronic cigarettes and similar devices ("e-cigars", "e-hookahs", "e-cigarillos" and "e-pipes") in its definition of regulated tobacco products. Following that ordinance's passage, the Council amended Los Angeles' smokefree ordinance to include electronic cigarettes by extending the scope of covered products in its existing smokefree ordinance, prohibiting their use in workplaces, restaurants, bars, nightclubs, beaches, parks, and other public spaces.<sup>328</sup> Paralleling existing law for cigarettes, the only exemptions were for electronic cigarette shops and permitting their use for theatrical performances.

### ***Origins of an Electronic Cigarettes Ordinance in Los Angeles***

The Los Angeles electronic cigarette ordinance had its origins in a September 2013 proposal to strengthen youth access restrictions on the sale and distribution of electronic cigarettes in Los Angeles. The tobacco retailer ordinance was sponsored by Councilmember Paul Koretz and co-sponsored by Councilmember O'Farrell, a member elected to the City Council in 2013. All tobacco ordinances had to go through the Arts, Parks, Health, Aging and River Committee, so Councilmember Paul Koretz requested that Councilmember O'Farrell co-sponsor the ordinance as Committee chair. The push for regulation of the use of electronic cigarettes came from inside the offices of Council members Koretz and O'Farrell following complaints each had received from local schools in the Los Angeles Unified School District about children and teens using electronic cigarettes in classrooms and outdoors on campus.<sup>329</sup> Additionally, the unregulated sale and distribution of electronic cigarettes generated concern among individual citizens who complained

***Los Angeles was the first place in California where electronic cigarette retailers, electronic cigarette companies, including their lobbying firms, and major cigarette companies were out in full force.***

to city council members that these products were readily available to teenagers<sup>329</sup> and that a tobacco retailer near San Pedro High School was selling electronic cigarettes to students.<sup>330</sup>

***ACS CAN's policy guidance precluded representatives in California from engaging in any effort to amend existing ordinances to include electronic cigarettes***

The City Attorney's Tobacco Enforcement Program (TEP) had also received complaints about the tobacco retailer selling electronic cigarettes to underage youth and conducted a compliance investigation in mid-2013.<sup>330</sup>

According to Eric Batch of the American Heart Association in a 2014 interview for this report,

As a parent there was a problem here. Our kids are seeing smoking, the renormalization [of it through electronic cigarettes], the [same] ads [for electronic cigarettes] that made smoking look cool. [All of this] had the possibility of undoing the many years of progress that we had [accomplished for denormalizing cigarette use]. Not to mention we have an untested and unregulated product entering the market.<sup>329</sup>

Once the Council expressed interest, in September 2013,<sup>329</sup> the Offices of O'Farrell and Koretz met with the City Attorney's Director of Intergovernmental Relations and Tobacco Enforcement Program staff to discuss proposed amendments and moving forward on the regulation of electronic cigarettes.<sup>330</sup> Koretz moved that the city attorney be requested to prepare and present an ordinance that would either establish a moratorium on the sale and distribution of electronic cigarettes to minors or to amend the city's tobacco retailer licensing law to include electronic cigarettes in its definition of tobacco products. Subsequent to further discussion with the Tobacco Enforcement Program, Koretz and O'Farrell requested that the City Attorney prepare an ordinance to: 1) regulate the sale and distribution of electronic cigarettes; and 2) to regulate public usage for later introduction.

In late September 2013, the City Attorney's Chief Assistant City Attorney David Michaelson, responsible for drafting all ordinances in the City, with technical assistance from the city's Tobacco Enforcement Program Staff and ChangeLab Solutions, presented a draft ordinance to include electronic smoking devices in the Tobacco Retail Permit and Self-service display ordinances.<sup>330-331</sup>

Concurrently, the offices of Koretz and O'Farrell reached out to the Coalition for a Tobacco Free LA County, an existing coalition which received funding from Proposition 99, led by Dr. Jonathan Fielding, Director of the Los Angeles County Department of Public Health.<sup>329</sup>

The Coalition consisted of representatives from American Lung Association, American Cancer Society, American Heart Association, Americans for Nonsmokers' Rights, Smokefree Air for Everyone (S.A.F.E.), El Camino Children and Family Services, and Pueblo y Salud,<sup>296, 332</sup> an educational organization funded by the Los Angeles County Department of Public Health.<sup>333</sup> In September 2013, the major health voluntaries (ALA, AHA, ACS CAN) did not take a position on moving forward with the tobacco retail licensing legislation. In a June 2013 joint-policy



guidance memorandum from the major health voluntaries, the health voluntary organizations advised against opening up or amending an existing comprehensive tobacco control law to include electronic cigarettes. Initially, the ALA did not take a position on the ordinance, but began supporting the ordinance in October 2013. The ALA in California was the most grassroots-oriented organization of the three health voluntary groups and thus had more autonomy in taking a position at the local level.

According to Eric Batch, Vice President of Advocacy for the Western States Affiliate of the American Heart Association, in a 2014 interview for this report:

Our concern was that a lot of this was conceptual at the time, we did not have final language. The American Heart Association does not move without the science, we are one of the most trusted and credible organizations around....We cannot put our name on something that is conceptual. The message to partners and advocates was that when this policy has gotten to a point where it's pretty close to final, we will then weigh in. But prior to that [weighing in] we were very clear that we would not. This was a new policy area...we had the foresight to realize what happens in Los Angeles would be replicated....we took a very careful, prudent approach [to the tobacco retail licensing ordinance].<sup>329</sup>

In October 2013, the American Heart Association did not take a position and remained neutral until the tobacco retail licensing ordinance was the strongest policy possible before endorsing it.<sup>329</sup>

Spencer Lyons of ACS CAN stated that the tobacco retail licensing ordinance did not require additional effort from the major health voluntaries. At the time, he was engaged in other policy priorities for his organization.<sup>334</sup>

In addition Jim Knox, VP of Government Relations for ACS CAN, stated that ACS CAN's policy guidance precluded representatives in California from engaging in any effort to amend existing ordinances to include electronic cigarettes.<sup>335</sup>

The American Lung Association did not send letters of support for the tobacco retail licensing ordinance, but Marlene Gomez, ALA's Advocacy Manager in California Center for Tobacco Policy & Organizing, testified at the October Committee hearing and the December full Council hearing. Gomez's arguments centered on reducing youth access to these devices in order to prevent another generation from a lifetime addiction to nicotine.<sup>336</sup>

Without all three health voluntaries taking a major supporting role in the ordinance's process, the offices of Councilmember Koretz and Councilmember O'Farrell had to reach out to other partners for support. In September 2013, the offices of Council members Koretz and O'Farrell contacted members of the Los Angeles Unified School District (LAUSD), members of the Tobacco Education Research Oversight Committee (TEROC), a medical doctor from the American Academy of Pediatrics, and health researchers from the University of Southern California Department of Preventative Medicine to send letters of support to council members and to testify at the Committee hearing (which was scheduled for October 23, 2013).

Another serious issue for tobacco control advocates in 2013 and 2014 was the make-up of the Los Angeles City Council, when the ordinances were being debated. Of the fifteen council members, six (O'Farrell, Nury Martinez, Bonin, Englander, and Buscaino) were newly elected members that had not experienced the aggressive tobacco-style tactics from the electronic cigarette companies, and six were former state legislators, three of whom had received tobacco industry money during their tenure at the state capitol (Wesson: \$63,692,<sup>337</sup> Price: \$34,200,<sup>338</sup> and Cedillo: \$1,000;<sup>65, 337</sup> the three who had not accepted campaign contributions from tobacco interests were Krekorian, Blumenfield, and Koretz<sup>65, 337</sup>).

Fortunately, Councilmember Paul Koretz and City Attorney Mike Feuer both served in the California State Assembly for six years and were familiar with tobacco industry tactics to undermine public health legislation. Koretz and Feuer reassured the "freshmen" council members, which had not previously dealt with the tobacco industry inundating City Hall and council member offices, that such activity was common for the tobacco industry.<sup>330</sup>

### *Los Angeles Tobacco Retail Licensing Law to Include Electronic Cigarettes*

In September 2013, Councilmember Paul Koretz proposed a motion for the City Attorney to prepare an ordinance that would establish a moratorium on the sale of electronic cigarettes to minors or one that would extend the city's current restrictions on the sales of tobacco products to the sales of electronic cigarettes.<sup>339</sup> Koretz considered imposing a moratorium on the sale and distribution of electronic cigarettes because the City Council of Seal Beach had agreed to a 45-day moratorium on August 26, 2013.<sup>340</sup>

In October 2013, City Attorney Mike Feuer presented the draft tobacco retail licensing ordinance which required electronic cigarette vendors to obtain a license in order to sell their products and prohibited self-service display of tobacco products and required that electronic cigarettes had to be behind the counter (so-called "vendor-assisted sale"), except in tobacco and cigar shops. The tobacco retailer ordinance would prohibit street sales and mobile assisted sales, similar to tobacco products.<sup>341</sup> The ordinance did not specify if electronic cigarette shops were included in the "vendor-assisted sale" portion of the law. On October 23, 2013, the tobacco retail licensing law was assigned to the Arts, Parks, Health, Aging, and River Committee.

### *Opposition and Support for the Tobacco Retail Licensing Ordinance*

A key tactic by the opposition was to mobilize the "vaper" community, including e-cigarette users with no prior connection to any industry advocacy groups, to oppose the ordinance by notifying electronic cigarette users of important public hearings and encouraging them to testify at these hearings. Similar to what took place in Chicago on its attempt to regulate electronic cigarettes,<sup>342</sup> the Consumer Advocates for Smoke-Free Alternatives Association (CASAA) activated its network of electronic cigarette advocates, usually users, through online forums and action alerts. CASAA and SFATA encouraged their members to write council members in opposition to the ordinance, contending that electronic cigarettes had helped them

***A key tactic by the opposition was to mobilize the "vaper" community***

quit smoking.

When the motion to extend the city's tobacco retail license to include electronic cigarettes was heard in the Arts, Parks, Health, Aging and Rivers Committee in October 2013, the opposition outnumbered the public health community ten to one (Table 4.4) because policy change in Los Angeles could spark a statewide and national movement. Additionally, the national trade associations Smoke

Free Alternatives Trade Association (SFATA), American E-liquid Manufacturing Standards Association, National Association of Tobacco Outlets (NATO), and Consumer Advocates for Smoke-Free Alternatives Association (CASAA) testified against moving forward with the motion. In October, NATO wrote a letter to the city council informing the Council that California State law, amended in 2010, already prevented minors from buying electronic cigarettes<sup>343</sup> without mentioning that the 2010 state legislation did not provide an enforcement infrastructure. NATO also argued that there was no need for city action because the federal Food and Drug Administration was planning to issue regulations on electronic cigarettes. As of October 2013,

however, the federal Food and Drug Administration had not even proposed to assert jurisdiction over electronic cigarettes. (It finally proposed the rule on April 25, 2014,<sup>344</sup> and initiated a process that will probably take years to complete and take effect.)

Tom Briant, who had been a Minnesota Tobacco and Candy Association lobbyist and worked with the Tobacco Institute (the cigarette companies' lobbying organization until it was dissolved in

Table 4.4. People who Testified at the October 23 Arts, Parks, Health, Aging, and River Committee Hearing		
Name	Representing	Type of Organization
<i>Invited Guests</i>		
Dr. Jonathan Samet	USC Department of Preventative Medicine	Research Institution
Dr. Michael Ong	University of California, Los Angeles, TEROC Chair	Education, Health
Cynthia Hallett	Americans for Nonsmokers' Rights	Public Health Public Health <<fix alignment>>
<i>Support</i> Marlene Gomez	American Lung Association	
Trisha Roth	American Academy of Pediatricians (Lung Supporter)	Public Health
<i>Opposition</i>		
Tom Briant	National Association of Tobacco Outlets, Inc	Tobacco Industry
Phil Daman	Smoke-Free Alternatives Trade Association	Electronic Cigarette Trade Organization
Brian Gage	Firebrand	Manufacturer
Austin Hopper	Not specified	Electronic Cigarette Manufacturer
Alexander Kaplan	L.A. Resident	No Association
Harvey Kaplan	Automated Retail Shows	Electronic Cigarette Retailer
Aaron Pederson-Knoff	Space Jam Juice	Manufacturer
Lloyd Permillion	Individual citizen	Individual
Joey Mariano	Caught the Vapers and Vapers United	Electronic Cigarette Community
Ben Tanjuakio	VapeLyfe	Manufacturer

1998 as a result of lawsuits against the companies), was as of July 2014 representing the National Association of Tobacco Outlets, Inc.

American E-liquid Manufacturing Standards Association presented a report to the committee on its "responsible and sustainable practices" for the safe regulation of "e-liquids" through standardized "self-regulation."<sup>345</sup> "Self-regulation" is a longtime tobacco industry tactic to circumvent strong public health legislation. According to the World Health Organization:

The industry asserts that self-regulation, rather than government legislation, will suffice, and gives assurances that all manufacturers will abide faithfully by the provisions of the voluntary agreement and that the industry itself will ensure that it is properly enforced.<sup>346</sup>

However "self-regulation" has been largely ineffective and often favors the tobacco industry interests.

The American E-liquid Manufacturing Standards Association realized that legislated regulation of the electronic cigarette retail environment was inevitable and therefore utilized the "self-regulation" strategy early on in the Los Angeles debate. The argument did not resonate with the Los Angeles Committee and full City Council.

#### *Scientific and Public Education Communities Save the Ordinance*

Without support early on in the process for the ordinance from two of the major health voluntaries (AHA and ACS CAN)<sup>316</sup> Councilmember Koretz and Councilmember O'Farrell had to turn elsewhere for support. The scientific and public education communities were integral to carrying the retail licensing ordinance through Committee and passing it at the full Council. Dr. Michael Ong, Associate Professor of Medicine at the University of California, Los Angeles and chairman of the Tobacco Education and Research Oversight Committee (see Chapter 1 for more on TEROC), and Dr. Jonathan M. Samet, Director of the University of Southern California's Department of Preventative Medicine, supported the effort by sending letters of support to the council and testifying at the full Council hearing. Alvaro Cortés, executive director of the Los Angeles Unified School District's Beyond the Bell Program, testified at the full Council hearing, as did Marlene Gomez from the American Lung Association, Stephanie Molen of Breathe California of Los Angeles County, and Karla Delgado, an American Heart Association volunteer.

Though Phil Gardiner, a Scientific Program Officer at the Tobacco-Related Disease Research Program (TRDRP), was unable to attend the city council hearings in Los Angeles, he provided counter arguments (via telephone and e-mail) for city council members to combat the claims purported by the electronic cigarette manufacturers and lobbyists that were not evidenced-based.

On December 2, 2013, two days before the final vote, Cynthia Hallett, Executive Director of Americans for Nonsmokers' Rights, sent a letter supporting the tobacco retail ordinance to Council President Herb Wesson. Hallett's letter also encouraged the city council to expand its law addressing smokefree workplaces and public places (businesses with five or fewer

employees, break rooms, owner-operated facilities, and warehouse facilities) exempted in the state law as well as prohibit electronic cigarettes devices in these venues.<sup>347</sup>

Even though the electronic cigarette vendors and users came out in full force to oppose the tobacco retail ordinance, because council members and health advocates focused on preventing sales to youth, combined with support for the ordinance from concerned parents, principals, and local middle school and high school educators, proponents were able to overcome industry opposition.

***Proponents were able to overcome industry opposition.***

On December 4, 2013, the full City Council voted unanimously to approve the ordinance. Mayor Eric Garcetti signed the ordinance on December 12 and the law went into effect on January 22, 2014.

*The Second Step: Include Electronic Cigarettes in Public Use Law*

As Councilmember O'Farrell was working on the tobacco retail licensing law, the Public Health Departments of Chicago and New York were planning on including electronic cigarettes in their cities' existing clean indoor air ordinances as early as December 2013. O'Farrell decided that Los Angeles, the second largest city in the nation, needed to adopt similar legislation. After the tobacco retail licensing law passed in Los Angeles in December 2013, O'Farrell again partnered with Koretz and introduced an ordinance that would include electronic cigarettes in the city's clean indoor air ordinance.

On December 4 2013, the same day in which the tobacco retail licensing ordinance passed the full City Council, O'Farrell introduced a motion to amend the city's clean indoor air law to include electronic cigarettes and other similar devices ("e-cigars", "e-hookahs", "e-cigarillos" and "e-pipes") in the city's definition of tobacco products. The ordinance would prohibit the use of these devices in workplaces (businesses with five or fewer employees exempted), public places, restaurants, bars, outdoor dining areas (bar patios exempted), farmer's markets, parks (city golf courses exempted), and beaches.

O'Farrell and the City Attorney Office's Tobacco Enforcement Program thought they could fast track the ordinance without organizing a coalition. Because the tobacco retail licensing ordinance had passed unanimously despite opposition from electronic cigarette advocates, O'Farrell did not anticipate heavy industry opposition to his public usage ordinance<sup>348</sup> and underestimated the need for a content expert to debunk the arguments that electronic cigarette interests used at city council committee hearings and during one-on-ones with uncommitted council members. Such arguments included: electronic cigarettes were safe, are life saving devices, and emit only harmless water vapor.

After introducing the public usage ordinance in early December 2013, the major health voluntaries did not actively engage in O'Farrell's effort to quickly pass this legislation. Following direction from their national offices, the major health voluntaries, American Lung Association, American Heart Association, and the American Cancer Society did not recommend amending the public usage ordinance in Los Angeles on the grounds that it could have opened up the existing comprehensive smokefree law, "which [may] jeopardize the entire law."<sup>316</sup>

The major health voluntaries' refusal to take a position on regulating electronic cigarette public usage was jeopardizing state activity in California and local activity in Los Angeles. (See Chapter 3 on state legislation for more details.) On January 8, when O'Farrell's public usage ordinance was assigned to the Art, Parks, Health, Aging, and River Committee, the major health voluntaries in Los Angeles still had not sent letters of support.<sup>336</sup>

The American Heart Association did not take a formal position at that time because the organization wanted to see the final language that it could internally review and evaluate.<sup>329</sup> According to Batch in a 2014 interview for this report, "This was a new policy area, knowing that Los Angeles was one of the first, we really wanted to get it right in Los Angeles."<sup>329</sup>

***The major health voluntaries' refusal to take a position on regulating electronic cigarette public usage was jeopardizing state activity in California and local activity in Los Angeles.***

The American Cancer Society Cancer Action Network (ACS CAN) did not participate until February in the public usage ordinance because of its national office's policy stance on electronic cigarettes. After ACS CAN's national office revised its policy position to push for electronic cigarette restrictions including amending existing secondhand smoke ordinances to include electronic cigarettes in January 2014, ACS CAN became engaged in Los Angeles.<sup>335</sup>

Meanwhile, on January 10 the Consumer Advocates for Smoke-Free Alternatives (CASAA) sent out an action alert, rallying its network of electronic cigarette users. The action alert directed electronic cigarette consumers to contact their city council member in opposition to the public usage ordinance by explaining how electronic cigarettes had changed their lives. CASAA also provided talking points for electronic cigarette users to communicate to elected officials which included:

- 1) Smoking bans are enacted to protect the public from the harm of secondhand smoke, but e-cigarettes have not been shown to cause harm to bystanders;
- 2) To explain the low-risk of electronic cigarettes through studies conducted by Dr. Michael Siegel of Boston University, Dr. Eissenberg of Virginia Commonwealth, Dr Maciej L. Goniewicz of the Roswell Park Cancer Institute, Dr. Laugesen of Health New Zealand, Dr. Igor Burstyn of Drexel University;
- 3) Electronic cigarette use is easy to distinguish from conventional cigarettes;
- 4) Electronic cigarette public usage will influence smokers to switch;

5) Smokeless products are less dangerous than combustible products.<sup>349</sup>

CASAA also provided the email addresses and telephone numbers of all council members and highlighted in yellow members of the Arts, Parks, Health, Aging & River Committee, where the ordinance was scheduled to be heard in February (Figure 4.5).

Recognizing that it would require an organized effort to get the ordinance passed, in January 8, 2014, O'Farrell pulled the ordinance from the agenda. As a result, O'Farrell asked the Los Angeles County Director of Public Health Dr. Jonathan Fielding, to be a key expert witness, at a January 2014 hearing (to be determined at that time). Fielding was unavailable in January. O'Farrell rescheduled the first hearing on the ordinance to February 24, 2014, to accommodate Fielding's schedule.

The hearing postponement allowed the tobacco and electronic cigarette companies to further organize and mobilize their advocacy base. The opposition began "twitter bombing" the Twitter accounts of city council members in mid-January, which generated fear in the City Council that there was more opposition than support for the proposed ordinance.<sup>348</sup>

#### *Advocacy and Community Mobilization Efforts for the Los Angeles Public Use Ordinance*

In January 2014, Los Angeles Unified School District (LAUSD) Superintendent John Deasy wrote Councilmember O'Farrell and the entire city council supporting the proposed ordinance to include electronic cigarettes in the city's smokefree law. The LAUSD's Beyond the Bell Program worked in partnership with the Los Angeles City Attorney Office's Tobacco Enforcement Program on reducing youth prevalence and access to tobacco products. This was the second letter (the first letter was in support of the tobacco retail licensing law) of support for the regulation of electronic cigarettes that Superintendent Deasy had sent to the city council, citing that electronic cigarette use among the youth population had doubled between 2012 and 2013, and that it was time for the Los Angeles City Council to take action.<sup>350</sup>

***The opposition began "twitter bombing" the Twitter accounts of city council members in mid-January, which generated fear in the City Council that there was more opposition than support for the proposed ordinance.***

Dr. Jonathan M. Samet, Director of the University of Southern California's Department of Preventative Medicine, also sent a letter of support in January 2014, citing the danger of nicotine dependence, dual use, and electronic cigarettes serving as a gateway to later cigarette use.<sup>351</sup>

Dr. Fielding, Director of the LA County Department of Public Health, spoke as a high ranking health official in support of the ordinance at the February 24 and March 4 public hearings. The

American Lung Association, American Heart Association, American Cancer Society Cancer Action Network, and the Los Angeles Department of Public Health began in the end of January 2014 visiting Council members to educate them on the potential harms of an unregulated electronic cigarette market.<sup>329</sup> These efforts were coordinated by Monty Messex, Deputy Director of the Los Angeles County Tobacco Control & Prevention Program and Tonya Gorum-Gallo, Director of the Los Angeles County Tobacco Control and Prevention Program.

**While e-mails are easier, phone calls will have a larger impact, even if you are simply leaving a message after hours.** (Council members highlighted in yellow are members of the Arts, Parks, Health, Aging & River Committee, which committee will be considering the ordinance on February 24th, 2014)

**Comma delimited email list:** councilmember.cedillo@lacity.org, councilmember.krekorian@lacity.org, councilmember.blumenfield@lacity.org, councilmember.labonge@lacity.org, paul.koretz@lacity.org, councilmember.martinez@lacity.org, councilmember.fuentes@lacity.org, councilmember.parks@lacity.org, councilmember.price@lacity.org, councilmember.wesson@lacity.org, councilmember.bonin@lacity.org, councilmember.englander@lacity.org, councilmember.ofarrell@lacity.org, councilmember.huizar@lacity.org, councildistrict15@lacity.org

**District 1 - Gil Cedillo**, (213)473-7001, councilmember.cedillo@lacity.org  
 District 2 - Paul Krekorian, 213-473-7002, councilmember.krekorian@lacity.org  
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 District 4 - Tom LaBonge, 213-473-7004, councilmember.Labonge@lacity.org  
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 District 7 - Felipe Fuentes, 213-473-7007, councilmember.fuentes@lacity.org  
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 District 9 - Curren Price Jr., 213-473-7009, councilmember.price@lacity.org  
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 District 11 - Mike Bonin, 213-473-7011, councilmember.bonin@lacity.org  
 District 12 - Mitch Englander, 213-473-7012, councilmember.englander@lacity.org  
 District 13 - Mitch O'Farrell, 213-473-7013, councilmember.ofarrell@lacity.org  
 District 14 - Jose Huizar, (213) 473-7014, councilmember.huizar@lacity.org  
 District 15 - Joe Buscaino, 213-473-7015, councildistrict15@lacity.org

**Figure 4.2:** Council members highlighted on CASAA's Los Angeles Action Alert Webpage<sup>349</sup>

On February 13, Nora Manzanilla of the City Attorney's Office, Tobacco Enforcement Program, arranged for Council members, their staff and newer ALA staff (who had not been involved in tobacco control advocacy in the 1990s) to participate in a teleconference hosted by the National Association of County & City Health Officials (NACCHO), the Campaign for Tobacco-Free Kids, and the Chicago Department of Public Health. Kendall Stagg Senior Advisor to the Commissioner at the Chicago Department of Public Health, who had coordinated the effort on the Chicago electronic cigarette ordinance passed in January 2014, was a key speaker and provided lessons learned from the electronic cigarette battle in Chicago.

Lessons learned included:

- Be prepared for tobacco industry's playbook
  - Myths: [e.g.] "it's just water vapor"
  - Deliberate attempts to co-opt the medical community
  - Using front groups
  - Funding industry trade groups to masquerade as grassroots organizations...
- Blowing Smoke: "Our nicotine comes from tomatoes."
- Smoke and mirrors: Harm reduction/cessation arguments. These are red herrings meant to derail the conversation.



- Be ready for Twitter Bombing. Warn policy makers in advance. We can no longer ignore Twitter.
- Most important talking point: Everyone has the right to breathe clean indoor air. (The standard is not to promote "less dirty" air.<sup>352</sup>)

All of these arguments, which were raised in Chicago, were also used to oppose the Los Angeles ordinance.<sup>353-354</sup>

The teleconference prepared the Council members, their staff, and advocates for arguments that electronic cigarette industry representatives and electronic cigarette shop lobbyists would likely use against the ordinance (e.g. claiming that the Food and Drug Administration rather than local governments should regulate electronic cigarettes and that electronic cigarettes do not warrant the same restrictions as conventional cigarettes because they may be used as harm reduction devices).

The webinar also organized and presented information on how to regulate electronic cigarettes. Prior to the February 2014 webinar, the major health voluntaries argued that they did not have enough information on these products to take a position grounded in scientific-based research.<sup>353</sup>

According to Kendall Stagg in a 2014 interview for this report:

There were a number of reasons cited [during the webinar] as justification for regulation of e-cigarettes in Chicago and L.A. For example: (1) Health and safety concerns; (2) accessibility and attractiveness to youth; (3) a lack of product safety and manufacturing standards, which exacerbate health and safety concerns; and (4) their use can undermine existing smokefree policies....

E-cigarettes have the potential to undermine our existing clean indoor air law because they have been intentionally developed to mimic the act of smoking and they cause confusion.<sup>353</sup>

The major health voluntaries finally sent letters of support on February 19 and 20 after being influenced by the webinar, outside pressure from Dr. Stanton Glantz and Cynthia Hallett, and New York (December 30, 2013) and Chicago (January 15, 2014) passing their electronic cigarette public usage ordinances. The three major health voluntary groups also testified at the February 24 Committee hearing.<sup>356</sup>

According to Stagg in a 2014 interview for this report speaking about the electronic cigarette debate in Chicago:

We [representatives from the Chicago Department of Public Health] told health groups 'The train has left the station. This is happening while the health groups meet and wring their hands and try to come to a consensus about what is the proper way to regulate these products and how do we define them legally. The time for discussion and debate was over. They needed to come to the table to tell us what their decision was.'<sup>353</sup>

The public usage ordinance was moving fast in Los Angeles and, like in Chicago, the major health voluntaries were not taking a position. Policymakers and the general public were not willing to wait. More importantly, the opposition in Los Angeles was well-funded, organized,<sup>353</sup> and came out in larger numbers than health advocates to oppose the ordinance.

### *Opposition to the Ordinance*

A key tactic of opponents was mobilizing electronic cigarette users in Los Angeles County through the internet to attend public hearings and to "twitter bomb," i.e., post large numbers of Tweets with the same hashtag from multiple accounts to develop a trending topic on Twitter and overload the Twitter accounts of Los Angeles Council members. By using the tactic of online messaging via social media, it was difficult for public health advocates to determine the source of the opposition, which may have originated from outside of the Los Angeles area or outside of California, something that took place in Chicago.<sup>342</sup>

Prior to the Los Angeles City Council Committee hearing, another key tactic of the opposition, mobilized by CASAA, was to smoke electronic cigarettes during committee hearings as an act of defiance.<sup>353</sup> However, after this tactic backfired in New York and Chicago, CASAA told its advocacy base to refrain from using electronic cigarettes during the City Council meetings "as a sign of respect" in Los Angeles. Rather than a sign of respect, the real reason the opposition modified its strategy was because using electronic cigarettes was difficult to distinguish from combustible cigarettes, thus, sending a clear message that they should be included in smokefree laws and not pose a potential threat to existing clean indoor air legislation.<sup>353</sup>

***By using the tactic of online messaging via social media, it was difficult for public health advocates to determine the source of the opposition***

Similar to tobacco industry tactics in the 1980s and 1990s<sup>282-283, 305, 355-356</sup> the electronic cigarette companies mounted heavy opposition through front groups and third parties. In Los Angeles these groups included the Smoke-Free Alternatives Trade Association, Consumer Advocates for Smoke-Free Alternatives Association, and American E-liquid Manufacturing Standards Association. According to a 2014 interview for this report with Liz Williams of Americans for Nonsmokers' Rights:

One example is the Board of SFATA (Smoke-Free Alternatives Trade Association), where at least two of its board members (Ron Tully, Vice President, and Jose-Antonio Valencia) have ties with tobacco companies. Additionally, Greg Conley, the former Legislative Director of CASAA (Consumer Advocates for Smoke-Free Alternatives Association), is now a Legislative Consultant with the Heartland Institute, a long-time tobacco industry partner.<sup>296</sup>

Ron Tully, vice president of the SFATA Board, was the Documentation Manager for multinational tobacco companies' International Tobacco Information Center or INFOTAB. The

major tobacco companies formed INFOTAB in 1978 to organize an international network of regional and national tobacco manufacturers<sup>357</sup> and to counter tobacco control efforts that were "spilling over" into countries outside of North America and Great Britain.<sup>358</sup> Tully also was a member of the board of the National Association of Tobacco Outlets (NATO) (an organization which opposed the Los Angeles' tobacco retail licensing ordinance)<sup>343</sup> and the US Pipe Tobacco Council.<sup>359</sup> The second board member was Jose-Antonio Valencia who had worked as a Senior Marketing Executive in South America for Philip Morris (Altria) until 2007.<sup>360</sup>

Opponents of the Los Angeles ordinance ignored the findings of existing scientific research and argued that the aerosol from these devices were close to "harmless water vapor" and that there was no proof that these products posed any significant harm to the user or bystander.<sup>361</sup> These arguments mirror the arguments used by the tobacco industry beginning in the 1970s that light and mild cigarettes were "reduced harm" and that secondhand tobacco smoke did not pose a threat to bystanders. Lastly, the "vapers' rights" movement in the 2010s mirrors the smokers' rights movement of the 1990s, developed by the tobacco industry.<sup>282-283, 305, 356</sup>

Marijuana legalization advocates also opposed public usage restrictions. On December 13, 2013, ten days after the ordinance was introduced to the City Council, Dale Gieringer, executive director of the California National Organization on the Reform of Marijuana Laws (CANORML), sent a letter to Councilmember Koretz opposing the ordinance, arguing that electronic cigarettes are used for consuming marijuana for medical marijuana users and for "harm-reduction," and that evidence did not exist to show that secondhand marijuana smoke or vapor was harmful to bystanders. CANORML was concerned that the electronic cigarette definition was going to become so broad that it would include marijuana vaporizers, making the use of these devices illegal in public.

In January 2014, Gieringer sent an additional email to the City Council which included the CASAA-funded study<sup>362</sup> "Peering through the mist: systematic review of what the chemistry of contaminants in electronic cigarettes tells us about health risks"<sup>363</sup> conducted by Dr. Igor Burstyn of the Drexel University School of Public Health. This study was criticized by Dr. Stanton Glantz, an author of this report, on the grounds that it "uses an inappropriate standard that grossly underestimates the risk associated with secondhand smoke exposure to cigarette aerosol."<sup>364</sup> In a January 2014 letter to the City Council, Dr. Jonathan Samet countered Gieringer's attempt to promote electronic cigarettes as reduced harm alternatives to cigarettes by explaining the flawed methodology in the Burstyn study.<sup>365</sup>

### *Electronic Cigarette Interests Take Advantage of the Health Voluntaries' Inaction*

As a consequence of the opposition mounted by the Consumer Advocates for Smoke-Free Alternatives Association (and Dr. Fielding's unavailability to testify), the electronic cigarette ordinance stalled in mid-January at the Arts, Parks, Health, Aging, and River Committee. Committee members, including O'Farrell, were threatened by the large amount of opposition compared to modest support for the ordinance from the major health voluntaries. This opposition caught O'Farrell's office off guard and O'Farrell pulled the ordinance from the Committee's January 8, 2014 agenda.<sup>348</sup>

Not only did O'Farrell's pulling the item from the agenda in January have an effect on the process in Los Angeles, but it also posed a threat to the then-pending ordinance in Chicago. In an effort to raise awareness, both cities had coordinated their efforts (with the help of the Campaign for Tobacco-Free Kids and National Association of County and City Health Officials) to pass each city's ordinance on the same date. . NACCHO and CTFK realized that having major U.S. cities pass public usage ordinances would help educate the public through the resulting widespread media attention. In addition, because public usage of electronic cigarettes would no longer be an acceptable social norm in these major cities, citizens would feel empowered to urge people to follow the law, resulting in higher levels of compliance.<sup>353</sup>

### *Electronic Cigarette Political Battle was the Most Intense to Date*

There were several factors that led to the intense political battle in Los Angeles including:

- E-cigarette consumer rights groups (CASAA and SFATA primarily) did not begin opposing public usage ordinances in California until April 2013;<sup>326</sup>
- There was a rapid rise in sales and the number of electronic cigarette users that took place between 2010 and 2013;<sup>366</sup>
- Major tobacco companies began entering the electronic cigarette market beginning in 2012 with the financial resources and political clout to potentially block public health efforts; and<sup>49</sup>
- New York and Chicago passed their public usage ordinances in December 2013 and January 2014 respectively, which left Los Angeles as the final major city<sup>367</sup> for electronic cigarette interests to oppose significant public health legislation.

In the three days leading up to the February full Council hearing, Lorillard Tobacco (owner of Blu electronic cigarettes) ran radio ads on Jack FM, a conservative Los Angeles radio station owned by CBS, urging electronic cigarette users to attend the hearing on Monday February 24. The ads sensationalized the issue with emotional stories about people finally quitting smoking by using electronic cigarettes but now their freedom was being put at risk by this proposal.<sup>348</sup> The four blu eCigs' radio advertisements included information such as:

- LA City Council is restricting personal freedoms to "vape";
- Compared electronic cigarette ordinance to a ban on coffee in public places, a ban on black labs, a ban on imaginary problems (leprechauns sneezing, unvaccinated sasquatches, werewolf electrolysis, and haunted pot holes);
- Vapor evaporates in seconds, electronic cigarettes do not produce tobacco smoke, ash, or odor; and
- Restricting public usage would encourage electronic cigarette users to go back to smoking tobacco.<sup>368</sup>

The ads concluded by saying: "Let your LA city council representative know how you feel about this unfair restriction on people who have switched to electronic cigarettes" and encouraged electronic cigarette users to use #ecig freedom on Twitter, Facebook, or Instagram to "join the conversation now."<sup>368</sup> The advertisements stated that the sponsor was blu eCigs but did not disclose that Lorillard, a major tobacco company, owned blu eCigs as of April 2012.

CASAA also sent out an action alert via its website for electronic cigarette users urging them to attend the Committee hearing. On the day of the hearing, expecting a capacity of more than 100 people, Councilmember O'Farrell moved the hearing to the John Ferraro Council Chamber room, an auditorium style building.

In February 2014, Lorillard Tobacco (Blu) urged its electronic cigarette customers to oppose the ordinance. Lorillard sent out an action alert urging electronic cigarette users to oppose the ordinance and shared Protest Pro Tips, a list of strategies that Lorillard's Blu posted on its website for electronic cigarette users who wanted to mobilize against electronic cigarette legislation.<sup>369</sup> According to Liz Williams of Americans for Nonsmokers' Rights, this type of opposition echoed tobacco industry tactics that advocates had seen in the 1990s when cities were trying to pass legislation restricting smoking indoors.<sup>296</sup>

Lobbying firms that represented electronic cigarette companies, Blu (owned by Lorillard), Vuse (an RJR product), and independent electronic cigarette company NJOY, frequented the Los Angeles City Hall and distributed samples of their products to uncommitted Council members (Bonin, Krekorian, and Buscaino).<sup>334, 348</sup> Electronic cigarette and tobacco companies hired well-known (to Council members) contract lobbyists, John Eck and Victor Franco from Eck & Eck LLC representing NJOY (\$30,000),<sup>370</sup> and Veronica Perez, representing Vuse (\$20,000).<sup>371</sup> These same lobbyists had worked on fundraising campaigns for Los Angeles City Council members and had previous relationships with Council Members. Even though there had been opposition in the past to tobacco control policies in Los Angeles,<sup>329</sup> it was rare for local politics to see contract lobbyists hired in this fashion. Most unusual were the paid advertisements for electronic cigarette users to attend the Art, Parks, Health, Aging and River Committee and full Council hearings.<sup>334</sup>

Lorillard (though it sponsored the radio ads) and RJ Reynolds did not send any letters in opposition to the ordinance, but several of the local electronic cigarette shops contacted uncommitted Council members. This tactic mimics tobacco industry use of wholesalers and tobacco retailers to promote its agenda in combating clean indoor air ordinances in the 1990s and early 2000s.<sup>372</sup> On February 13, 2014, ten days before the Committee hearing, Mher "Mike" Mailyan, owner of Vapor Shop Lounge in Sherman Oaks, sent Councilmember LaBonge a letter requesting that he exempt electronic cigarette shops from the proposed ordinance otherwise it would devastate his 7-month old business. Mailyan finished the letter by stating that electronic cigarettes helped him, his business partners, and five of his customers to quit smoking,<sup>373</sup> even though electronic cigarettes are not a proven nicotine replacement therapy device. This is the position CASAA suggested that electronic cigarette users and retailers convey to Council members.<sup>374</sup> One day later, Step Jones, owner of XOXO Vapor Bar, sent Councilmember LaBonge a similar letter requesting that he consider exempting electronic cigarette bars from the ordinance, stating that the proposed ordinance would have a detrimental impact on his business.<sup>375</sup>

***The ads sensationalized the issue with emotional stories about people finally quitting smoking by using electronic cigarettes***

On February 19, four days before the hearing, former U.S. Surgeon General Richard Carmona, who had become a member of the board of NJOY, wrote a commentary published in the Los Angeles *Daily News* arguing that electronic cigarette restrictions are antithetical to anti-smoking efforts as electronic cigarette devices can play a significant role in tobacco harm reduction strategies. According to Carmona:

The Los Angeles City Council is considering adding electronic cigarettes to the city's current indoor smoking ban. Including electronic cigarettes in L.A.'s indoor smoking ban is a huge mistake because it may significantly hinder what is emerging as the most promising weapon yet in the fight against tobacco-related illness and death...Published research suggests that e-cigarettes can play a significant role in tobacco harm reduction strategies, since they avoid the toxic byproducts of combustion while providing smokers with the nicotine they crave and the smoking rituals to which they have grown accustomed.<sup>376</sup>

Health advocates countered Carmona's arguments by emphasizing in Council hearings that the city would not be banning electronic cigarettes, but wanted to include electronic cigarettes in the city's smokefree air laws. Additionally, Dr. Jonathan Samet sent a letter to the full City Council and to the mayor. In the letter, Samet states:

The Council has received various materials that address potential risks of e-cigarettes. I note that the study authored by Igor Burstyn concludes that there is no evidence that use of e-cigarettes warrants health concern. This finding is based on comparison to Threshold Limit Values (TLV) that are developed for workers in occupational settings and intended to characterize maximum acceptable exposures for healthy worker populations. TLVs do not represent public health standard values.<sup>365</sup>

Responding to Carmona's opinion piece in the Los Angeles *Daily News*:

In the case of e-cigarettes, because data are lacking, Dr. Carmona can only offer opinions, but not evidence-based conclusions, on their role in harm reduction and on potential public health consequences of the proposed amendments.<sup>365</sup>

On February 22, another electronic cigarette industry ally, the New York-based American Council on Science and Health,<sup>377</sup> sent a letter<sup>378</sup> to members of the Arts, Parks, Health, Aging, and River Committee urging the City Council not to regulate or restrict electronic cigarette use, claiming that these products can serve as a method of tobacco harm reduction. The letter also cited the Burstyn study that claimed that electronic cigarette vapor posed zero health risks to bystanders.<sup>379</sup>

#### *The February 24 Arts, Parks, Health, Aging, and River Committee Hearing*

In preparation for the February 24 turnout from the opposition, Americans for Nonsmokers' Rights, the American Lung Association, the American Cancer Society Cancer Action Network, American Heart Association, Dr. Samet of the Keck School of Medicine, and the Los Angeles Unified School District Board Members, on behalf of the LAUSD Board, wrote letters

supporting the ordinance to the entire City Council and Mayor Garcetti. At the February 24, 2014 hearing, the major tobacco companies did not publicly appear but several electronic cigarette shop owners, electronic cigarette users and manufacturers appeared (Table 4.5).

Electronic cigarette companies flew John Steier of the National Center on Public Policy and Research,<sup>336</sup> a Washington D.C.-based conservative think tank and long-time tobacco industry front group,<sup>355</sup> to the February 24 hearing. He presented the Burstyn study.<sup>336</sup> The Committee voted unanimously to permit the use of electronic cigarettes in businesses where the sole purpose of the business was the

sale or use of electronic cigarettes and at theatrical production sites, paralleling the existing public usage law for conventional cigarettes. The original proposal did not include an exemption for "vape" shops and it was not until CASAA, SFATA, and "vape" shop retailers began lobbying Committee members via Twitter and other social forums did Councilmember O'Farrell consider exempting "vape" shops. Such exemption may have serious consequences for public health as the health effects of electronic cigarette emissions are unknown.

<b>Table 4.5: People who Testified at the February 24 Hearing<sup>380</sup></b>		
Name	Representing	Type of Organization
<b>Invited guests providing special presentations</b>		
Lourdes Baezconde-Garbanati	University of Southern California, Appointed member of TEROC	Education, Tobacco Control
Cynthia Hallet	Americans for Nonsmokers Rights	Public Health
Timothy Kordic	Los Angeles Unified School District Health Education Program	Public Health/Education
Michael Ong	University of California, Los Angeles, TEROC Chair	Health/Education
<b>Speakers</b>		
Jonathan Fielding	LA County Department of Public Health	Public Health
Mike Feuer	City Attorney	Government
Paul Koretz	Councilmember	Government
Bernard Parks	Councilmember	Government
Brian Randol	Los Angeles Chief Legislative Analyst	Government
Steven Zimmer	Los Angeles Unified School District Board	Public Education
<b>Support</b>		
Janice Boafo	Tarzana Treatment Center	Public Health
Eric Batch	American Heart Association	Public Health
Martha Cox	Vice President for Public Policy at Building Owners and Managers Association of Greater Los Angeles	Housing
Marlene Gomez	American Lung Association	Public Health
Paul Hirsh	Los Angeles Unified School District Principal of STEM Academy of Hollywood	Public Education
Spencer Lyons	American Cancer Society Cancer Action Network	Public Health
Esther Schiller	Teacher, S.A.F.E.	Public Education
Evelyn Zniemer	City Clerk of South Pasadena	Government
<b>Opposition</b>		
Joe Baxley	Nightlife Group	Hospitality
Jason Perez Calco	Commercial Insurance Services	Retailer
Charleston Catchillar	Vaper Venue	Retailer
John Clenton	Clenton Group LLC	Electronic cigarette Lobbyist
Alex Cruz	Vapor Star Lounge	Retailer
John Hartigan	Vapeology	Retailer
Darrin Gold	L.A. Vapers Club and Oak Realty	Hospitality and Housing
Ruben Gonzales	Los Angeles Chamber of Commerce	Business
John Jenkins	Vapor Shop	Retailer
Step Jones	XOXO Vape Shops	Retailer
Yong Kim	Vapor Bar	Retailer
Amber Lee	Vape Revolution	Retailer
Glenn Lee	Vape Source	Retailer
Mher Mailyan	Vape Shop and Lounge	Retailer
Brandon O'Connell	Vapeday/Vapetalk.com	Retailer
Adam Phramy	Vape Star	Retailer
Elaine Ruggieri	Natural Vapes	Retailer
Manuel Suarez Jr.	Golden State Vape Shop	Retailer
Jeff Steier	National Center on Public Policy Research National Vapers Club	Think Tank
Anonymous	E-Generation	Retailer

The Committee voted to exempt vape shops because "vape" shop retailers argued the law would have a devastating effect on their business (a common tobacco industry argument) because they wanted their customers to be able to sample their products in their stores. However, as has taken place in Chicago, "vape" shop owners are using this exemption to allow their customers to "sample" their products for long periods of time and thus circumventing the public health orientation of the proposed ordinance in Los Angeles.

The electronic cigarette lobbyists made daily visits to members of the Committee. Beginning in January 2014, Lorillard's Blu directed its advocacy base to blast the Twitter feeds of Committee members (using the #ecigfreedom hashtag) and CASAA urged its membership to send emails and call council members, with a particular focus on members of the Arts, Parks, Health, Aging, and River Committee.<sup>349</sup>

The number of speakers opposing the measure at the February 24 committee hearing outnumbered the public health community 20 to 12. Finally, Councilmember LaBonge received two letters from his constituents in mid-February, which argued that the exemption would be good for their infant businesses.<sup>373, 375</sup> All four members of the Committee at the meeting voted in favor of this exemption (O'Farrell, LaBonge, Buscaino, and Price); Cedillo was absent for the vote. The proposed ordinance, which at this time exempted electronic cigarette lounges and allowed for use of these devices at theatrical performances, was sent to the full City Council for consideration

Immediately following the February 24 hearing at which the Committee voted unanimously 4-0 (Councilmember Gil Cedillo was absent) to recommend the ordinance to the entire Council, the electronic cigarette lobbyists went to the City Council offices and awaited the return of the Council members.

#### *The March 4 Public Hearing*

Health groups and medical professionals testified at the March 4 hearing of the full Council (Table 4.6). The Coalition for a Tobacco Free LA County invited parents and public educators to

***Parents and principals explained to the City Council that students were using these products, which are difficult to distinguish from a conventional cigarette or a pen in some cases ("vape" pens), during class.***

testify in support of the ordinance. Americans for Nonsmokers Rights, American Lung Association, American Cancer Society Cancer Action Network, and American Heart Association representatives spoke at the hearing. Members of the Los Angeles Unified School District Board (Bennett Kayser and Steve Zimmer) speaking on behalf of the Board of Education, recommended that the City Council adopt the ordinance because the Board was planning to institute a district-wide policy restricting electronic cigarette use on campuses. Parents and principals explained to the City

Council that students were using these products, which are difficult to distinguish from a conventional cigarette or a pen in some cases ("vape" pens), during class. Dr. Jonathan Fielding also presented strong testimony in favor of the ordinance.



<b>Table 4.6. People who Testified at the March 4, 2014 full Council Hearing</b>		
Name	Representing	Type of Organization
<b>Support</b>		
Eric Batch	American Heart Association	Public Health
Wendy Cowan	Los Angeles Unified School District Beyond the Bell Program	Public Education
Dave Foley	Los Angeles County Public Defender's Office	Government
Marlene Gomez	American Lung Association	Public Health
Cynthia Hallett	Americans for Nonsmokers' Rights	Public Health
Paul Hirsch	Los Angeles Unified School District Principal of STEM Academy of Hollywood	Public Education
Nicole Jones	Chair of American Heart Association Los Angeles Division	Public Health
Tiffany Kilgore-Peterson	Los Angeles Resident from Venice	N/A
Stephanie Molen	Breathe California	Public Health
Dr. Michael Ong	University of California, Los Angeles, TEROC Chair	Education,/Health
Tiffany Peterson	Resident	N/A
Yaneth Rodriguez	Resident	N/A
Esther Schiller	S.A.F.E.	Public Health
Charlie Smith	American Cancer Society Cancer Action Network	Public Health
Daniel Soto	University of Southern California	Parent
Dr. Kimberly Uyeda	Los Angeles Unified School District	Public Education
Mitchell Vieyra	Building Owners and Managers Association of Greater Los Angeles	Housing
<b>Opposition</b>		
Ruben Gonzales	Los Angeles Chamber of Commerce	Business
Donna Pearman	Resident	N/A

Prior to the ordinance being heard in front of the full City Council, Lorillard's electronic cigarette company Blu posted an action alert to its website entitled "Blu Freedom Friday" calling on electronic cigarette users to protect their "personal freedom" and oppose the ordinance. Blu even encouraged people outside of the Los Angeles area to take action by using the hashtag #ecigfreedom on Twitter, Facebook, and Instagram. Blu encouraged electronic cigarette users in the Los Angeles area to contact their Council members with the following message:

- You oppose banning the use of e-cigarettes in indoor and outdoor locations.
- E-cigs are different from traditional cigarettes—they produce no tobacco smoke, no ash and no odor.
- E-cigs are a welcome alternative to cigarettes.
- Restricting the use of e-cigs would discourage adult smokers from switching to e-cigs.
- Your reason for choosing e-cigs.<sup>381</sup>

At the March 4 hearing, Councilmember Joe Buscaino, (a Libertarian member of the City Council) proposed an amendment to exempt bars and nightclubs from the ordinance. This attempt was pushed by the major tobacco companies Lorillard and RJ Reynolds who wanted to exempt bars from the electronic cigarette provision because bars were a major marketing tool for their business. Historically, the tobacco industry has utilized bars and nightclubs to market to

young adults and later expanded its marketing strategy to create smoker-friendly promotional environments.<sup>382-385</sup> Because conventional cigarette use was prohibited in most public places in California, the electronic cigarette companies had been using the message that former smokers can have the freedom to return to the bars and enjoy using electronic cigarettes indoors, similar to cigarette use in bars prior to 1998. Without this major marketing tool, the major electronic cigarette companies (Blu, Vuse, and NJOY) might be forced to modify their advertising strategy in California and perhaps in other places across the nation (because Los Angeles was the second largest city in the U.S. and had political influence) after Los Angeles passed its ordinance. As of August 2014, however, electronic cigarette companies were still routinely making this "smoke anywhere" claim.

Buscaino repeated common industry arguments against electronic cigarette regulation in bars, e.g., such a restriction would hurt the hospitality business, these are adult-only venues and thus concerns about protecting youth from accessing these products do not apply, and that restricting electronic cigarettes in bars violates an adult's personal freedom to enjoy a legal product.<sup>332</sup> Buscaino's amendment was supported by Councilmember Paul Krekorian, who said the City Council did not have the expertise to enact such a strict regulation and should wait for policy prescriptions from CalOSHA or the federal FDA.<sup>332</sup>

Councilmember Mike Bonin questioned the intention of the ordinance (argument focused on youth) due to the lack in scientific evidence showing the specific harms of these products and argued that there should be an exemption for venues that admitted only by persons 18 years-old and over. Hallett provided the World Health Organization Report,<sup>348</sup> *Background on E-Cigarettes (Electronic Nicotine Delivery Devices,* to counter his argument.<sup>49</sup>

***... preventing youth access to electronic cigarettes by strengthening tobacco retail licensing and restricting electronic cigarette public use ... contributed to both ordinances' success***

The amendment was narrowly defeated by a vote of 8 to 6.

Electronic cigarette vendors and users outnumbered public health advocates almost three to one at all the public hearings for the Los Angeles tobacco retail licensing and the clean indoor air ordinances.<sup>336</sup> Given the intense mobilization by opponents, public health advocates were surprised that the ordinance unanimously passed on March 4, 2014.

The fact that the two ordinances focused on preventing youth access to electronic cigarettes by strengthening tobacco retail licensing and restricting electronic cigarette public use (which was heavily supported by Council President Herb Wesson), contributed to both ordinances' success. Additionally, the Los Angeles City Council had been very strong on anti-tobacco issues and were not going to be swayed by the electronic cigarette lobbyists and voted in the interest of public health.<sup>329, 334</sup>

Mayor Eric Garcetti signed the ordinance on March 10 to take effect on April 19, 2014.

The Council never closed the state loophole that exempted smoke shops from the California's Clean Indoor Air law in part because health advocates did not push to restrict electronic cigarette use in so-called "vape shops." The Committee may have considered the fact that there was so much opposition from electronic cigarette retailers at the Council hearings, particularly on February 24 when 20 members of the opposition testified against the ordinance compared to 12 public health advocates (Table 4.5), that it was not worth jeopardizing the ordinance by including "vape shops" in the proposal.

The law went into effect on April 19, 2014, timed to coincide around the same time as the New York, Chicago, and San Francisco (discussed below) ordinances, which were all planned to take effect in late April. Los Angeles became the third major city in the U.S. to pass electronic cigarette clean indoor air legislation. In April 2014, 17 million residents and hundreds of millions of tourists gained new protections under these new laws. This coordinated effort also generated widespread media attention. Cynthia Hallett of Americans for Nonsmokers' Rights, who issued a press release on April 28, 2014 entitled "New York City, Chicago, and San Francisco Implementing Electronic Cigarette Laws: Millions protected from exposure to e-cigarette secondhand aerosol",<sup>348</sup> stated: "When the press release came out, I found it was picked up by various papers, etc. and published at least 166 times."<sup>348</sup>

#### ***San Francisco Passes Ordinance No. 131208 in March 2014***

The effort in San Francisco to prohibit electronic cigarettes wherever conventional smoking is prohibited had its origins in September 10, 2010 when the San Francisco International Airport (SFO) amended its smokefree policy to include electronic cigarettes. The move was in response to concerns that the SFO administration had in enforcing compliance with San Francisco's existing smokefree legislation (electronic cigarettes were indistinguishable from conventional cigarettes in 2010).<sup>386</sup> In 2011, the San Francisco General Hospital (SFGH) amended its smokefree campus policy to include electronic cigarettes;<sup>386</sup> the policy went into effect later that year. Darlene Bahrs, who worked for the San Francisco Department of Public Health Tobacco Free Project, ran the cessation program at San Francisco General Hospital and assisted in SFGH's effort. After SFGH passed its policy, the other city-run hospital, Laguna Honda Hospital, a rehabilitation center for senior citizens and disabled persons, reached out to Derek Smith, Health Educator of the San Francisco Department of Public Health Tobacco Free Project, for technical assistance on implementing a smokefree policy. Smith recommended that Bahrs work on the Laguna Honda Hospital policy because of her experience with the SFGH smokefree policy. Laguna Honda Hospital and San Francisco General Hospital adopted strict policies which prohibited the use of electronic cigarettes by staff, patients, visitors, or residents on campus;<sup>387</sup> Laguna Honda passed its policy in 2013 and it went into effect on February 14, 2014.<sup>386</sup>

In December 2012, after San Francisco International Airport and San Francisco General Hospital had adopted policies that restricted electronic cigarette usage, the Department of Public Health's Tobacco Free Project started developing an ordinance for the city to amend its definition of tobacco products covered by its existing smokefree air law. In November 2013, Supervisor Eric Mar contacted Derek Smith of the Tobacco-Free Coalition wanting to introduce an ordinance that would regulate electronic cigarettes like conventional tobacco products.<sup>386</sup> Supervisor Eric

Mar was the city's tobacco control champion and realized that beginning in 2013, electronic cigarettes had become a major public health issue for San Francisco.<sup>386</sup>

In 2013, buildings housing San Francisco Government Agencies began implementing electronic cigarette policies. Beginning with Department of Public Health adopting a campus policy, which only applied to places that it controlled. SF DPH policy went into effect on August 26, 2013.<sup>388</sup> Shortly thereafter, on September 12, 2013, the San Francisco Department of Human Resources adopted its policy to prohibit the use of electronic cigarettes in City offices or within 20-feet of entrances, exits, or windows of any public building.<sup>389</sup> These policies were motivated by the increased prevalence of electronic cigarette use which was difficult to distinguish from conventional cigarettes.

By the end of December 2013, over 100 cities had placed restrictions on retail sale and public usage of electronic cigarettes. Major cities including New York, Chicago, and Los Angeles were discussing how to restrict electronic cigarette public usage and include them in their tobacco retailer licensing laws. Prior to 2013 there was very little published research on the health effects of electronic cigarettes, but by December 2013 Drs. Rachel Grana, Neil Benowitz, and Stanton Glantz (one of the authors of this report) published a report for the World Health Organization Tobacco Free Initiative that provided a literature review of electronic cigarette research.<sup>49</sup> This report gave Supervisor Mar the evidence-based research he needed to reinforce the need for an electronic cigarette ordinance. In December 2013, Mar requested that the San Francisco City Attorney prepare an electronic cigarette ordinance using the Tobacco Free Project's 2012 proposal as a foundation that would prohibit public usage of electronic cigarettes where use of conventional cigarettes were prohibited and include electronic cigarettes in the city's tobacco retail licensing law.

*Strong Public Health Coalition Pushes Electronic Cigarette Ordinance through in San Francisco*

The San Francisco Tobacco Free Coalition began strategizing with San Francisco Supervisor Eric Mar in January 2014 on how to move forward with the electronic cigarette ordinance in San Francisco by developing an electronic cigarette working group comprised of local tobacco control experts. The effort was coordinated by Derek Smith of the San Francisco Department of Public Health and Victor Lim of Supervisor Mar's office.<sup>386</sup> Experts from UCSF's Center for Tobacco Control Research and Education, including CTCRE Director (and coauthor of this report) Glantz, and postdoctoral fellows Drs. Rachel Grana, Lyudmila Popova, and Lauren Dutra provided technical advice. In addition, Drs. Dutra and Glantz' paper, "Electronic Cigarettes and Conventional Cigarette Use Among US Adolescents," was published in *JAMA Pediatrics* on March 6, 2014, which demonstrated that electronic cigarettes were associated with higher cigarette smoking

***San Francisco Tobacco Free Coalition received technical support from Kendall Stagg of the Chicago Department of Public Health particularly on how to prepare the supervisors, the mayor, and the public for electronic cigarette industry arguments***

rates and less quit attempts among youth.<sup>390</sup> The evidence helped bolster the Coalition's argument for the need to regulate electronic cigarettes like combustible tobacco products. San Francisco Tobacco Free Coalition received technical support from Kendall Stagg of the Chicago Department of Public Health particularly on how to prepare the supervisors, the mayor, and the public for electronic cigarette industry arguments.<sup>353</sup>

Supervisor Mar's electronic cigarette ordinance amended San Francisco's clean indoor air law to include electronic cigarettes, restricting their usage wherever conventional cigarettes are prohibited. The law also required that any retail establishment must obtain a valid tobacco sales permit to sell electronic cigarettes, which would allow for better enforcement, prevent sales to minors, and create the ability of the city to limit the number and location of electronic cigarette shops.

On March 3, 2014, three days before the first scheduled hearing on the ordinance, the Tobacco Free Coalition hosted a press conference at which time Supervisor Mar announced his proposed ordinance.<sup>391</sup> The San Francisco Department of Public Health and UCSF's Center for Tobacco Control Research and Education, Tobacco Free Coalition, Youth Leadership Institute, Vietnamese Youth Development Center (VYDC) and community members also spoke in support of the proposed ordinance. The press conference received broad news media coverage, including in the *San Francisco Chronicle*, *San Francisco Examiner*, television stations KPIX (CBS) and KTVU (Fox), as well as from other outlets that published news stories on Supervisor Mar's proposed ordinance.<sup>386</sup>

The Board of Supervisors Rules Committee first heard the proposed ordinance on March 6, 2014. Dr. Stanton Glantz, Tobacco Free Project Director Derek Smith, San Francisco Health Officer Dr. Tomas Aragón and San Francisco Tobacco Free Coalition Co-Chair Karen Licavoli of Breathe California presented an extended 30-minute overview introduction of the electronic cigarette issue. Forty members of the Tobacco Free Coalition, University of California San Francisco researchers and healthcare providers, the San Francisco Medical Society, and youth organizations, provided expert testimony supporting the ordinance.

The major health voluntaries engaged in San Francisco's public usage ordinance effort after the national offices revised their policy positions on amending existing smokefree ordinances to include electronic cigarettes in late January 2014.<sup>335</sup> The American Heart Association Western States Affiliate wrote a letter supporting the ordinance and testified for it at the hearing. The American Cancer Society sent a letter of support to the San Francisco Board of Supervisors on March 4, prior to the first hearing,<sup>392</sup> and prepared a witness to testify on its behalf but was told by organizers that they had already lined up enough speakers.<sup>335</sup> The American Lung Association was present, with Serena Chen testifying at the March 6 hearing, along with Americans for Nonsmokers' Rights. Both organizations activated their networks of volunteers to contact the Board of Supervisors and support the ordinance.<sup>386</sup>

### *Opposition to the Electronic Cigarette Ordinance*

To the surprise of the Tobacco Free Coalition, opposition came from medical marijuana advocates. This was the first time marijuana advocates testified against electronic cigarette

regulations<sup>353</sup> (in Los Angeles marijuana interests only sent letters to city council members).<sup>362,393</sup> CANORML's Gieringer wrote the San Francisco Board of Supervisors arguing that restrictions on electronic cigarette use would hurt medical cannabis patients who use electronic cigarettes in public because of the city's strong antismoking laws for combustible tobacco products<sup>394</sup> even though Supervisor Eric Mar had already exempted medical marijuana in the proposed ordinance prior to introduction. At the hearing, marijuana advocates did present testimony, but it did not appear to be organized.<sup>395</sup>

The unified voice of the tobacco control experts and health voluntary organizations at the March 6th hearing persuaded Supervisor Norman Yee to become a co-sponsor and the Rules Committee (Supervisors Yee, Tang, Campos, and Mar) to unanimously endorse the ordinance.<sup>394, 396</sup>

On March 18 2014, the San Francisco Board of Supervisors unanimously passed Supervisor Mar's ordinance, which prohibited the use of electronic cigarettes where conventional cigarettes were prohibited (workplaces, restaurants and bars, and other public places). The legislation prohibited the sale of electronic cigarettes in pharmacies (because of the 2008 law banning the sale of tobacco products in pharmacies) and required sellers to obtain a tobacco retail license for sale and distribution of electronic cigarettes. Mayor Ed Lee, a major supporter of the proposal, quickly signed the legislation on March 27, 2014 and the law took effect on April 26, 2014. The San Francisco ordinance differs from other local ordinances, like Seal Beach's, in that it did not grandfather in existing electronic cigarette shops.

***As of August 2014, 41% of the population was covered by local electronic cigarette smokefree ordinances in California.***

Criticism quickly came from the manufacturers of electronic cigarettes who marketed their products as devices to help smokers quit. In a March 19, 2014 article on *SF Gate* (the *San Francisco Chronicle's* web site) and the *San Francisco Chronicle*, after the Board of Supervisors had already voted to restrict electronic cigarette sale, distribution, and use, Cynthia Cabrera, national executive director of the Smoke-Free Alternatives Trade Association (SFATA), criticized the Board of Supervisors for not waiting for the federal Food and Drug Administration to take action before including electronic cigarettes in the city's antismoking laws.<sup>394</sup> (This argument is disingenuous because the Food and Drug Administration does not have jurisdiction over electronic cigarette use (i.e., clean indoor air laws), only the product itself and marketing claims about the product.<sup>397</sup> In addition, as noted above, the FDA had not yet even asserted jurisdiction to regulate e-cigarettes.)

In collaboration with NACCHO and CTFK, the cities New York, Chicago, Los Angeles, and San Francisco planned implementation to take effect in late April to generate national and international news media attention. San Francisco became the fourth major city in the U.S. to pass electronic cigarette clean indoor air legislation. As mentioned above, 166 newspaper stories were published following a press release by Americans for Nonsmokers Rights. The Tobacco Free Coalition planned to implement a public education campaign, to be displayed in the San Francisco public transportation system during summer 2014. As of July 2014, the Tobacco Free Coalition was still organizing its plans for a public education campaign if it could find the

funding, and intended to display a portion of it on the San Francisco public transportation system in fall 2014.

In March 2014, Beverley Hills, Long Beach, Richmond, Seal Beach, Temecula, Fremont, Solana Beach, Santa Maria, and El Cajon passed their smokefree ordinances which stipulated that the use of electronic cigarettes was prohibited in all places where use of conventional cigarettes was prohibited. Del Mar followed in April 2014, along with Corte Madera and San Diego County in May 2014. La Mesa and the City of San Diego passed their public usage ordinances in July 2014 (Table 4.3).

As of August 2014, 41% of the population was covered by local electronic cigarette smokefree ordinances in California.

Cities that followed Los Angeles and San Francisco in passing electronic cigarette usage ordinances did not experience the same level of opposition, likely because the electronic cigarette industry and consumer advocacy groups focused most of their efforts on preventing meaningful public health legislation in two of the largest cities in California, as well as New York and Chicago.

According to Kendall Stagg in a 2014 interview for this report:

[There were] similar policies enacted right around the same time [Beverley Hills and Long Beach] and you did not see people [electronic cigarette industry representatives and electronic cigarette users] showing up at their city halls and inundating the policymakers in the same way. There was not a ton of activity on Twitter and CASAA urging policymakers to oppose ordinances in these cities.<sup>353</sup>

Having four major U.S. cities prohibit the use of electronic cigarettes where conventional cigarettes are prohibited sent a powerful statement to advocates in jurisdictions around the nation that they can pass similar legislation without waiting for the federal government or the states to take action.

### **Tobacco Retail Licensing Ordinances**

Licensing laws are tools for state and local governments to regulate businesses such as tobacco retailers. Local communities may require licensing laws for tobacco retailers to ensure that these businesses comply with regulations that prohibit the sale and distribution of tobacco to youth. These laws may also require an annual licensing fee to pay for administration and enforcement activities.

The state Legislature passed the Tobacco Products Licensing Act (AB 71) in 2003, which required each retail location that sells tobacco products to obtain a license from the Board of Equalization for a one-time fee of \$100, effective January 1, 2004.<sup>65</sup> The law was weak because it did not include penalties for retailers

***Beginning in 2010, tobacco licensing laws started to include electronic cigarettes in the list of covered tobacco products.***

who sell tobacco to children, and did not require an annual renewal fee.<sup>65</sup> AB 71 does not, however, include a clause preempting local policymaking. As a result, much stronger tobacco retailer licensing ordinances have been passed at the local level. Efforts to expand the adoption of stronger local retail licensing began in 2006 with the support of ChangeLab Solutions, ALA's Center for Tobacco Policy and Organizing, and California Youth Advocacy Network.<sup>398-400</sup> The California Tobacco Control Program supported these efforts by funding local lead agencies and competitive grantees' tobacco control efforts to secure stronger local retail licensing ordinances than the state law (Chapter 1).

Beginning in 2007, California localities took the innovative step of using tobacco retail licensing laws to control the density and location of stores; requiring minimum pack size, banning flavored products, prohibiting nominal priced items, and restricting advertisement displays.<sup>309, 401</sup> Beginning in 2010, tobacco licensing laws started to include electronic cigarettes in the list of covered tobacco products.<sup>348</sup> By including electronic cigarettes in local retailer tobacco product definitions, communities have more control over youth access to these products in the retail environment.

In 2007, the ALA's Center for Tobacco Policy and Organizing, ChangeLab Solutions, and California Youth Advocacy Network received grants from the California Tobacco Control Program to support the implementation of local tobacco retail licensing laws.<sup>398-400</sup> All three organizations were required to collaborate on their efforts. The Center for Tobacco Policy and Organizing's role was to create tobacco-related policy documents (including tobacco retailer licensing documents), make them available online, and distributed them through email, listserv, and mail to tobacco control advocates. These documents were designed to provide policy development assistance to all California Tobacco Control Program-funded projects, tobacco control advocates, and health voluntary organizations.<sup>398</sup>

ChangeLab Solutions provided technical assistance on tobacco control legal issues to local advocates, elected officials, local government agencies, and tobacco control coalitions. Technical assistance included creating model ordinances to assist local governments to craft and adopt tobacco retail licensing ordinances.<sup>399</sup> These model tobacco retail ordinances included license fees high enough to pay for enforcement and compliance checks, as well as minimum pack requirements (for little cigars and cigarillos), flavored tobacco bans, a prohibition on the nonsale distribution of tobacco products, advertising bans, and limits on tobacco retailer density. The additional provisions were a result of the innovative work of ChangeLab Solutions who, beginning in 2007, drafted model ordinances for tobacco retail licensing for local governments to adopt with these stronger provisions.<sup>309</sup>

Table 4.7 shows the cities with strong local tobacco retail licensing laws and significant reductions in youth tobacco sales. The ALA in California's Center for Tobacco Policy and Organizing defines a "strong" tobacco retail licensing law as having at least the following:

- A license that all retailers must obtain prior to selling tobacco products that must be renewed annually;
- A license with a fee set high enough to sufficiently fund administrative and enforcement efforts, with compliance checks clearly stated;



- Fines and penalties including revocation and suspension of a retailer's license.<sup>402</sup>

*Including Electronic Cigarettes in Tobacco Retailer Licensing Ordinances*

Beginning in 2009, localities began amending their retail licensing laws to include emerging nicotine products (including snus, snuff, and hookah). These earlier retailer licensing ordinances were a result of ChangeLab Solutions and its tobacco retail model policy. In 2005, ChangeLab Solutions had revised its model definition of tobacco products to include unforeseen tobacco and nicotine products.<sup>309</sup>

In these earlier tobacco retail licensing ordinances, localities, using ChangeLab Solutions' language, defined emerging nicotine products as:

**Table 4.7. Cities with strong retail licensing laws and significant reductions in youth tobacco sales**

City	Date of Adoption of Retail Licensing Law	Annual Fee	Drop in Tobacco Sale Rate among Youth as of December 2013 (Initial percentage indicates percentage before the law was passed)
Berkeley	December 2002	\$427	38% to 4.2%
Contra Costa County	January 2003	\$160	37% to 3.8%
San Luis Obispo	August 2003	\$255	17% to 15.5%
San Francisco	November 2003	\$175	22.3% to 13.4%
Pasadena	January 2004	\$225	20% to 0%
Sacramento	March 2004	\$324	27% to 15.1%
Sacramento County	May 2004	\$287	21% to 7.1%
El Cajon	June 2004	\$398	40% to 1%
Elk Grove	September 2004	\$270	17% to 16.7%
Vista	May 2005	\$250	39% to 1.9%
Grover Beach	September 2005	\$224	46% to 0%
Corona	October 2005	\$350	50% to 17%
Norco	March 2006	\$350	40% to 6%
Yolo County	May 2006	\$344	28% to 11.1%
Riverside	May 2006	\$350	65% to 31%
Murrieta	May 2006	\$350	31% to 7%
Banning	August 2006	\$350	77% to 21%
Kern County	November 2006	\$165	34% to 13.3%
Beaumont	December 2006	\$350	63% to 20%
Tehachapi	February 2007	\$165	8% to 16.7%
Burbank	February 2007	\$235	26.7% to 4%
Coachella	July 2007	\$0	30.8% to 5%
Davis	August 2007	\$344	30.5% to 7.8%
Desert Hot Springs	August 2007	\$350	48% to 4%
Los Angeles County	December 2007	\$235	30.6% to 8%
Delano	June 2008	\$165	23% to 5.6%
San Fernando	October 2008	\$250	38.5% to 3%
San Luis Obispo	October 2008	\$342	33.3% to %
Baldwin Park	October 2008	\$342	34% to 9%
La Canada Flintridge	June 2009	\$50	47.1% to 0%
Calabasas	June 2009	\$0	30.8% to 5%
Grass Valley	November 2009	\$100	27% to 1%
Santa Barbara County	November 2010	\$235	21% to 9%

Source: The Center for Tobacco Policy and Organizing; American Lung Association of California<sup>403</sup>

Any product or formulation of matter containing biologically active amounts of nicotine that is manufactured, sold, offered for sale, or otherwise distributed with the expectation that the product or matter will be introduced into the human body...<sup>404</sup>

**Table 4.8: Localities that include electronic cigarettes in Tobacco Retailer Licensing Laws as of August 2014<sup>318</sup>**

Locality	Date Enacted
South Pasadena	February 2009
Richmond	June 2009
Solana Beach	July 2009
Concord	September 2011
El Monte	November 2011
Huntington Park	November 2011
Oroville	March 2013
Contra Costa County	April 2013
Vista	October 2013
Union City	December 2013
Los Angeles	March 2014
Long Beach	March 2014
San Francisco	March 2014
El Cajon	March 2014
Morgan Hill	April 2014

With the growing popularity of electronic cigarettes, beginning in 2011, localities were simultaneously amending their tobacco retail licensing laws to include electronic cigarettes in order to curb youth use. The push to regulate electronic cigarette retail sales again came from

concerned parents and school teachers who encountered their children and students using these devices. The State of California passed a law in 2010 that prohibited the sales of electronic cigarettes to persons under 18 years of age. Despite passage of the law, between 2011 and 2012 youth electronic cigarette use had doubled from 3.3% to 6.8% nationwide.<sup>390</sup> As of September 2014 (Table 4.8) there were not California-specific data to determine youth electronic cigarette prevalence.

**Conclusion**

Between 2007 and 2014, local lawmaking has been the most effective tobacco control strategy in California. The tobacco industry blocked, or governors vetoed, important tobacco control legislation at the state level (Chapter 3). [-

***Despite passage of the law, between 2011 and 2012 youth electronic cigarette use had doubled from 3.3% to 6.8% nationwide***

Local policymaking was centered on reducing secondhand smoke exposure to nonsmokers through prohibiting smoking in multi-unit housing, declaring secondhand smoke a nuisance, prohibiting smoking outdoors, and including electronic cigarettes in existing clean indoor air laws. Innovative strategies to control tobacco took place through tobacco retail licensing laws by requiring annual licensing fees, minimum pack sizes, banning flavored tobacco products, and including electronic cigarettes in the definition of products covered under a locality's tobacco retail licensing law.

In particular, activity on restricting electronic cigarette retail sales and public usage has taken place at the local level, despite major health voluntaries refusing to take a lead role in advancing legislation at the state legislature.

The City of Los Angeles was a leader in taking on efforts to regulate the electronic cigarette market in 2013. In Los Angeles public health advocates saw the first organized attempt to defeat strong public health ordinances to regulate the retail market and prohibit public usage of

electronic cigarettes. Tobacco industry style tactics from the 1980s and 1990s such as mobilizing retailers and bar owners against the ordinance, organizing front groups that appear to be grassroots, seeking to mobilize users not affiliated with industry groups, selectively presenting scientific evidence, and hiring powerful contract lobbyists to promote electronic cigarette interests' agenda were used to try to thwart strong tobacco control ordinances. Mobilizing advocates via online forums (i.e., Twitter, Facebook, and Instagram) was a political tactic crafted in the late 2010s; CASAA and SFATA used this tactic not only in Los Angeles, but also in Chicago to generate a false impression of widespread opposition.<sup>342</sup> If history is a teacher in this regard, the opposition will continue to use this type of political tactic to mobilize against electronic cigarette ordinances in California as well as other tobacco control activities.

***Local policymaking was centered on reducing secondhand smoke exposure to nonsmokers through prohibiting smoking in multi-unit housing, declaring secondhand smoke a nuisance, prohibiting smoking outdoors, and including electronic cigarettes in existing clean indoor air laws.***

## **CHAPTER 5 - PROPOSITION 29: ANOTHER FAILED ATTEMPT AT A TOBACCO TAX INCREASE**

- In 2012, the tobacco companies defeated Proposition 29 (50.2% “no” to 49.8% “yes”) an initiative that sought to increase the cigarette excise tax by \$2 per pack for medical research and reinvigorating the California Tobacco Control Program.
- The tobacco industry and third party allies spent \$47.7 million to defeat Proposition 29. Health advocates, led by the American Cancer Society, spent \$8.4 million supporting Proposition 29.
- The narrow outcome of Proposition 29 makes it difficult to pinpoint one reason for the defeat, but one thing that was under control of the “yes” campaign that likely contributed was the soft media campaign that failed to pierce the tobacco industry’s effort to remain invisible to voters or to counter industry claims.

### **Introduction**

This Chapter documents the origins, development, and failure to pass 2012's Proposition 29 an initiative that sought to increase the cigarette excise tax by \$1 per pack. In California, the initiative process had been used to pass two tobacco tax increases, Proposition 99 in 1988 (\$.25) and Proposition 10 in 1998 (\$.50). Proposition 99 also created the California tobacco control programs in 1989, with 20% of the Proposition 99 money going to the California Department of Health Services (now California Department of Public Health) and California Department of Education for the Tobacco Control Program, and 5% going to the University of California for the Tobacco-Related Disease Research Program (although some research money has been diverted for years by the Legislature to CDPH for the Cancer Registry, see Chapter 1).

Because of the success of the programs, smoking prevalence and cigarette consumption steadily declined; prevalence was 22.7% in 1988 and 13.7% in 2011,<sup>3</sup> and smokers were also smoking fewer cigarettes, so consumption dropped from 90.1 packs per capita in 1988 to 23.9 packs per capita in 2013,<sup>5</sup> which meant there was less money available for tobacco control in California. In addition, as discussed in Chapter 1, inflation took a heavy toll by reducing the purchasing power of the revenue; in 1989, it took only 53 cents to buy what cost a dollar in 2013. The result was a 72% decline in revenue that yielded only about half the purchasing power enjoyed when the tobacco control programs began in 1989.

In 2006, an initiative was attempted to increase the tobacco tax through Proposition 86 that would have increased the cigarette tax in California by \$2.60.<sup>12</sup> Most of revenues would have gone to hospital and physician services and only 10 percent to tobacco control; however, that 26 cents going to tobacco control would have more than quadrupled the 5 cents in Proposition 99 tobacco control funding.

***In California, the initiative process had been used to pass two tobacco tax increases, Proposition 99 in 1988 (\$.25) and Proposition 10 in 1998 (\$.50).***

The tobacco industry mounted a \$66 million campaign against Proposition 86 and defeated it in the November 2006 election, Proposition 86 lost when 51.7% voted "no," a vote spread of 3.4%; Proposition 29 would lose by only 0.4%.

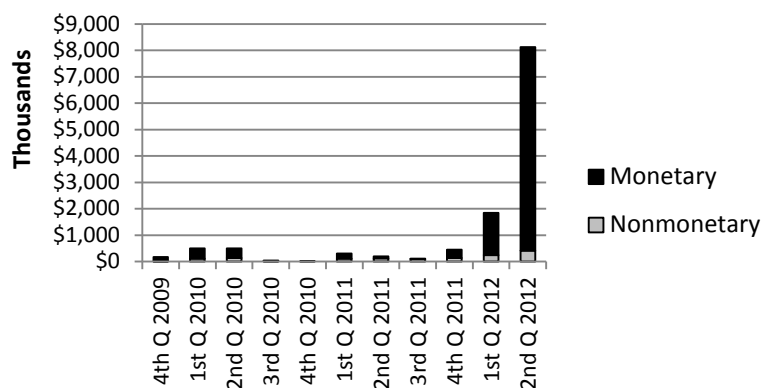
After the defeat of Proposition 86, the voluntary health organizations began looking at their options for increasing the tobacco tax without going to the voters again because they didn't have the financial resources to do so.<sup>135</sup> In 2009, the voluntary health organizations cosponsored, and Senators Alex Padilla and Darrell Steinberg, Senate President Pro Tem, coauthored, SB 600, a legislative attempt to increase the tobacco tax by \$1.50 per pack. In SB 600, 15 percent of revenues were dedicated to existing tobacco control programs and a new lung research program, with 85 percent going to the General Fund. When leadership in both houses of the Legislature determined that it was not possible to get the two-thirds vote in each house required to pass SB 600, the effort was abandoned after August 31, 2009. Next, other legislative alternatives were explored,<sup>115</sup> including a legislative referendum to let the voters amend Proposition 99, or a tobacco fee that required only a simple majority to pass. The fee concept would have required that all of the revenue would go to the tobacco control program and nothing to the General Fund. Negotiations with Governor Schwarzenegger's office on these alternatives were unsuccessful. (For more detail on SB 600, see the Legislation 2009-2010 section of this report.)

***California's tobacco tax of 87 cents ranked 33rd in the nation, while it had ranked third in 1999 and 25th in 2005.***

While SB 600 was not successful, it set the stage for what became Proposition 29 in the June 2012 Primary Election. By 2012, California's tobacco tax of 87 cents ranked 33rd in the nation, while it had ranked third in 1999 and 25th in 2005,<sup>405</sup> and California was one of only three states that had not raised its tobacco tax since the 21st century had begun.<sup>406</sup>

The initiative campaign that ensued had three distinct phases: petition processing and signature gathering (4<sup>th</sup> Quarter 2009 – 3<sup>rd</sup> Quarter 2010), dormancy in which there was limited activity (4<sup>th</sup> Quarter 2010 – 4<sup>th</sup> Quarter 2011), and the election campaign (1<sup>st</sup> Quarter 2012 – 2<sup>nd</sup> Quarter 2012). Raising the money to finance the campaign proved to be a significant problem, with most of the funding coming in the last two months of the campaign (Figure 5.1). Total monetary and nonmonetary

**Total Monetary and Nonmonetary Contributions and Loans to the YES on 29 Campaign, 2009-12**



**Figure 5.1.** Total Monetary and Nonmonetary Contributions and Loans to the YES on 29 Campaign, 2009-12<sup>2</sup>

contributions and loans to the YES on 29 campaign are shown in Figure 5.1 After completion of the signature drive in the Second Quarter of 2010, the campaign fundraising went nearly dormant until the Fourth Quarter of 2011. (Detailed contributions data on the Yes campaign are set forth in Appendix 5.)

## **Phase 1 - Petition Processing and Signature Gathering – 4<sup>th</sup> Quarter 2009-3<sup>rd</sup> Quarter 2010**

### ***Formulating and Drafting Proposition 29***

The next attempt at increasing the California tobacco excise, the 2012 vote on Proposition 29, had an unconventional beginning. It started with the 2009 convergence of a former state senator and an innovative biosciences partnership of three University of California campuses.

The former senator was Don Perata, after serving for 4 years as the President Pro Tem of the Senate, had been term-limited out of the Legislature in 2008. The UC partnership was the California Institute for Quantitative Biosciences that partnered the UCSF, UC Berkeley, and UC Santa Cruz campuses, and was known by its acronym “QB3.” QB3 was headquartered at UCSF. Brook Byers, a Silicon Valley venture capitalist, had been involved as a volunteer leader and fundraiser for UCSF and supporter of QB3, and had extensive experience in biotechnology startups.<sup>407</sup>

***Perata conceived of using a tobacco tax increase to fund QB3 research on reducing the cost of healthcare***

Perata arranged a meeting near the end of his term in the Senate in 2008 among himself, Byers, and Regis Kelly and Doug Crawford, the Director and Associate Director, respectively, of QB3. Perata was interested in finding funding for research to reduce the cost of healthcare in California, and he saw QB3 as the research center for that. Governor Gray Davis had provided state funds to build QB3 (and three other similar institutes) together with startup funds as part of his 2006 "California Institutes for Science and Innovation" initiative<sup>408</sup> to promote collaboration between the University of California and business. The Senator did get some support from Governor Schwarzenegger for continuing state operating funds for QB3, but was unable to get any support in the Legislature.<sup>407</sup>

After he left the Legislature at the end of 2008, Perata conceived of using a tobacco tax increase to fund QB3 research on reducing the cost of healthcare.<sup>407</sup> He had one war chest of over \$600,000: His Leadership California Committee was a General Purpose Committee that Perata had used for several years to solicit contributions and to fund numerous political activities.<sup>409</sup> Perata had taken one contribution of \$3,200 from the tobacco industry in the 2003-04 election cycle, but had a record of supporting tobacco control.<sup>65</sup> In July 2009, Perata changed the name of the committee to Hope 2010 and its purpose to Ballot Measure Committee; this committee would provide most of the funding for the campaign in its earliest phase of signature gathering.<sup>409-410</sup>

***The measure as originally drafted increased the cigarette tax by \$1.00 per pack.***

On September 22, 2009, shortly after the demise of SB 600, the initial version of Hope 2010: The California Cancer Research Act was filed with the Office of the

Attorney General for Title and Summary,<sup>411</sup> the first step in the initiative process.<sup>1</sup> Perata had done his homework using polling and focus groups to design the measure. His research revealed that using the revenue the tobacco tax would raise to find ways to reduce healthcare costs did not resonate with voters, but using it for research into the causes, early detection and treatment of cancer and other tobacco-related diseases was broadly supported.<sup>407</sup> Tobacco tax increase advocates have traditionally approached the cigarette tax as an excise tax, instead of an ad valorem tax. The difference between the two being a flat rate per pack for the excise tobacco tax increase, instead of a percentage of the price (ad valorem) of the pack. The measure as originally drafted<sup>411</sup> increased the cigarette tax by \$1.00 per pack and allocated the money as follows:

- 50% funding grants and loans to support research into the prevention, early detection, treatment, and potential cures for cancer and other tobacco-related diseases
- 40% to provide grants and loans to provide facilities to further biomedical and bioscience research whose primary purpose is to identify and refine promising prevention, early detection, treatment, and potential cures for cancer and other tobacco-related diseases
- 5% for grants and loans for programs providing smoking cessation services; and 5% to fund the Hope 2010 Cancer Research Citizens Oversight Committee created by the Act. The nine Committee members were to include four appointed by the Governor, two from among California representatives of disease advocacy groups whose primary focus was tobacco-related illness and two from nationally ranked research hospitals and medical schools; one each by the Speaker of the House and Senate President Pro Tem; and the three Chancellors of the University of California QB3 campuses.

### ***Reaction From Health Groups***

Shortly after Perata had filed his proposed initiative, the voluntary health organizations learned of the new proposed tobacco tax initiative for the first time.<sup>412</sup> They found serious flaws with the proposed initiative: There was no funding for tobacco control, no backfill for losses to tobacco tax funded programs under Proposition 99 (1988), Proposition 10 (1998) and the Breast Cancer Act of 1993 resulting from decreased tobacco consumption that the price increase mandated by the new tax would cause, and funding of research in medicine and biosciences was very narrow in scope.<sup>135</sup> After inquiries, they learned that Don Perata was the chief proponent, and approached him about amending the proposed initiative.

After negotiations with the voluntary health organizations, Perata agreed to address all of the concerns of the voluntary health organizations, other than backfilling Proposition 10.<sup>135</sup>

(Proposition 10, enacted in 1998, raised the tobacco tax by \$.50 to fund early childhood development and provided no money for tobacco control. It generated a large amount of revenue controlled by the state First 5 Commission that allocated money to local First 5 Commissions on a formula based on birthrate. The program was highly criticized by many, including legislative leaders, and accused of wasting much of the funding.<sup>413</sup>) The official reason given for not backfilling Proposition 10 was to provide maximum funding for research.<sup>413</sup>

***After negotiations with the voluntary health organizations, Perata agreed to address all of the concerns of the voluntary health organizations, other than backfilling Proposition 10***

On October 23, 2009, Perata withdrew the original September 22 filing with the Office of the Attorney General and replaced it with a new proposed initiative.<sup>414</sup> The new initiative broadened the research to “biomedical, epidemiological, behavioral, health services and other research in California to enhance the state of medical knowledge regarding lung cancer and other types of cancer, cardiovascular disease, emphysema and other tobacco-related illnesses.” The support for research facilities was changed to those “engaged in biomedical, epidemiological, behavioral, health services, and other research whose primary focus is to identify and refine promising prevention, early detection, treatments, complementary treatments and potential cures of lung cancer and other types of cancer, cardiovascular disease, emphysema and other tobacco-related diseases.” Funding was allocated to “Increased efforts to reduce tobacco use in the State and prevent children from becoming addicted users.”

The division of revenue was changed:

- 60% for grants and loans to support research
- 15% for research facilities
- 20% for comprehensive tobacco control programs (80% to the California Department of Public Health and 20% to the California Department of Education)
- 3% for enforcement of tobacco control laws
- 2% for Oversight Committee costs and expenses.

The lack of Proposition 10 backfill created a backlash from Proposition 10 supporters, the First 5 Commission and local First 5 Commissions;<sup>413</sup> Perata relented and a third version of the proposed initiative was filed on December 7, 2009<sup>122</sup> that included a Proposition 10 backfill provision.<sup>415</sup>

### ***Campaign Management: Health Groups and Former State Senator Don Perata***

Management of the ballot measure campaign was centered with what was called the Core Group, which consisted of representatives of the American Cancer Society, American Heart Association, American Lung Association, Campaign for Tobacco-Free Kids, and Don Perata.<sup>416</sup> The Core Group made all of the major decisions, but day-to-day election campaign operations in 2011 and 2012 were directed by Chris Lehman, Campaign Manager, a Sacramento political consultant who had served on Perata’s staff when Perata was in the Senate, and a team of consultants (Table 5.1).<sup>417</sup> Lehman wasn’t the only member of the Yes on 29 team with political ties to Perata (Table 5.1).<sup>417</sup> Of the total of \$822,594 Yes on 29 spent on campaign consultants, \$681,748 (83%) went to Perata’s friends, none of whom had any experience fighting the tobacco industry. This would prove to be a major mistake that the Proposition 29 campaign would make.

Anne Willcoxon, Deputy Campaign Manager, was an employee of Perata Consulting LLC. Her husband, Michael Willcoxon, was General Counsel of DeSilva Gates Construction whose founder Ed DeSilva had been a major contributor to Perata’s political campaigns for years.<sup>417</sup> Maurice Williams was one of Perata’s former Senate aides, as was Sandi Polka, who handled Perata's media.<sup>417-418</sup>



After months of hints, Don Perata announced on March 31, 2009 that he would run for mayor of Oakland in 2010.<sup>419</sup> He would later be accused of using the tobacco tax campaign to promote his name recognition for that race,<sup>417</sup> but he did use several people in both the tobacco tax campaign and his mayoral race.<sup>417</sup> Stephanie Deherrera worked on the mayoral campaign while a fellow at The Organizing and Leadership Academy (TOLA) in Oakland. TOLA was run by veteran political consultant Larry Tramutola, who helped run Perata's mayoral campaign.<sup>417</sup>

Rhys Williams was Perata's mayoral campaign press secretary and was the Proposition 29 campaign online campaign director.

Consultant	Amount Paid	Period of Payments
Polka Consulting*	\$188,105	12/3/09-6/1/12
Chris Lehman Consulting*	\$176,481	4/15/11-7/27/12
Willcoxon, Anne*	\$60,038	5/25/11-7/27/12
Williams, Maurice*	\$42,500	6/9/11-5/30/12
Williams, Rhys*	\$78,250	6/9/11-5/30/12
Tramutola*	\$107,299	6/17/11-9/12/12
Deherrera, Stephanie*	\$29,075	11/30/11-7/27/12
Austin/Egoscue Development	\$41,017	2/21/12-6/1/12
Issues Management Network, Inc.	\$10,000	2/24/12-4/2/12
Dewey Square Group, LLC	\$38,277	2/26/12-7/27/12
Smart Campaigns	\$5,000	5/4/12
Vocus Social Media, LLC	\$37,844	5/24/12
John Harper Media	\$2,000	5/31/12
Mark Fabiani, LLC	\$6,108	6/1/12
Lance Armstrong Foundation	\$600	7/27/12
<b>TOTAL</b>	<b>\$822,594</b>	
*Political ties to Don Perata		

### **Early Challenges to the Campaign**

Sen. Perata, the leadership of the voluntary health organizations and the Campaign for Tobacco-Free Kids formed the initial campaign organization, Californians for a Cure Committee in November 2009. Sen. Perata's original plan for the Hope 2010 California Cancer Research Act was for it to appear on the November 2010 General Election ballot, which left the campaign with very little time to establish a signature gathering team.<sup>410</sup> Signature gathering cannot begin until the Office of the Attorney General issues the Title and Summary and signature gathering must be completed in 150 days from that date;<sup>1</sup> the campaign had until July 1, 2010 to submit signatures to County Clerks/Registrars of Voters for verification.<sup>420</sup> Tim Gibbs, who had previously been involved in signature gathering in Proposition 86 in 2006 with the American Cancer Society, was tapped by the campaign organization to lead the signature gathering.<sup>410</sup> At the time, Gibbs was with the ACS Cancer Action Network, the ACS grassroots advocacy unit.<sup>410</sup>

Signature gathering for initiatives in California was usually organized by counties, because voters sign petitions for the county in which the voter is registered to vote. There was not time to organize on a county basis, so Gibbs decided to use the existing ACS network of volunteers that was

***Sen. Perata, the leadership of the voluntary health organizations and the Campaign for Tobacco-Free Kids formed the initial campaign organization, Californians for a Cure Committee in November 2009***

organized by federal congressional districts.<sup>410</sup> This hurry-up plan was in sharp contrast to the Proposition 86 campaign in which the voluntary health organizations had taken several years to carefully plan and execute their strategy, and to raise money for the campaign before proceeding with it.<sup>12</sup>

Sen. Perata did provide significant funding for the early petition processing and signature

gathering. He contributed \$170,000 and loaned \$637,000 from his HOPE 2010 Committee in the Fourth Quarter 2009 through the Second Quarter 2010 to the new Californians for a Cure Committee that was formed in November 2009 (Table 5.2). In the same period, other cash contributions of \$131,500 were received and the voluntary health organizations contributed staff time and other non-monetary contributions to the petition drive of over \$280,000. Perata's cash contributions were 86% of the total cash contributed to the campaign in that early period.

In 2010, there were 53 congressional districts in California, but only 40 teams were assembled from volunteers of the three voluntary health organizations to capture signatures. The plan was to start signature gathering in early February 2010 with a target of completion by late May 2010. Gibbs created a competitive environment in which the 40 teams competed with each other for prizes.<sup>416</sup> Perata's Hope 2010 campaign fund provided the money for the signature gathering, but Gibbs was so successful in organizing volunteers from the voluntary health organizations that only \$480,000 was spent on paid signature gathering.<sup>2, 416</sup> Gibbs used that as an opportunity for earned media in which he touted the volunteer nature of the signature gathering activity.<sup>416</sup>

As May approached, it became apparent to the campaign Committee that not enough money had been raised to fund the election campaign without going deeply in debt, so the Committee decided to delay the measure until the next statewide election after November 2010,<sup>410</sup> which, at that time, would have been the June 5, 2012 Primary Election.

As a result of this decision to delay which ballot the initiative would appear on, the campaign was able to continue gathering signatures through June 2010, yielding nearly 634,000 signatures, far more than the 433,971 needed to qualify for the ballot.<sup>420</sup> In order to appear on the November 2010 ballot, the signatures would have to have been submitted to the Secretary of State's Office in May 2010.

***The measure would now appear on the June 2012 Primary Election; on February 3, 2012 it was designated as Proposition 29 by the Secretary of State.***

Contributor	Monetary	Nonmonetary
HOPE 2010 Cancer Cure (Perata Ballot Measure Committee)	\$807,000	\$0
American Cancer Society	\$60,000	\$211,955
American Heart Association	\$0	\$53,070
American Lung Association in California	\$25,000	\$15,061
Tobacco-Free Kids Action Fund	\$20,000	\$0
National Dialogue on Cancer Foundation	\$15,000	\$0
Alexandria Real Estate Equities	\$5,000	\$0
Assembly Member Noreen Evans	\$500	\$0
Campaign for California's Future		
Lynda Wijcik	\$1,000	\$0
Sanford R. Robertson	\$5,000	\$0
<b>TOTAL</b>	<b>\$938,500</b>	<b>\$280,086</b>

The Committee submitted the signatures on June 29-30, 2010, after the May deadline for the originally planned November 2010 election. The petition qualified for the ballot on August 24, 2010 with over 488,000 valid signatures.<sup>421</sup> The Committee had raised \$938,500 in cash and loans, and had spent \$619,639, and ended the qualifying process in 2010 with nearly \$311,000 in unpaid bills that would consume the balance in the campaign account.<sup>422</sup> The measure would now appear on the June 2012 Primary Election; on February 3, 2012 it was designated as Proposition 29 by the Secretary of State.

**Phase 2 – Dormancy – 4<sup>th</sup> Quarter 2010-4<sup>th</sup> Quarter 2011**

After qualifying the measure for the ballot, the campaign went into a period of near dormancy in fundraising (Table 5.3). The campaign had ended the ballot qualification period with no money in the bank,<sup>422</sup> and it ended the dormant period through December 2011 in even worse shape. It raised about \$580,000 during that period, but ended 2011 with a little over \$246,000 in the bank and unpaid bills of over \$259,000.<sup>423</sup>

<b>Table 5.3. Total Contributions to YES on 29 Campaign, 4<sup>th</sup> Quarter 2010 – 4<sup>th</sup> Quarter 2011<sup>2</sup></b>		
Contributor	Monetary	Nonmonetary
4 <sup>th</sup> Quarter 2010		
American Cancer Society	\$0	\$10,064
American Heart Association	\$0	\$1,893
<b>TOTAL</b>	<b>\$0</b>	<b>\$11,957</b>
1 <sup>st</sup> Quarter 2011		
American Cancer Society	\$105,000	\$75,929
American Heart Association	\$55,000	\$11,460
American Lung Association	\$5,000	\$25,000
Tobacco-Free Kids Action Fund	\$30,000	\$0
<b>TOTAL</b>	<b>\$195,000</b>	<b>\$112,389</b>
2 <sup>nd</sup> Quarter 2011		
American Cancer Society	\$0	\$109,829
American Heart Association	\$0	\$11,460
American Lung Association	\$25,000	\$11,000
Cedars-Sinai Medical Center	\$25,000	\$0
Small contributions	\$17,865	\$0
<b>TOTAL</b>	<b>\$67,865</b>	<b>\$132,289</b>
3 <sup>rd</sup> Quarter 2011		
American Cancer Society	\$10,000	\$90,905
American Heart Association	\$0	\$7,023
American Lung Association	\$0	\$9,000
Small contributions	\$700	\$0
<b>TOTAL</b>	<b>\$10,700</b>	<b>\$106,928</b>
4 <sup>th</sup> Quarter 2011		
American Cancer Society	\$25,000	\$124,806
American Heart Association	\$0	\$9,582
American Lung Association	\$250,000	\$9,000
Mark Segal	\$10,000	\$0
Small Contributions	\$21,950	\$0
<b>TOTAL</b>	<b>\$306,950</b>	<b>\$143,388</b>
<b>GRAND TOTAL</b>	<b>\$580,515</b>	<b>\$506,951</b>

Activity during the dormant period was limited to nonmonetary contributions by the voluntary health organizations that were comprised primarily of staff time and expenses, and meeting expenses.<sup>2</sup> Campaign expenditures were largely for campaign consultant fees and expenses, and legal fees.

Extending the campaign gave the proponents much needed additional time to raise money for the election campaign,<sup>410</sup> as the election was now nearly two years away. Perata agreed to be the Campaign’s lead fundraiser. When in elected office, Perata had been a prolific money raiser; he was able to get friends to give small contributions to the proposition campaign, but many did not give large donations (more than \$25,000).<sup>424</sup> Following Perata's departure from the State Senate in 2008 and loss of the Oakland Mayoral race in 2010, Perata's ability to fundraise diminished.<sup>418</sup> Most of the individual contributions were \$1,000 or less. Much of the fundraising involved

small donor events in private homes where supporters pitched the measure and the professional fundraisers made the “ask.”<sup>424</sup> Over the entire campaign, less than \$90,000 was raised this way; nearly \$47,000 in expenditures were coded for Fund Raising Event.<sup>2</sup>

Early in 2011, the campaign had a real scare about the timing of the election. During his State of the State Address to the Legislature on January 31, 2011, newly-elected Governor Jerry Brown, who had campaigned that he would only increase taxes after a vote of the public, pressed the Legislature to call a special election for June 2011 to present revenue measures to voters as part of his plan to close the massive budget deficit he had inherited from Gov. Arnold Schwarzenegger.<sup>425</sup> The measures he proposed would have extended temporary increases in state sales, income and vehicle taxes for five years that were set to expire at the end of 2011. Despite polling that showed two-thirds of likely voters supported Brown’s proposal for a special election, Republicans said they would not allow it to go to voters and had enough votes to block it.<sup>425</sup>

***Campaign expenditures were largely for campaign consultant fees and expenses, and legal fees.***

Under California law in effect at that time, an initiative that had submitted enough signatures to be placed on the ballot was put before the voters at the next state-wide election after the signatures are validated. (As noted above, the advocates for the California Cancer Research Act had delayed submitting their signatures until after the deadline for appearing on the November 2010 ballot so that it would appear on the June 2012 primary ballot.) If the Governor's plan had succeeded, there would have been a special election a year before the June 2012 Primary Election, earlier than the health advocates were expecting to have to mount their election campaign; this would have severely limited the time they needed to raise the money for the election campaign.<sup>122</sup> In the end, however, the Republicans in the Legislature refused to cooperate with Governor Brown, and there was no special election.

### **Phase 3 – Election Campaign – 1<sup>st</sup> Quarter 2012-2<sup>nd</sup> Quarter 2012**

#### ***Money Woes***

After qualifying the measure for the ballot, fundraising for the campaign became a problem from the outset (Figure 5.1).

Although Perata was originally convinced that he would be able to attract the money needed to mount the campaign, in January 2012 he decided to ask the Campaign for Tobacco Free Kids (CTFK) to help in the fundraising.<sup>416</sup> Beverly May, the CTFK Western Region Director, had worked on eleven or twelve initiatives that were started by the voluntary health organizations who then brought in other partners. May described this campaign as very different in that the usual players came into the process late after someone outside of the tobacco control movement had already filed a petition.<sup>416</sup> The Campaign for Tobacco Free Kids had become a part of the initial campaign in late 2009, which included the voluntary health organizations and Don Perata's small consulting

***After qualifying the measure for the ballot, fundraising for the campaign became a problem from the outset***

organization. Referring to the changed circumstances that he was no longer the powerful leader of the State Senate, May reported that Perata told her, "I really felt that I was really surprised by the fact that when I went out and asked people for money, they didn't respond to me immediately. And I realized that, you know, instead of being just the bird dog now, I'm just the dog that's out there kind of hunting for the stuff. I'm really not the one, you know, can go out and say I need the money, and they give me that money."<sup>416</sup> She continued that "Perata felt that he was going to be much more powerful on getting funding than he was. This was his thought process for a long time. . . . I don't think he had any concern that he wouldn't be able to fundraise the amount of money that was needed for an initiative. . . . Perata felt like he was a major influencer in getting money."<sup>416</sup>

By the beginning of 2012, it was at a crisis stage. May started receiving phone calls from Don Perata and Campaign Manager Chris Lehman, asking if she could approach New York City Mayor Michael Bloomberg or bicycle racing star, and cancer survivor and activist, Lance Armstrong to contribute.<sup>416</sup> Bloomberg, as Mayor of New York championed anti-tobacco ordinances and was a billionaire who funded anti-tobacco efforts globally, and Armstrong's Livestrong Foundation funded support services for cancer patients. In 2012, Armstrong was on the Board of Directors of CTFK, so it was decided by campaign leadership to approach Lance Armstrong's Livestrong Foundation in Austin, Texas for a substantial donation to the campaign. May, campaign staffer Tim Gibbs and campaign consultant Steve Smith travelled to Austin to make a presentation, which resulted in the Foundation contributing \$1,500,000 to the campaign in February 2012.<sup>416</sup> Mayor Bloomberg contributed \$500,000 on May 14, 2012, just three weeks before the election.

Following a request by David Venezianno, Chief Executive Officer of ACS's California Division,<sup>426</sup> during the second week of May 2012, the national office of the American Cancer Society Cancer Action Network decided to put substantial, but unspecified, money into the campaign.<sup>412</sup> The first installment of \$2,205,200 arrived on May 15, 2013, followed by an additional \$3,325,000 in three installments over the next two weeks. These substantial contributions were welcomed, but came late in the campaign. The election was June 5, so there was little time to plan and implement the best use of the funds in the media campaign.<sup>135</sup> Rather than producing new ads, the money was used to buy additional air time for the existing radio and television ads.<sup>424</sup>

Voting by mail in California starts 28 days before Election Day; in the case of the June 5, 2012 Primary Election that date was May 8. Since the 2008 primary election, a majority of California voters had been casting their primary ballots by mail and many did it early; for the first time in a general election, a majority (51.16%) of the 2012 general election ballots were cast by mail. In particular, in the June 5, 2012 primary election, 65.1% of votes were mail-in ballots.<sup>427</sup> The Yes campaign ran its first television ad on May 8, 2012.<sup>428</sup> In a voter tracking survey conducted for the Yes on 29 campaign May 14-16, 2012, over 19% of those surveyed had already voted.<sup>429</sup> In an election where the final vote spread was only 0.4%, not reaching voters with television ads before the beginning on the 28-day voting period likely made the difference between winning and losing.<sup>426</sup>

## ***Polling Data***

Lack of funds limited polling by the Proposition 29 proponents to just two internal tracking surveys, in November 2011, and mid-May 2012. The November 2011 polling data showed 63% of voters supported the measure with 42% “Definitely yes,” 18% “Probably yes,” and 3% “Undecided, leaning yes.”<sup>434</sup> This support dropped to 51% in the May 14-16, 2012 poll, with 39% “Definitely yes,” 7% “Probably yes,” and 5% “Undecided, leaning yes.”<sup>429</sup>

External polling during the month before the election showed Proposition 29 ahead of the opposition after the No campaign had started its media attacks (Table 5.4). Between March 2012 and May 2012 the Public Policy Institute of California (PPIC), a non-profit policy think-tank, conducted two polls on Proposition 29, shows a large quick drop in support. Mark Baldassare, PPIC President stated "The large drop in support for Proposition 29 speaks loudly about how a well-funded opposition is able to raise voters' doubts and distrust in state government, even when a tax increase is viewed favorably." Though all of the polls showed Yes on Proposition 29 ahead, by the end of May 2012 an external poll done by Survey U.S.A. showed the Yes and No campaigns were extremely close.

One factor that may have made the polling numbers less predictable of the outcome than they might otherwise have been was the low voter turnout; only 31.06% of registered voters cast ballots, the lowest percentage turnout in a Presidential Primary Election in California since the first one in 1916.<sup>427</sup>

## **The Election Campaign Support and Opposition - 2012**

### ***Supporters of Proposition 29***

The organizers of Proposition 29 recruited an impressive array of medical, public health, and tobacco control organizations as supporters whose names appeared on campaign literature (Table 5.5).

The campaign committee had a broad-based election campaign plan suited to its very limited budget that capitalized on the volunteers from the voluntary health organizations just as it had done so successfully with the signature gathering effort in 2010. There was an earned media campaign that involved 75 media events, numerous editorial board meetings attended by volunteers, and over 700 news articles. Volunteers made 700 speaking engagements reaching over 25,000 people. Another 1,500 volunteers made 375,000 phone calls.<sup>436</sup> Direct mail consisted of 4 different mailings totaling 2.1 million pieces aimed at 1.4 million swing voters. The campaign also participated in 3 million slate mailers (mailers supporting or opposing more than one campaign); slate mailers stretch out the cost which is shared by other participating campaigns.<sup>122, 436</sup>

<b>Table 5.4 Internal and External Polling on Proposition 29, May 2012<sup>430-433</sup></b>			
Date	Poll	Yes	No
July 2009	Fairbank, Maslin, Maullin & Associates*	73%	26%
November 2011	Fairbank, Maslin, Maullin & Associates	63%	35%
March 2012	PPIC	67%	30%
(14-20) May 2012	PPIC	53%	42%
(14-16) May 2012	Fairbank, Maslin, Maullin & Associates	51%	43%
(17-21) May 2012	LA Times	61%	35%
(21-29) May 2012	Field	50%	41%
(27-29) May 2012	Survey USA	42%	38%
June 2012	Election Result	49.8%	50.2%

\*This poll only assessed the general public opinion of raising the tobacco tax by \$1.50

### Media Ads

The campaign used focus groups and polling to test its media messaging; this testing showed that the strongest message was that the voluntary health organizations were supporting the measure and the second strongest was that passing the measure would save lives.<sup>418</sup>

The Arguments in Favor of Proposition 29 that the proponents prepared for the Official Voter Information Guide issued by the California Secretary of State on March 12, 2012<sup>437</sup> were succinct and to-the-point:

Vote Yes on 29 to support cancer research and save lives.

<b>Table 5.5. National and Statewide Supporters of Yes on 29<sup>435</sup></b>	
American Academy of Pediatrics, California	Children’s Specialty Care Coalition
American Association for Cancer Research	Coalition of Lavender-Americans on Smoking and Health
American Cancer Society	Community Health Systems Inc.
American Cancer Society Cancer Action Network	Health Access
American Diabetes Association	Health and Social Policy Institute
American Heart Association	Health Officers Association of California
American Lung Association in California	Kaiser Permanente
American Stroke Association	Livestrong – Lance Armstrong Foundation
Americans for Nonsmokers’ Rights	Lung Cancer Alliance
Asian Pacific Islander Health Forum	March of Dimes
Breathe California	National Asian Pacific American Families Against Substance Abuse
California Children’s Hospital Association	National City
California Colorectal Cancer Coalition	National LBGT Cancer Network
California Hospital Association	Network for a Health California
California Medical Association	Pancreatic Cancer Action Network
California Pan Ethnic Health Network	Planned Parenthood Affiliates of California
California Primary Care Association	Public Health Institute
California Society of Addiction Medicine	Samoan National Nurses Association
California Thoracic Society	Stand Up to Cancer
Campaign for Tobacco Free Kids	Susan B. Komen for the Cure, California Affiliate Collaborative
Cancer Legal Resource Center	Tobacco Education and Research Oversight Committee
Cancer Prevention Institute of California	Vietnamese REACH for Health Coalition

It creates a new \$1 tobacco tax paid only by those who choose to smoke.

Yes on Prop. 29 supports cancer research. The money goes directly to research doctors and scientists – politicians can't touch it.

Yes on 29 keeps kids from smoking – and saves lives.

Who opposes Prop. 29? Tobacco companies.

Read Prop. 29 for yourself. You'll see that Prop. 29 includes strict safeguards and real accountability.

Politicians won't decide where the money goes – California research doctors and scientists will.

And remember, if you don't smoke, you don't pay.

Support cancer research. Save lives. Vote Yes on Prop. 29, the California Cancer Research Act.

It was signed by Dr. Clifford C. Eke, M.D., President, American Cancer Society, California Division; Jane Warner, President, American Lung Association in California; and Dr. Richard J. Gray, M.D., President, American Heart Association, Western States Affiliates.

The television ads, however, were not as succinct. There were five television ads, four 15 second ads and one 30 second ad (see details below). The last-minute contribution of over \$5.5 million from the American Cancer Society funded more broadcast time for the existing television and radio ads.<sup>424</sup> \$5.9 million was spent on airing the ads over the four week period from early May to the election on June 5, with \$2.5 million spent in the Los Angeles market.<sup>436</sup>

***The advocacy organizations made the decision, once again driven by polling data, to take a less aggressive stance towards the tobacco industry***

Originally, Perata wanted Sandi Polka, who had done his television media for 20 years, to be in charge of developing the media ads. After Armstrong's organization became involved in the campaign they insisted on having Chris Lehane run the television media. Lehane was a political consultant with an expertise in crisis communications.<sup>418</sup> However, there would be significant input from the voluntaries,

especially ACS because of their large contribution.<sup>418</sup>

The ads had one thing in common: They were "talking head" ads with multiple individuals speaking only a few words each that were stitched together to create a 15 to 30 second message. The spokespersons were named medical professionals, representatives of the voluntary health organizations, tobacco control experts, and cancer victims, all credible, individually and collectively, but except for Lance Armstrong, not well known to the public. Polling data drove the decision to stay on point with the "advocacy support" and "save lives" messaging.<sup>418</sup> The data had overwhelmingly shown that people trusted the heads of Advocacy organizations. Due to the limited resources of the campaign, they decided not to run ads criticizing the tobacco industry on the No on Proposition 29 campaign.<sup>418</sup>



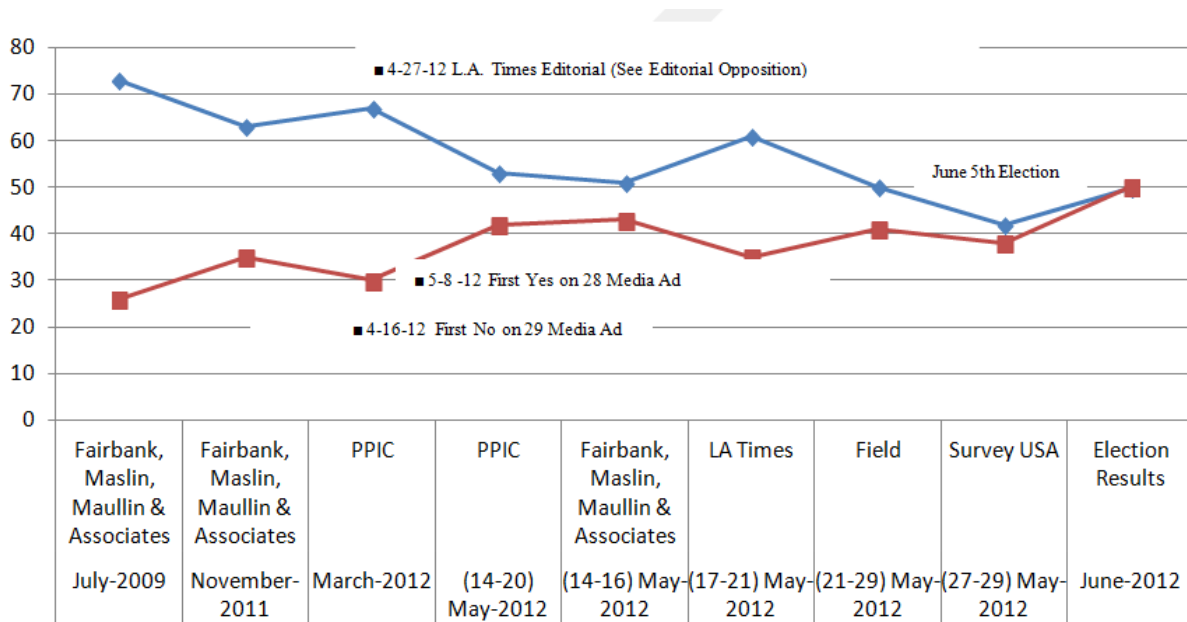


Figure 5.2. Internal and External Public Polling Data Over Time

### Social Media

Reflecting the changing media environment, the Yes on 29 campaign integrated social media into their campaign, creating Facebook, Twitter and YouTube accounts utilizing 38,000 “electronic volunteers.” Electronic volunteers would volunteer to support the campaign using their personal social media accounts.<sup>438</sup> The Californians for a Cure campaign website had 187,000 hits.<sup>436</sup> The website, developed by Rhys Williams, was considered a success and helped with messaging and building a list of supporters who the campaign could target with voting material such as email.<sup>418</sup> The campaign spent considerable resources (\$200,00-\$300,000) developing a Facebook account<sup>418</sup> The Facebook account (<https://www.facebook.com/californiansforacure>) attracted 900,000 users.<sup>436</sup> The campaign posted fourteen videos on YouTube that were too long for use as television ads (Table 5.7).<sup>424</sup>

One video created specifically for YouTube posting was shortened and aired on television after the last-minute contribution from the American Cancer Society.<sup>424</sup> As of September 2013, all of the Californians for a Cure YouTube postings<sup>21</sup> were available at

<http://www.youtube.com/user/CA4aCure/videos>.)  
 The African American Tobacco Control Leadership Council posted four videos totaling 30 minutes in length in support of Proposition 29 on YouTube at “SavingBlackLives” specifically aimed at the African American community. Other YouTube postings of videos on Proposition 29 were found in September 2013 by searching “Prop 29.”

***Reflecting the changing media environment, the Yes on 29 campaign integrated social media into their campaign***

The official YES on 29 television ads posted on YouTube received between 403 and 6,148 views. Three other YES on 29 YouTube postings were longer than usual television ads (1:38 to 2:52 minutes), and had high production values and high view statistics (13,590, 70,337 and

250,565). The two videos with the highest viewing numbers were the work of Portal A, a San Francisco-based creative studio that develops, produces, and distributes entertainment built for the web. The one with the highest viewing number was “California Supports Big Tobacco” (<https://www.youtube.com/watch?v=nZ88fQ0aJSE>) posted to YouTube on May 22, 2012 with a shortened version run on television on the same day during ABC’s Dancing With The Stars.<sup>440</sup> It was a tongue-in-cheek poke at the tobacco industry with the opening caption “On June 5<sup>th</sup> will YOU support BIG TOBACCO?” and showing half a dozen children holding hands and running down a grassy slope toward the camera.

***While sixteen newspapers came out against Proposition 29...the one that may have done the most damage was the Los Angeles Times.***

The push to develop the campaign through the use of social media was largely done by Lehane and the Armstrong team. Steve Smith with the Dewey Square Group believed that less of the campaign's limited resources should have been directed toward social media.<sup>418</sup>

The people talking about the campaign through Facebook were a younger and not likely to vote during a low turnout primary election. Smith stated "We should have been using our resources to talk to older voters."<sup>418</sup>

#### *Earned Media and Editorial Support*

With a small budget for paid media, part of the strategy of the Yes on 29 campaign was to gain earned media. Oligvy and Mather, a global public relations company, were hired by ACS to be responsible for seeing that this was done. The decision to hire them would be controversial, because they had done public relations work for the tobacco industry, primarily fighting clean indoor air policies nationwide.<sup>418, 441</sup> Oligvy would be responsible for gaining editorial support. They also advised the leadership team, including the advocacy organization, and Chris Lehane, and Perata, to take a more aggressive stance against the tobacco industry using earned media, because it was free. The advocacy organizations made the decision, once again driven by polling data, to take a less aggressive stance towards the tobacco industry.<sup>418</sup> Steve Smith stated "It no longer worked to villainize tobacco companies. You could go after them, but you had to do it as these are self-interested businessman, not these are evil vile killers."<sup>418</sup>

Several major newspapers that had opposed Proposition 86 in 2006 supported Proposition 29 (*San Francisco Chronicle*,<sup>442</sup> *San Diego Union Tribune*,<sup>443</sup> and the *Sacramento Bee*<sup>444</sup>) as well as some that had supported Proposition 86 (*San Jose Mercury News*<sup>445</sup> and the Los Angeles Spanish language *La Opinion*) supported both Propositions 86 and 29. Other Editorial Boards supporting Proposition 29 were the *Bakersfield Californian*,<sup>446</sup> *Contra Costa Times*,<sup>447</sup> *Lompoc Record*,<sup>448</sup> *Santa Maria Times*,<sup>449</sup> and the *Woodland Daily Democrat*.<sup>450-451</sup> The common message in each editorial was that the tax increase would discourage smoking and save lives.

## Editorial Opposition

While sixteen newspapers came out against Proposition 29 (Table 5.8), the one that may have done the most damage was the *Los Angeles Times*. It was the only major newspaper in the state that had supported Proposition 86 in 2006, that would have raised the cigarette tax by \$2.60,<sup>65</sup> then opposed Proposition 29.<sup>452</sup> In its April 27, 2012 editorial, the newspaper recognized that raising the tobacco tax is a positive and good thing to do, but objected to how the money would be spent, arguing that any additional tax money should go to the General Fund to solve California's pressing needs in education, healthcare and public services. One of the differences between the 2006 Proposition 86 campaign and the 2012 Proposition 29 campaign was timing: In 2012, the state was in the midst of a massive budget shortfall. The editors also objected

to funding cancer research with California taxes when the research would serve everyone, not just Californians, which is why most cancer research is funded by the federal government: "[T]his initiative takes perfectly good tax money and misspends it; we'd rather see an alternative proposal that hikes the cigarette tax but spends the money more wisely."<sup>452</sup> No editorial opposition cited inadequate funding for tobacco control as a shortcoming of the measure.

The editorial was a major setback for the Yes campaign because the *Los Angeles Times* is an important validator on political issues; the No on 29 campaign immediately added the *Times* position in its television ads, which bolstered the tobacco industry's arguments.<sup>410</sup>

Newspaper	Date of Editorial	Summary of Argument Against Prop 29
Los Angeles Times	April 27, 2012	Instead of using money to meet state's unmet needs, it creates a new bureaucracy; duplicates federal research programs
Riverside Press-Enterprise	April 30, 2012	Instead of using money to meet state's unmet needs, it creates a new bureaucracy
Modesto Bee	May 4, 2012	Instead of using money to meet state's unmet needs, it creates a new bureaucracy
The Orange County Register	May 4, 2012	Unaccountable new bureaucracy, money can be spent in other states, takes money away from public schools
Ventura County Star	May 5, 2012	Instead of using money to meet state's unmet needs, it creates a new bureaucracy
Los Angeles Daily News*	May 13, 2012	Instead of using money to meet state's unmet needs, it creates a new bureaucracy
Long Beach Press Telegram*	May 13, 2012	Instead of using money to meet state's unmet needs, it creates a new bureaucracy
The San Bernardino and Inland Empire Sun*	May 16, 2012	Instead of using money to meet state's unmet needs, it creates a new bureaucracy
Chico Enterprise-Record	May 17, 2012	Only 60% goes to cancer research; the rest goes to new buildings, equipment and bureaucracy
Santa Clara Valley Signal	May 18, 2012	Only 60% goes to cancer research; the rest goes to new buildings, equipment and bureaucracy
North County Times (Escondido)	May 20, 2012	Instead of using money to meet state's unmet needs, it creates a new bureaucracy
Redding Record Searchlight	May 21, 2012	Instead of using money to meet state's unmet needs, it creates a new bureaucracy
Fresno Bee	May 22, 2012	Instead of using money to meet state's unmet needs, it creates a new bureaucracy
The Reporter (Vacaville)	May 24, 2012	Instead of using money to meet state's unmet needs, it creates a new bureaucracy
Paradise Post	June 1, 2012	Instead of using money to meet state's unmet needs, it creates a new bureaucracy
Santa Monica Daily Press	June 1, 2012	Duplicates cancer research programs of federal government and nonprofits
*Identical text in Editorial		

### ***Lack of Support from Research Institutions***

Because 60% of the Proposition 29 allocations were to go to supporting research it was important to the campaign to have support from leading research institutions, including the University of California system. Though University of California resources may not lawfully be used for campaign purposes for ballot propositions, University funds may be used for legitimate informational activities.<sup>453</sup> This includes providing objective information on what Proposition 29 funds could have meant for the research capabilities of the institutions.<sup>453</sup> However, during the campaign the Office of General Counsel at the University told UC Center Cancer directors that they were not allowed to discuss the ballot initiatives at all.<sup>418</sup> Though the UC Board of Regents eventually supported the initiative, little was done to back up this support.

Because UC-affiliated foundations and alumni association are privately funded they are not part of state government, so the same legal restrictions do not apply as apply to the University itself.<sup>453</sup> Smith, with the Dewey Square Group, expected the UC-affiliated foundations to raise and contribute \$5 million for the campaign. The only campaign contribution the campaign ultimately received would be \$50,000 from the UC San Francisco Foundation. Smith said of one of the foundation presidents, "[He] kept saying, yeah, we're going to be there, we're going to be there, we're going to be there... I mean we just never got across the line. My impression was we could never convince them that they really needed to go in on this whole hog. So while they flirted with it the entire time, in the end, they never really came through with serious money."<sup>418</sup> Jim Knox of ACS stated of the UC campus foundations (other than UCSF) "for whatever reason [the people with] access to individuals and institutions that had the wherewithal and the vested interest in seeing this passed would not engage."<sup>412</sup>

### **The Opposition – No on 29 Campaign**

Of the \$47.7 million cost of the No on 29 campaign, \$46.3 came from Philip Morris, RJ Reynolds and their affiliated companies. The remainder was largely non-monetary contributions, with only about \$200,000 in small cash contributions Philip Morris started early in 2011, during which it put \$2.7 million into its campaign. All of the rest of the funding came into the campaign in 2012 (Figure 5.3). Details of the No on 29 contributions are shown in Appendix 6.

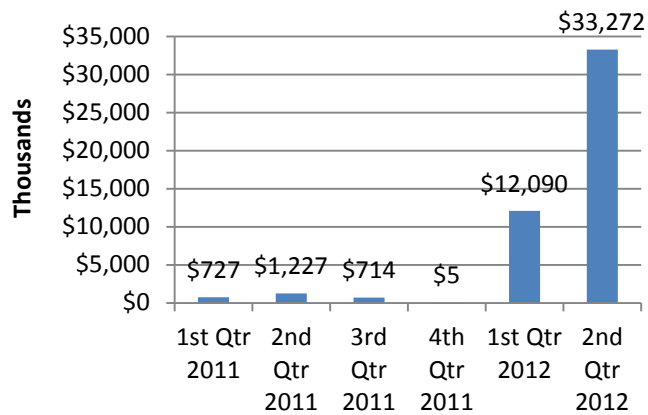
Like most "no" campaigns, the No on 29 campaign messaging was aimed at creating doubt about the measure in voters' minds. The No on 29 advertising mostly tracked the Arguments Against Proposition 29 submitted in early February 2012, months before the No on 29 advertising commenced to the Secretary of State for inclusion in the Official Voter Information Guide<sup>454</sup> mailed to all registered voters in March, about two months before voting by mail balloting began:

- Allows tax dollars to be spent outside California

- Duplicates existing federal cancer research program
- Nothing for cancer treatment
- No accountability
- New bureaucracy
- Promoted by a career politician<sup>454</sup>

The first argument about the money leaving the state was a lie. The last argument was aimed at Sen. Don Perata’s initiation of Proposition 29; the only surprise to the Yes campaign was that the No campaign did not include this point in any of its campaign materials or advertising.<sup>122</sup>

**Contributions to No on 29 Campaign by Quarters, 2011-12**



**Figure 5.3. Contributions to No on 29 Campaign by Quarters, 2011-12<sup>2</sup>**

### *No on 29 Media Ads*

The No on 29 campaign started its media efforts on April 16, 2012, three weeks before the mail-in ballots were mailed to voters, in contrast to the YES on 29 campaign that ran its first television ad on May 8, 2012, the date on which the ballots were put in the mail. The No campaign had a three-week lead on the YES campaign at a crucial time.

The “Doctor” television ad began running on April 16, 2012;<sup>455</sup> it starred Dr. Porter with her standing in a physician’s examination room in a white doctor’s coat with the caption “La Donna Porter, MD” proclaiming:

“I’m against smoking, so I thought Prop. 29 was a good idea.

Graphic: ReadForYourself.org

Then I read it. It raises \$735 million in tobacco taxes, but not one penny goes to new funding for cancer treatment.

Graphic: No New Funds for Cancer Treatment

“Instead, it creates a huge new research bureaucracy with no accountability run by political appointees who can spend our tax dollars in other states.”

Graphic: Taxes Spent Outside California

Narrator: “That’s why doctors, taxpayers and small business say NO on 29

Graphic: Howard Jarvis Taxpayers Association, Small Business Action Committee, California Chamber of Commerce

<b>Table 5.6. Text of the YES on 29 Ads</b>
<b>Prop 29 is Accountable (15 seconds)</b>
<p>Dr. Stanton A. Glantz, Director, Center for Tobacco Control Research &amp; Education [and coauthor of this report]: “Prop 29 will cut smoking and keep the money here in California,”</p> <p>Dr. Kelly McCue, MD, Obstetrics &amp; Gynecology: “With important taxpayer safeguards,”</p> <p>Regis B. Kelly, PhD, Director QB3 Neuroscientist: “And strict financial accountability.”</p> <p>Dr. Gil Chu, PhD, MD, Professor of Medicine (Oncology): “Remember, if you don’t smoke,</p> <p>Eve Bukowski, Cancer Survivor: “You don’t pay the tax.”</p> <p>Robert K. Jackler, MD, Surgeon, Professor, Otolaryngology Head and Neck Surgery: “Stop Big Tobacco.”</p> <p>Jeanie Lee, Cancer Survivor: “Beat cancer.”</p>
<b>Beat Cancer: Vote YES on 29 (30 seconds)</b>
<p>Dr. Stanton A. Glantz, Director, Center for Tobacco Control Research &amp; Education: “This is for the 165,000 Californians”</p> <p>Robert K. Jackler, MD, Surgeon, Professor, Otolaryngology Head and Neck Surgery: “Who will be diagnosed with cancer this year.”</p> <p>Eve Bukowski, Cancer Survivor: “Maybe someone in your family.”</p> <p>John Maa, MD, Surgeon, General Surgery: “Prop 29 will fund cancer research”</p> <p>David Tom Cooke, MD, Lung Surgeon, Comprehensive Cancer Center: “To save lives,”</p> <p>Balaz I. Bodai, MD, Director Breast Cancer Center, Surgeon: “And keep 200,000 children from smoking.”</p> <p>David Veneziano, CEO, American Cancer Society, California Div: “And Prop 29 says ‘No’”</p> <p>Jane Warner, President and CEO, American Lung Association in California: “to Big Tobacco’s lies.”</p> <p>Jeanie Lee, Cancer Survivor: “Together, we can beat cancer.”</p> <p>Regis B. Kelly, PhD, Director QB3, Neuroscientist: “Beat cancer.”</p> <p>Dr. Kelly McCue, MD, Obstetrics &amp; Gynecology: “Beat cancer.”</p> <p>Lance Armstrong, Founder, LIVESTRONG: “Vote YES on 29.”</p>
<b>Beat cancer (15 seconds)</b>
<p>Lance Armstrong, Founder, LIVESTRONG: “Why is Big Tobacco spending millions to defeat Prop 29?”</p> <p>Dr. Gil Chu, PhD, MD, Professor of Medicine (Oncology): “Taxing tobacco keeps kids from smoking,”</p> <p>Regis B. Kelly, PhD, Director QB3, Neuroscientist: “Can save lives,”</p> <p>Roman Bowser, Executive VP and CEO, American Heart Association, Western States Affiliate: “And may lead us to a cure.”</p> <p>David Tom Cooke, MD, Lung Surgeon, Comprehensive Cancer Center: “Stop Big Tobacco’s lies.”</p> <p>Eve Bukowski, Cancer Survivor: “Beat cancer.”</p>
<b>Who do you trust? (15 seconds)</b>
<p>Lance Armstrong, Founder, LIVESTRONG: “Who do you trust to save lives?”</p> <p>David Veneziano, CEO, American Cancer Society, California Div: “The American Cancer Society?”</p> <p>Roman Bowser, Executive VP and CEO, American Heart Association, Western States Affiliate: “The American Heart Association?”</p> <p>Jane Warner, President and CEO, American Lung Association in California: “the American Lung Association?”</p> <p>Dr. Gil Chu, PhD, MD, Professor of Medicine (Oncology): “Or Big Tobacco?”</p> <p>Dr. Kelly McCue, MD, Obstetrics &amp; Gynecology: “Prop 29 will save lives,”</p> <p>Balaz I. Bodai, MD, Director Breast Cancer Center, Surgeon: “Keep kids from smoking,”</p> <p>Regis B. Kelly, PhD, Director QB3, Neuroscientist: “And support cancer research.”</p> <p>Eve Bukowski, Cancer Survivor: “YES on 29.”</p>
<b>Smokescreen (15 seconds)</b>
<p>[Visual of No on 29 “Doctor” Ad overlaid with smoke]</p> <p>Narrator: “Why is Big Tobacco spending millions to defeat Prop 29?”</p> <p>[Caption: No on 29. Major funding by Philip Morris USA and RJ Reynolds Tobacco Company]</p> <p>Narrator: “29 hits them in the wallet.</p> <p>[Visuals of children]</p> <p>Narrator: “Ninety percent of smokers start as kids, and Prop 29 will prevent thousands from getting hooked.”</p> <p>[Visual of smoke and audio of person coughing]</p> <p>Narrator: “See through the smokescreen; YES on 29”</p>

Table 5.7. List of 12 available Youtube videos on the YES on Prop 29 YouTube Page <sup>439</sup>			
Video Title	Message	Times Viewed*	Link
California Supports Big Tobacco	Parody on Tobacco Companies	250,000	<a href="http://www.youtube.com/watch?v=nZ88fQ0aJSE">http://www.youtube.com/watch?v=nZ88fQ0aJSE</a>
Stand up to Big Tobacco	Save Lives: Survivors and Victims' Families	70,000	<a href="https://www.youtube.com/watch?v=FrCTHcgIAOg">https://www.youtube.com/watch?v=FrCTHcgIAOg</a>
"Broken Record": Big Tobacco's spokesdoctor back to kill Prop 29"	Exposing Dr. La Donna White	13,000	<a href="http://www.youtube.com/watch?v=nauzXTcGzRg">http://www.youtube.com/watch?v=nauzXTcGzRg</a>
Who Do You Trust?	Advocacy Heads v. Big Tobacco	6,000	<a href="http://www.youtube.com/watch?v=wVvRkeZzFW8">http://www.youtube.com/watch?v=wVvRkeZzFW8</a>
Smoke Screen	Anti-tobacco Industry	3,800	<a href="http://www.youtube.com/watch?v=8cb3WQZx4Mw">http://www.youtube.com/watch?v=8cb3WQZx4Mw</a>
Beat Cancer: Vote YES on 29	Talking Heads: Dr.s and Survivors	3,200	<a href="http://www.youtube.com/watch?v=-YPBu1KNHG0">http://www.youtube.com/watch?v=-YPBu1KNHG0</a>
The People behind the NO-on-29 Campaign: Do You Trust Them?	Anti-Industry "Congressional Hearing "	2,400	<a href="https://www.youtube.com/watch?v=8IV8f3kLGII">https://www.youtube.com/watch?v=8IV8f3kLGII</a>
Prop 29: State of Emergency	Tobacco Companies Deceiving Voters	2,400	<a href="https://www.youtube.com/watch?v=8IV8f3kLGII">https://www.youtube.com/watch?v=8IV8f3kLGII</a>
Eve's Story	Survivor Story	700	<a href="http://www.youtube.com/watch?v=Hli10tS2A2g">http://www.youtube.com/watch?v=Hli10tS2A2g</a>
Why we support Prop 29: The California Cancer Research Act	Survivor Supporting Cancer Research	600	<a href="http://www.youtube.com/watch?v=NUcIBKVMwaU">http://www.youtube.com/watch?v=NUcIBKVMwaU</a>
In Honor of Ana	Victim Survivor Story	400	<a href="https://www.youtube.com/watch?v=EA-AoCoPpy0">https://www.youtube.com/watch?v=EA-AoCoPpy0</a>
Prop 29 is Accountable	Financial Accountability	400	<a href="https://www.youtube.com/watch?v=KVWtbKxA_ZY">https://www.youtube.com/watch?v=KVWtbKxA_ZY</a>
*Views as of June 2014			

In addition to “Doctor,” the No on 29 campaign ran a television ad beginning May 7, 2012 entitled “Lab Jobs.”<sup>456</sup> In the ad, a male appeared in a lab coat in a laboratory setting with the message:

“California has some of the best cancer research labs in the world. So Prop. 29 seemed reasonable – more funding for research. Then I read the fine print. It imposes nearly a billion dollars in new taxes on Californians, but doesn’t require it be spent in California creating jobs. That’s not right.

Graphic: \$735 Million in New Taxes

“Prop. 29 – More bureaucracy. No accountability. Tax dollars out of state.”

Graphic: More Bureaucracy – No Accountability

“Check it out for yourself. Shouldn’t California taxes support California jobs?”

Graphic: NO ON 29

Opposed by: Howard Jarvis Taxpayers Association, Small Business Action Committee, California Chamber of Commerce, California Taxpayers Association, Los Angeles Times

The third television ad, “Endorsements,” came into the ad rotation on May 29, 2012, a week before Election Day.<sup>457</sup> It “highlighted the diversity of the coalition opposed to Proposition 29” and featured three spokespersons in the coalition:

Caption - Teresa Casazza, President, California Taxpayers Association: “Cancer research is important, but Prop. 29 creates a huge bureaucracy, with no strict controls to make sure our money is spent wisely.”

Graphic: No Accountability, Prop 29 – Section 8

Caption – Dr. Ken Williams: “It allows political appointees to spend our tax dollars outside California, but not one cent goes towards new funding for cancer treatment.”

Graphic: No New Funds for Cancer Treatment, Prop 29 – Section 30130.50

Caption – James Duran, California Hispanic Chambers of Commerce: “They can spend \$125 million on salaries, overhead and buildings. These flaws are locked in for 15 years.”

Graphic: \$125 Million for Salaries, Overhead and Buildings, California Legislative Analyst; Prop 29, Section 30130.53

Graphic: [www.ReadForYourself.org](http://www.ReadForYourself.org), No on 29

Opposed by: California Taxpayers Association, California Hispanic Chambers of Commerce, Los Angeles Times

The No on 29 campaign did two 60-second radio ads, “La Donna” and “Flawed.” The “La Donna” ad<sup>455</sup> was very similar in text to the television “Doctor” ad:

“Hi, I’m Dr. La Donna Porter. As a physician, I’m against smoking, so I thought California’s Prop 29 was a good idea. Then I read the fine print. It would levy \$735 million in tobacco taxes on Californians. But not one cent of that money will go toward new funding for cancer treatments. What’s worse, under Prop 29 our tax dollars can even be spent outside of California. That’s why I’m voting “no” on Prop 29.

Narrator: Prop 29: a huge research bureaucracy dominated by political appointees with no accountability. That’s why doctors, taxpayers and small business say “no” on 29. Learn more at [ReadForYourself.org](http://ReadForYourself.org). That’s [ReadForYourself.org](http://ReadForYourself.org).”

“Flawed”,<sup>458</sup> which started airing on May 24, 2012, took a little different tack than that of any of the other ads:

“When voters approve an initiative, it becomes law, exactly as written, flaws and all. Take Prop 29; it raises \$735 million a year in taxes but does nothing to help schools or solve our deficit. It creates a huge new bureaucracy with political appointees that can spend \$125 million a year on salaries, overhead and buildings with no accountability or controls against waste. Prop 29 doesn’t require tax dollars be spent in California creating jobs. And it can’t be changed for 15 years, so all these flaws are locked in. That is why the California Taxpayers Association and the California Chamber of Commerce and leading papers say no on Prop. 29 – it’s just too flawed. No on 29.”



### *A New Tactic by Proponents - Neutralizing a No on 29 Spokesperson*

The Yes on 29 campaign took an aggressive stance toward one of the leading No on 29 spokespersons, Dr. La Donna Porter.<sup>410</sup> Porter, an African American physician, made a very credible and effective spokesperson for the No on 29 campaign.<sup>459</sup> The first ad to appear on April 16, 2012 for the No on 29 campaign was “Doctor,” featuring Porter (Figure 5.4 La Donna White Ad).<sup>455</sup> Her message was simple: Proposition 29 would not provide one cent of new funding for the treatment of cancer, it created a huge new research bureaucracy of political appointees and the money could be spent outside of California. The voiceover ending the ad stated “that is why doctors, taxpayers and small business say NO on 29.” The implication of the ad was that doctors opposed Proposition 29. In reality, major organizations and health care advocates supported Proposition 29.<sup>459-460</sup>

Porter (then named La Donna White) had appeared on tobacco industry advertisements in the Proposition 86 campaign in 2006 attacking the attempt to raise the California tobacco tax by \$2.60 a pack on cigarettes; in tobacco industry advertisements in both campaigns she appeared in a white doctor’s coat in a physician’s examination room setting delivering similar messages.<sup>461</sup>

The Yes on 29 campaign staged a protest on April 24, 2012,<sup>462</sup> about a week after the Porter ad first appeared, at the San Joaquin General Hospital where Dr. Porter worked, led by the African American Tobacco Control Leadership Council<sup>410, 461</sup> Some in the media picked up the controversy and exposed Dr. Porter’s habit of speaking on behalf of industries fighting health regulation.<sup>461</sup> The *Wall Street Journal* had originally revealed this connection in a December 29, 2005 article,<sup>463</sup> which was repeated in an April 26, 2012 blog posting by Dr. Stanton A. Glantz, a co-author of this report,<sup>464</sup> two days after the protest.

Porter had testified in 2002, at the suggestion of a lobbyist for users of perchlorate, against an EPA proposal to regulate perchlorate.<sup>459, 464</sup> Perchlorate is used munitions and solid rocket propellant, which pitted the EPA against the Department of Defense. Perchlorate adversely affects the thyroid, and is particularly harmful to fetuses and infants. Porter, identifying herself a president of an African-American doctors’ group, spoke against EPA regulation of perchlorate at an EPA peer-review workshop in 2002, arguing such regulation would divert funds from “real health issues” affecting blacks. She had been recruited for the presentation by Eric Newman, a lobbyist for the perchlorate users group. She repeated the argument in commentaries bearing her name put out by a lobbying group for perchlorate users, the Council on Water Quality, two of which misspelled her first name.<sup>463</sup> In 2005, Gov.

Schwarzenegger appointed her to the Development and Reproductive Toxicant Board which determines whether to place chemicals on a list of toxins especially dangerous to pregnant women and fetuses; a few days later the Board rejected a petition to list perchlorate as a reproductive toxicant.<sup>459</sup>

On May 7, 2012, three weeks after the Porter ad first aired, the Yes on 29 campaign sent a letter to Gov.

***Porter ... had appeared on tobacco industry advertisements in the Proposition 86 campaign in 2006 attacking the attempt to raise the California tobacco tax.***

Brown asking him to remove Dr. Porter from the Development and Reproductive Toxicant Board.<sup>428</sup> The media then delved into Dr. Porter's financial problems and two bankruptcies, possibly fueled by the Yes on 29 challenge to Dr. Porter to disclose how much the tobacco industry paid her to appear in the ads.<sup>465</sup> The financial problems at least showed that Porter had plenty of reasons to want to be paid for her endorsement; Porter appeared in the Proposition 86 campaign only after the tobacco industry was unsuccessful in recruiting Dr. Americo Simonini, a Los Angeles cardiologist (and part-time actor), who turned down the offer of "at least \$10,000" when he learned it was for the tobacco industry.<sup>465-466</sup>

On May 10, 2012, Gov. Brown removed Dr. Porter and four other Schwarzenegger appointees from the Development and Reproductive Toxicant Board. The Governor's spokesperson Gil Duran did not refer directly to the Proposition 29 firestorm, but did state that health advocates complaints and media investigations of Porter "certainly brought this board more attention than it usually gets. It brought it to the forefront."<sup>467</sup> In a May 7, 2012 press release, the No on 29 campaign announced that the second ad "Lab Jobs" was "being phased into rotation with 'Doctor'."<sup>456</sup> However, "Doctor" did not reappear in the rotation thereafter,<sup>410</sup> and was pulled from the rotation by the No on 29 campaign on May 9, 2012.<sup>465</sup>

### ***Third Party Allies***

Although the tobacco industry contributed more than \$47 million to the "No" campaign, representatives from Philip Morris and RJR never commented on the ballot initiative in the media and were not even listed on the website among opponents to the bill (apart from the legally-required financial disclosure statements filed with the California Fair Political Practices Commission). Instead, the industry used other organizations and Political Action Committees, most of which they were funding, to do their media messaging. This would give the NO on 29 the appearance, of having wider array of support than just organization affiliated with the industry. Disclosure and attribution of funding support aside, some media outlets allowed the tobacco companies to "decline to comment," if they were asked at all, and turned instead turned primarily to third party allies<sup>469</sup> of the tobacco industry who were members of the Californians Against Out of Control Taxes a spending coalition that was opposing Proposition 29 who provided quotes and justifications for the opposition. Joel Fox, with the Small Business Action Committee, was described by the Contra Costa Times as a "Prop 29 spokesman."<sup>470</sup> Maplight.org, a non partisan think-tank whose mission is to look at money in politics, found through California's Secretary of State campaign finance records that Philip Morris gave the Small Business Action Committee in California \$500,000 in 2010.<sup>471</sup> Which is about a third of the entire receipts of \$1.47 million received by the Small Business Action Committee in 2010.<sup>471</sup>



**Figure 5.4.** Outtake from the tobacco industry funded No on Prop 29 Dr. La Donna White media campaign Source.<sup>468</sup> )

The media was largely supporting the tobacco industry strategy of staying out of sight by accepting third party comment, and allowed third party representatives to be the face of the opposition masking the true role of the tobacco industry. Steven Harmon, reporter for the Contra Costa Times, stated in an April 25, 2012 story:

“I don’t think it is a secret that tobacco is funding this,” said Joel Fox, president of the Small Business Action Committee and a member of the coalition opposing Proposition 29, Californians Against Out of Control Taxes and Spending. “But if the tobacco folks are out there, everybody wants to say the evil tobacco companies are behind this. But there are important policy issues that have to be discussed, and it is not surprising that taxpayer groups are out front talking about this.”<sup>472</sup>

Harmon also sought comment from the tobacco industry: “When this newspaper asked the no-on-29 campaign for a tobacco industry representative to give the industry’s take on the issue, the anti-tax coalition wouldn’t provide one.”<sup>472</sup>

Channel 11 (KNTV) in San Jose, California ran a story on June 4, 2012, the day before Election Day, that revealed the financial and other links between two of the “independent” groups opposing Proposition 29 and the tobacco industry, California Taxpayers Association and Americans for Tax Reform.<sup>473</sup> KNTV contacted some of the independent groups and it received written comments from three of them and from Altria, the parent of Philip Morris; RJ Reynolds declined to comment. Altria stated it opposes targeted tax increases on tobacco: “Our support of a diverse range of organizations that are focused on issues that affect our business is a part of public policy engagement.”<sup>474</sup> California Taxpayers Association responded that it has a board of more than 60 representing all industry segments and taxpayers large and small and has long opposed targeted taxes, “and does not take any campaign funds for our positions on initiatives.”<sup>475</sup> Americans for Prosperity said it supported economic freedom and free market principals, not the interests of any particular company or industry.<sup>476</sup> However, Americans for Prosperity has a long history and close ties with the tobacco industry.<sup>477</sup> The President & CEO of the California Hispanic Chambers of Commerce repeated the major arguments of the opposition to Proposition 29 without mention of tobacco industry involvement in that opposition,<sup>478</sup> as did the statement from No on 29 – Californians Against Out-of-Control Taxes and Spending.<sup>479</sup> These revelations came far too late in the campaign to have much impact on the outcome.

### ***Stealth Strategies by the Tobacco Industry: Repeating Tactics from the 1970s:***

This tobacco industry stealth strategy goes back to the Proposition 5 battle in California in 1978.<sup>480</sup> Proposition 5 would have prohibited smoking in any indoor public place, place of employment, educational facility, health facility and clinic; smoking lounges would be allowed in these venues. Exempted from the proposed law were bars, tobacco retail stores, and a number of other specific venues. Restaurants would have been required to have nonsmoking sections.<sup>481</sup>

The text of what would become Proposition 5 was filed by tobacco control advocate California GASP on May 25, 1977<sup>482</sup> with the Office of the Attorney General for preparation of the Title and Summary, the first step in the initiative process.<sup>1</sup> A June 1977 poll commissioned by the Tobacco Institute, the cigarette companies' lobbying and public relations organization, found that Californians held a very negative view of the tobacco industry. The organization reported that almost no organized group besides the tobacco industry sponsored ones supported them.<sup>483</sup> As a result, the consultants of the tobacco companies, acting through the Tobacco Institute, hired to implement the campaign against Proposition 5 created the "California Action Plan" that recommended that the tobacco industry stay completely out of sight in the campaign, set up a citizen campaign organization to be the face and voice of the opposition with no tobacco industry representatives serving in any function, but control every aspect of the campaign through a secret industry Steering Committee.<sup>484</sup>

They also recommended strictly complying with California campaign finance laws and reporting the funding the tobacco industry provided to the campaign, but that created an opening for the proponents of Proposition 5 to attack the tobacco industry. "That the proponents would attack our tobacco industry financing was obvious. We had to confront them with a non-tobacco organization with leadership so prestigious and membership so broad that its composition would dilute and blunt anti-tobacco attacks on it."<sup>485</sup> Ernest Pepples, Vice President and General Counsel of Brown & Williamson and member of the secret industry Proposition 5 Steering Committee reported in September 18, 1978 memo to Joe Edens, Brown & Williamson's former CEO and then representative on the Tobacco Institute Executive Committee, on the industry's plan for public noninvolvement in the Proposition 5 matter: "The understanding between [sic] the companies was that, if avoidable, no company would comment on the California campaign. The reason, of course, is that we desire as much as possible to keep the emphasis on Californians and keep it off the big tobacco companies."<sup>486</sup> If a tobacco company was asked to comment, it was to refer the inquiry to the California committee.<sup>486</sup>

***Taxpayer associations added to the façade that the No on 29 campaign was a taxpayer battle, through newspaper editorials and earned media.***

<b>Table 5.9 .Statewide Organization Members of Californians Against Out-of-Control Taxes and Spending</b> <sup>492</sup>	
Americans for Prosperity*	California Taxpayers Association*
Americans for Tax Reform*	Council for Citizens Against Government Waste*
American Wholesale Marketers Association*	Freedom Works*
Asian Business Coalition*	Hispanic Leadership Fund
California Asian Pacific Chamber of Commerce	Howard Jarvis Taxpayers Association*
California Distributors Association*	Latin American & Caribbean Business Chamber of Commerce
California Grocers Association*	Latino Times*
California Licensed Beverage Association*	National Taxpayers Union*
California Retailers Association*	Neighborhood Market Association*
California Black Chamber of Commerce*	Petroleum Marketers Association of America*
California Chamber of Commerce*	Small Business Action Committee**
California Coalition of Law Enforcement Associations	Small Business & Entrepreneurship Council*
California Hispanic Chambers of Commerce*	Tavern Owners United for Fairness*
California Independent Oil Marketers Association*	The Latino Coalition*
California Manufacturers & Technology Association*	Waste Watchers Inc.*
California Taxpayer Protection Committee	60 Plus Association*
*Organization had financial or other ties to the tobacco industry. <sup>493</sup>	
**Received political contributions from Philip Morris. <sup>2</sup>	

The cigarette companies named the "citizen committee" that would be the public face of the opposition to Proposition 5 "Californians for Common Sense."<sup>487</sup> While to the public it looked like a non-tobacco industry anti-tax campaign, total control was maintained by the Tobacco Institute.<sup>488</sup> That control was founded on the money; the industry was spending a great deal of money and required strict fiscal controls,<sup>489, 19</sup> and had a real concern about holding the reins on political consultants as reflected in a December 8, 1977 memorandum from RJ Reynolds' Dennis Durden, Director of RJR Corporate Public Affairs and member of the Tobacco Institute Communications Committee, to RJ Reynolds Vice President F. H Christopher:

Good political campaigners are naturally aggressive. They will spend anything they can get their hands on and will always be asking for more. Our job, right now, is to make certain that we don't act like a bunch of headless amateurs and get stampeded into letting them call the tune about our policies and our strict adherence to laws and regulations.<sup>490</sup>

Proposition 5, which started with a 3-1 lead of likely voters supporting it,<sup>480</sup> was defeated 54.3% to 45.6% and lost in all 58 counties in California.<sup>491</sup>

Just as in the Proposition 5 campaign in 1978, the tobacco industry assembled a large membership of non-tobacco organizations for the No on 29 campaign, most of which had financial and other ties to the tobacco industry (Table 5.9). The No on 29 website listed all of these organizations, but omitted any mention of the tobacco companies funding the campaign

In another article by Steven Harmon on May 25, 2012, he reported, "In addition to the TV ads, the No on 29 campaign has relied on mail fliers sent out by the California Republican Party. The \$1.1 million effort -- which includes the cost of production and distribution -- is classified as an in-kind contribution from the party, but it was made possible by \$825,000 in donations to the party from the No on 29 campaign. That raised the eyebrows of opponents, who said it was another example of tobacco companies disguising their influence in the campaign."<sup>470</sup>

Americans for Prosperity and Freedom Works have longstanding ties with the tobacco industry.<sup>477</sup> These organizations were created from Citizens for a Sound Economy, an organization that fought tobacco tax battles without revealing its ties to the tobacco industry. The additional taxpayer associations, which often criticize tax increases, added to the façade that the No on 29 campaign was a taxpayer battle, through newspaper editorials and earned media. In May of 2012, David Kline with the California Taxpayers Association made a statement that the initiative is just bad budgeting and does not fix the state fiscal problems. He additionally stated his organization was independent of tobacco companies, when they have long historical ties to the tobacco industry.<sup>494</sup>

## **Conclusion**

The battle for Proposition 29 was very lopsided in the money invested in the campaign (Figure 5.4), just as with Proposition 86 in 2006.<sup>65</sup> In each election, the outcome was very close, showing that money is only one element of a successful initiative campaign.

The proponents of Proposition 29 lost by only 24, 076 votes out of over 5.1 million votes cast in a low-turnout Primary Election.<sup>427</sup> California law has been changed so that all ballot measures must now be on General Election ballots (SB 202, 2011), thus eliminating the major challenges facing a ballot measure in low-turnout Primary Elections. The Yes on Prop 29 campaign faced a lot of challenges, some external and some internal, including some faulty decision making in terms of resources and media. Proposition 29's very narrow loss is hard to attribute loss to one particular action.

### Cumulative Total Contributions Yes and No Campaigns

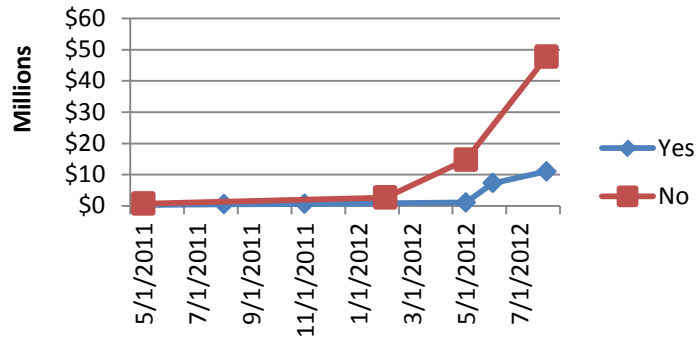


Figure 5.4. Comparison of Campaign Contributions on Proposition 29

The campaign got off to an awkward but well-intentioned effort by a cancer survivor/politician, introduced an initiative that was filled with problems. Though health advocacy organizations would be successful in working with Senator Perata on reintroducing an initiative that addressed those problems, they would not be prepared to fund the campaign for the initiative. This drop in support was in line with findings in a study of the 22 tobacco tax ballot measures voted on through 2008 in the United States,<sup>495</sup> which also found that “strong support” of 44% or less in early polling was predictive of defeat.

One of the shortfalls that the Yes on 29 campaign faced was its television media campaign. Deciding to stick to the "saves lives" and the "support of health advocacy organizations" messaging failed to address the arguments the No on 29 campaign were disseminating. Bruce Silverman was President of Asher/Gould Advertising, also of Los Angeles, that won the second contract in 1994 to carry on the anti-smoking campaign of the California Department of Health Services; he called these “talking head” ads a mistake because such ads are effective only if the “talking head” is someone who is well-known.<sup>496</sup> Silverman stated: “The reason Prop 29 failed, in my opinion, was that the pro-29 forces ran just about the worst marketing campaign I've ever seen.”<sup>496</sup> He acknowledged that the tobacco industry had come up with a compelling story that the money was going to leave the state, “even if it was a lie.”<sup>496</sup>

***Proposition 29's very narrow loss is hard to attribute loss to one particular action.***

Paul Keye was Chairman of Keye/Donna/Perlstein in 1990, the Los Angeles advertising agency that won the contract in 1990 to create the first California anti-smoking campaign to be financed by new cigarette taxes implemented under Proposition 99 in 1988, and served as Project Director for that first media campaign.<sup>497</sup>

When asked about the Proposition 29 campaign advertisements, Keye described them as “cluttered” and hampered with low production values.<sup>498</sup> He described the talking head Yes on 29 ads as “vampire video” in which there is too much visual and nonsynchronous audio that audiences tend to tune out. In Keye’s opinion, lack of funds should have dictated a more measured approach with one or two messages and high production values.<sup>498</sup>

Number one it was a lie. The legislation might not have been drafted perfectly, but why would the money leave the state? This state has more research capability than any other state. So, that was just nonsense. . . .

The only way they could address it was say yeah, the tobacco industry's right, money could go out, but it's not going to happen. What I would've done is simply say, consider the source, here's who's telling. I would've just kept hammering them back on a “consider the source” strategy, because the people in this state more than any other state, literally an entire generation or two or three of Californians, have been taught that the tobacco industry can't be trusted, that everything they say is bullshit. Well, you know, if you have that going for you, use it. And it wasn't used, and that's what made me crazy, made me crazy. . . .

What needed to be done was to hammer away that the opposing forces on this were the tobacco companies, and they have only one interest, and that is making profits on tobacco sales. They don't care about your health, they don't care about your wealth, they don't care about your wellbeing, they don't care about your children, they don't care about anything other than making money. And there isn't a single tobacco company that's based in California. So, talk about who's taking the money out of state.

Silverman referred to the anti-industry campaigns he had developed for the California Tobacco Control Program beginning in 1994:

We looked at tobacco use prevention advertising as a political campaign. And most political campaigns are negative, and that's what we did. We took the other candidate, which was the tobacco industry, and we revealed them to be what they were and they couldn't fight it off. We just kept beating them and beating them and beating them and beating them. . . .

And some of the most successful advertising of the past 25 years in this country has been anti-smoking advertising done by the various states, and by the feds. There's lessons to be learned, but if you look at them, the common element is that they're all based on an anti-industry strategy. The tobacco industry can't be trusted, they're manipulative, they will lie, they will do anything possible to sell tobacco. That's what's worked. Why would it be different on a ballot measure?<sup>496</sup>

Despite this advance knowledge of the primary arguments that the No on 29 campaign would likely use, the proponents made no attempt in its media campaign to make a preemptive strike on the deceptive issues of the money being spent outside of California and no funding for cancer treatment. Indeed, an economic study published in February 2012 by UCSF professor Stanton Glantz (a coauthor of this report) concluded that the passage of Proposition 29 would lead to a net *increase* of about 12,000 jobs and about \$1.9 billion in total economic activity in California annually, mostly because of its effects on reducing tobacco use would shift smoker spending away from cigarettes, where most of the money leaves California to the cigarette manufacturers and farmers outside the state, to other goods and services, much more of which are produced inside California.<sup>499</sup> The Yes on 29 campaign did not use these data to counter the deception of the No on 29 campaign.

The direct impact of the lack of support of the UC system both in terms of finance and speaking out on the impact of Proposition 29 on research capacity is unknown. However, advocates such as Jim Knox, believe that they could have been a more valuable asset to the campaign than they were.<sup>115</sup>

It is also difficult to quantify the impact the No position from the *Los Angeles Times* on the outcome, but it had supported Proposition 86 in 2006 and Proposition 86 carried Los Angeles County with 52.3% voting yes;<sup>500</sup> Proposition 29 lost in Los Angeles County with 49.5% voting yes.<sup>427</sup> In a very close election like this one, small changes in events can have a big impact especially when voter turnout was so low. (Less than half as many voters in Los Angeles County voted on Proposition 29<sup>427</sup> as had voted on Proposition 86.<sup>500</sup>)

Finally, tobacco companies ran a deceptive and aggressive No on 29 media campaign. The campaign capitalized on the state's recent fiscal problems and confused voters about the implications of the initiative. They used industry-funded political groups, misrepresented where the money would be spent and complained that it was an imprudent way for the state to raise money. Mounting a successful campaign against an industry with vast resources and decades of political expertise is incredibly difficult. Given that few of the campaign staff had experience battling tobacco companies suggests that they did not fully appreciate what they would be up against and failed to anticipate and counter the industry's tactics. The weak media messaging supports this conclusion.

The fact that Proposition 29 came so close to passing suggests that several small changes might have secured passage, perhaps UC allowing cancer center directors to attend influential editorial board meetings which might have affected endorsements for the initiative and, most notably, a more aggressive media campaign. The fact that the one anti-industry advertisement that the "yes" campaign drew so many more viewers than the soft messages that were being broadcast (Table 5.7) supports this view.

***Proponents made no attempt in its media campaign to make a preemptive strike on the deceptive issues of the money being spent outside of California***





## CHAPTER 6. THE ATTORNEY GENERAL'S TOBACCO CONTROL ENFORCEMENT ACTIVITIES, 2007-2013

- The California Attorney General enforces the Master Settlement Agreement, which was executed in 1998 to settle litigation by 46 states against the then four major cigarette manufacturers, in California.
- 2007-2014 was marked by a decline in vigor in enforcement activities under both the MSA and state tobacco laws by both Attorneys General Jerry Brown and Kamala Harris.
- Attorney General Harris had taken no legal actions on electronic cigarettes despite their rapid growth in sales and documented misleading health claims.
- While the National Association of Attorneys General has battled the motion picture industry since 2003 to curb smoking in the movies marketed to youth, Brown and Harris demurred completely.

### Master Settlement Agreements

The Attorney General enforces the cigarette Master Settlement Agreement (MSA).<sup>501</sup> The Master Settlement Agreement was executed in 1998 to settle litigation by 46 states against the then four major cigarette manufacturers (Philip Morris Incorporated, R.J. Reynolds Tobacco Company, Brown & Williamson Tobacco Corporation, and Lorillard Tobacco Company. Liggett Group Inc. and Commonwealth Brands, Inc.) joined the settlement within a few months. The Attorney General also enforces the Smokeless Tobacco Master Settlement Agreement (STMSA).<sup>502</sup> STMSA was signed at the same time as the MSA with United State Tobacco Company, the leading smokeless tobacco manufacturer. The STMSA's terms are virtually identical to the MSA terms, except they do not require U.S. tobacco or it's successors to make annual settlement payments to the states<sup>503</sup>

MSA enforcement activity of the California Attorney General's Office since 1998 has focused on the youth marketing and promotion restrictions, enforcing the state escrow law against noncompliant tobacco manufacturers, and enforcing MSA payment obligations of Participating Manufacturers withholding payments under claims of failure of the state to enforce its Non Participating Manufacturers law. Tangentially related to enforcement of the MSA youth marketing and promotion restrictions is enforcement of the state law prohibiting tobacco retailers from selling tobacco products to minors.

***MSA enforcement activity of the California Attorney General's Office since 1998 has focused on the youth marketing and promotion restrictions***

The Highlight section of the California Attorneys General's website was accessed during 2013 and at <http://oag.ca.gov/tobacco/highlights>. "Highlights" has data going back to 2000, and provides information on the California Attorney General's law enforcement since the MSA was signed.

Type of Violation	Bill Lockyer (D), 1999-2006	Jerry Brown (D), 2007-2010	Kamala Harris (D), 2011-2015
Youth Marketing/Sales	15		
Health Claims	1	1	
Noncompliant Manufacturers	25		
Enforcing MSA Payments	2		
Retailer Sales to Minors*	11	3	1
Sales of Contraband Cigarettes		4	2
*Includes one lawsuit settlement and fourteen Voluntary Compliance Agreements with retailers			

Table 5.1 shows the enforcement activities of California Attorneys General from 1999 through 2013. Between 1999 and 2006, Attorney General Bill Lockyer was vigorous in his enforcement activities under both the MSA and state tobacco laws. Unfortunately, this vigor was missing from both Attorneys General Brown and Harris. While the National Association of Attorneys General has battled the motion picture industry since 2003 to curb smoking in the movies marketed to youth, only Attorney General Lockyer joined in that important campaign. Brown and Harris demurred completely. The MSA prohibits payment for the appearance of brand name tobacco product in movies. The Attorney General does enforce this, usually through correspondence.<sup>503</sup>

The MSA provides that, in exchange for the agreement of the signator tobacco manufacturers, defined as "Participating Manufacturers" (PM) in the MSA, to make payments to the 46 settling states in perpetuity according to a complicated formula that accounts for the costs of smoking to each state's Medicaid program (MediCal in California), national cigarette consumption, and when the states first sued the tobacco companies (worth an estimated \$200 billion through 2025) and their agreement to abide by some restrictions on the advertising, promotion and marketing of cigarettes.<sup>501</sup> (The State of California splits its MSA payments with 50% going to the 58 counties and the cities of Los Angeles, San Diego, San Francisco and San Jose that had sued before the state did.)<sup>297</sup> The MSA also allows other companies, who sign the MSA, to join the agreement as "Participating Manufacturers." As of June 28, 2014, there were 44 tobacco manufacturers who had signed the MSA as Participating Manufacturers.<sup>504</sup>

The MSA provided that states pass laws requiring tobacco manufacturers to register with a state to become a Non-participating Manufacturer (NPM) that could lawfully sell its tobacco products by paying into a litigation reserve escrow account and complying with state licensing laws in order to create more parity with PMs who must make large payments to the states. States were incentivized to enforce the NPM laws because it allowed the PMs to reduce their MSA payments to any state that failed to enforce the NPM law through the Non-Participating Manufacturers Adjustment procedure. State Attorneys General maintain a directory of all manufacturers who are PMs and NPMs allowed to sell their products in California; retailers are not permitted to sell off-directory cigarettes.

## Enforcing Master Settlement Agreement Payments

A dispute arose between the Participating Manufacturers and all of the states involving the Non-Participating Manufacturers Adjustment with respect to MSA payment owed for sales in 2003. The Adjustment allows Participating Manufacturers; this law to reduce their MSA settlement payments to any state that does not diligently enforce a state escrow law applicable to Non-Participating Manufacturers that requires NPMs to pay into an escrow accounts amounts based on their sales in the state and allows deposited funds to be used to pay future claims for tobacco-related liabilities. Because of this dispute, the PMs started withholding a portion (about 8%) of their MSA payments in 2006. Attorney General Bill Lockyer sued the PMs (there were 30 at the time) in April 2006 to recover the required payments. The court ordered the parties to submit the dispute to arbitration.<sup>65, 503</sup> California and the companies settled the case in April 2013 when California received \$376 million representing all of the MSA payments that had been withheld since 2004 plus interest.<sup>505</sup> The settlement resolved NPM Adjustment disputes for sales that occurred in the period 2003-2014.

### *Cartoons*

Both the MSA §III(b), and the California Consent Decree §V.B. implementing the MSA in California, prohibit the use of cartoons in tobacco advertising. The term “Cartoon” is specifically defined in MSA §II(1) to be much broader than what people usually think of as cartoons: “Cartoon” means any drawing or other depiction of an object, person, animal, creature or any similar caricature that satisfies any of the following criteria:

- (1) the use of comically exaggerated features;
- (2) the attribution of human characteristics to animals, plants or other objects, or the similar use of anthropomorphic technique; or
- (3) the attribution of unnatural or extrahuman abilities, such as imperviousness to pain or injury, X-ray vision, tunneling at very high speeds or transformation.

RJ Reynolds, the father of cartoon character Joe Camel, used a cartoon motif in a nine-page ad in the November 15, 2007 edition of *Rolling Stone* magazine for Reynolds’ The Farm Free Range Music support for indie music to promote its Camel brand that was to include music events and CD give-a-ways.<sup>506</sup> On December 3, 2007, California Attorney General Jerry Brown (D) filed suit in the San Diego County Superior Court alleging that the ad contained “cartoons” which are prohibited in tobacco advertising under the MSA. Reynolds denied that the drawings were prohibited “cartoons.” A hearing on the suit was held on December 4, 2007, and R.J. Reynolds agreed to shut down its Farm Rocks website by December 5, 2007 and not use any cartoon images in advertising or at live events, and not to distribute any Farm Rocks CDs until the litigation was resolved. On April 20, 2009,<sup>507</sup> the San Diego County Superior Court ruled that RJ Reynolds had used cartoons in violation of the MSA, but declined to award any sanctions against R.J. Reynolds because the cartoons were an insignificant part of the advertisements, and the state had not proved any actual damages had been incurred. The court did reject Reynolds’ narrow interpretation of the definition of “cartoon” in the MSA, and included in the §II(1)(3)

definition any image of an *object* with unnatural attributes; in this case the objects were toasters with helicopter rotors, tractors with jet engines and television sets growing on plants. Since Reynolds was already subject to an injunction against using cartoons in the original 1998 Consent Decree issued by the same court, and had terminated the ad campaign immediately after the suit was filed, the court determined that another injunction was unnecessary. In June 2010, the court's ruling was affirmed on appeal. The trial court did award attorney fees to the State, but limited the amount. Both sides appealed the fee award. In April 2011, the appellate court reversed and remanded the matter to the trial court for a redetermination of the State's entitlement to attorneys fees.<sup>503</sup> On March 22, 2012, the trial court awarded the State \$2.9 million in attorney fees.<sup>508</sup> Reynolds appealed that ruling, but the award was upheld by the Court of Appeal, Fourth Appellate District on April 26, 2013.<sup>509</sup>

### ***Misleading Health Claims***

The major steps in 2005 and 2010 curtailed for a time tobacco company practices of making misleading health claims or leaving out important health warnings. Section III(r) of the MSA provides that "No Participating Manufacturer may make any material misrepresentation of fact regarding the health consequences of using any Tobacco Product, including any tobacco additives, filters, paper or other ingredients. Nothing in this subsection shall limit the exercise of any First Amendment right or the assertion of any defense or position in any judicial, legislative or regulatory forum"(emphasis added).

### ***The major steps in 2005 and 2010 curtailed for a time tobacco company practices of making misleading health claims or leaving out important health warnings***

In 2005, the California Department of Justice, under Attorney General Lockyer (D), along with seven other Attorneys General, assisted the Vermont Attorney General in suing R.J. Reynolds under the MSA for health claims made for its Eclipse cigarette that heated tobacco rather than burned it. Reynolds claimed in its advertising that Eclipse may present less risk of cancer, chronic bronchitis, and emphysema than other brands of cigarettes, and that it had scientific studies supporting these claims. After a trial lasting 26 days involving twenty expert witnesses and thousands of exhibits, the Vermont trial court found in 2010 that Reynolds had engaged in deceptive advertising in marketing Eclipse as a reduced harm product.<sup>510</sup> While Reynolds had hundreds of studies, many of which showed reduced toxins in the smoke from Eclipse, the trial court found there was no evidence that the reduction in toxins amounted to a reduction in the risk of disease. Reynolds' ads violated the MSA prohibition against making any material misrepresentations of fact regarding the health consequences of using any tobacco product and the Vermont Consumer Fraud Act.

In March 2010, Attorney General Jerry Brown (D) negotiated an agreement with Santa Fe Natural Tobacco Company to add disclaimers in its advertising for its organic tobacco products. The agreement was signed by 33 states and the District of Columbia. Santa Fe Natural Tobacco Company is a Participating Manufacturer under the MSA. The states were concerned that consumers would be misled, in violation of the MSA and various state consumer protections laws, by Santa Fe's advertisements for its Natural American Spirit organic tobacco. These advertisements said "organic tobacco" or "100% tobacco" which might lead consumers to

believe that the tobacco or the cigarettes were safer when there is no evidence that is the case. Santa Fe agreed to add a disclaimer to all of their organic tobacco ads which states in a large clear box that “organic tobacco does not mean safer tobacco.”<sup>511</sup>

### ***Brand Name Sponsorship***

Section III(c)(2)(A) of the MSA and the STMSA limits Participating Manufacturers to one Brand Name Sponsorship in any 12 month period. Section II(j) of the MSA and §II(h) of the STMSA broadly define a Brand Name Sponsorship as “an athletic, musical, artistic, or other social or cultural event as to which payment is made (or other consideration is provided) in exchange for use of a Brand Name or Names” either as a part of the name of the event, or to promote the event or an entrant, participant or team in the event. A single Brand Name Sponsorship may consist of multiple events. For example, a Participating Manufacturer may sponsor one national or multi-state series or tour (such as a car-racing series or tour) which is made up of more than one event, but still constitutes only one Brand Name Sponsorship (See MSA §II(j)). Additionally, the MSA allows Participating Manufacturers to sponsor one entrant, participant or team in any event that is part of its Brand Name Sponsorship (MSA §II(j)). Events in “Adult-Only Facilities” are not considered Brand Name Sponsorships (MSA §II(j) and (c)). There are also restrictions on the events which may be sponsored. For example, Participating Manufacturers may not sponsor events for which the audience is comprised of a “significant percentage” of youth, or events in which “paid participants” or “contestants” are youth (See MSA § III(c)(1)(A-D)). There are also restrictions on advertising done in connection with Brand Name Sponsorship such as a ban on combining advertisement of Tobacco Products with advertisement of the Brand Name Sponsorship.<sup>512</sup>

### ***In August 2007, California Attorney General Jerry Brown settled a suit against...to limit its Skoal promotion at National Hot Rod Association***

In August 2007, California Attorney General Jerry Brown settled a suit against U.S. Smokeless Tobacco Co. (USSTC) to limit its Skoal promotion at National Hot Rod Association (NHRA) drag races that alleged USSTC had violated the brand name sponsorship restrictions of the Smokeless Tobacco Master Settlement Agreement.<sup>513</sup> The suit was filed in July 2005 by Attorney General Bill Lockyer. The suit was

originally based on the fact that minors could compete in the races. The Complaint alleged, among other things, that USSTC's brand name sponsorship at the drag races included "paid participants or contestants who are under eighteen years of age" in violation of STMSA §III(c)(I)(C) and constituted a multiple brand name sponsorship in violation of STMSA §III(c)(2)(A). NHRA changed the rules to eliminate minors as competitors beginning in 2008 and USSTC agreed to never expand its sponsorship beyond the one series, one competition, and the one it was then currently sponsoring. The provisions of the STMSA constrained the State's settlement authority. The Settlement included \$1.5 million in attorney's fee.<sup>503</sup>

USSTC agreed in February 2009 to settle California's suit to limit its promotion of the Copenhagen brand at multiple Professional Bull Riders (PBR) series in California.<sup>513</sup> The suit was filed by Attorney General Jerry Brown, claiming that the USSTC arrangement with PBR exceeded the one Brand Name Sponsorship limit of the STMSA by sponsoring riders in three different PBR Tours. USSTC disputed this characterization of its relationship with PBR. The

settlement limited Copenhagen promotion to the Built Ford Tough Tour series and limited the number of riders to three. It also agreed that if Copenhagen-sponsored riders competed in other PBR series they would not wear any Copenhagen branded clothing.

## **Smoking In The Movies**

Smoking in the movies is not specifically dealt with in the Master Settlement Agreement, yet many of the state Attorneys General used the provision in the MSA that says No PM may "make, or cause to be made, any payment or other consideration to any other person or entity to use, display, make reference to or use as a prop any Tobacco Product, Tobacco Product package, advertisement for a Tobacco Product, or any other item bearing a Brand Name in any motion picture, television show, theatrical production or other live performance, live or recorded performance of music, commercial film or video, or video game ("Media")" as a reason for pressing the motion picture industry to eliminate on-screen smoking in movies marketed to minors.<sup>514</sup> The reason for the Attorneys General campaign against smoking in the movies was the strong evidence of the impact on young smokers of depictions of smoking in movies.<sup>515</sup> "Smoking in movies is the most powerful pro-tobacco influence on kids today, accounting for 44% of adolescents who start smoking, an effect even stronger than cigarette advertising."<sup>514</sup>

***"Smoking in movies is the most powerful pro-tobacco influence on kids today, accounting for 44% of adolescents who start smoking, an effect even stronger than cigarette advertising."***

California Attorney General Bill Lockyer (D) joined in the early Attorneys' General campaign during his term in the office (1999-2007).<sup>65</sup> However, his successor Jerry Brown (D) declined to sign the four joint letters sent by state and territorial Attorneys General to leaders in the motion picture industry during his term as Attorney General (2007-2011).<sup>515-518</sup> Brown's successor Kamala Harris (D) did not sign the one joint letter during her term in the office (2011-2015); the May 8, 2012 letter was signed by 38 state and territorial Attorneys General and sent to the chief executives of the motion picture studios that had no policy on controlling smoking in movies marketed to minors.<sup>519</sup>

## **Enforcing California Laws**

### ***Preventing Tobacco Sales to Minors***

Selling tobacco products to minors is illegal in California and preventing sales of tobacco to minors is a key goal of the MSA. In the 2007-2012 period, Attorneys General Jerry Brown and Kamala Harris continued the role of the California Office of the Attorney General in leading the process of obtaining from national tobacco retailers multi-state Assurances of Voluntary Compliance (AVC).<sup>520-523</sup> California played a leading role through the Brown administration and much of the Harris administration. Through 2011, California served as the chair of the Responsible Retailing Forum, an organization that brings together public and private stakeholders—regulatory and enforcement agencies, attorneys general, public health agencies and advocates, retailers and their associations, distributors and producers, and researchers—in

order to identify and promulgate Best Practices to prevent underage sales of age-restricted products, and to examine the impacts of Responsible Retailing policies from the diverse perspectives of these different stakeholders.<sup>503</sup>

This process began with the AVC with Walgreens in February 2002 under Attorney General Bill Lockyer.<sup>524</sup> Using data from compliance checks of tobacco retailers conducted by the California Department of Public Health, the group of Attorneys General targeted those tobacco retailer chains that logged excessive failures of compliance checks. Under the AVC, the tobacco retailer agrees to train employees on laws prohibiting sales of tobacco to minors, prohibit self-service displays of tobacco products, hire an independent entity to conduct random, unannounced compliance checks, and limit tobacco advertising to the product display area. By the end of 2013, California had obtained AVCs with 14 national retail chains, and a 2004 litigation settlement with Safeway<sup>525</sup> in which Safeway agreed to adopt practices to reduce unlawful sales of tobacco products to minors similar to those in the AVCs. Nationwide, these AVCs and the Safeway settlement agreement covered over 100,000 retail outlets at which cigarettes were sold. In 2014, California signed a multistate letter commending CVS for its decision to discontinue sales of tobacco products.<sup>503</sup>

### *Electronic Cigarettes*

The sale of e-cigarettes to minors is prohibited by California Health & Safety Code §119405, and the Office of the Attorney General is also concerned that many e-cigarettes are sold without appropriate quality controls and with many false or misleading claims about their safety, and are in violation of Proposition 65 which requires health warnings about carcinogens and reproductive toxins.

Attorney General Jerry Brown settled his suit against e-cigarette marketer Sottera, Inc., which sells NJOY, in August 2010. The suit alleged that Sottera made false claims about its products, including that they contain no carcinogens, are safe or safer than traditional cigarettes, and help smokers quit smoking, failed to give the Proposition 65 warnings of dangerous reproductive toxins, marketed to minors, and failed to have adequate quality control in place to protect consumers.<sup>503</sup> The Stipulated Consent Judgment<sup>526</sup> included an injunction that required Sottera to make its website age-restricted, not to sell flavored products attractive to young persons, and stop making false or misleading claims concerning the safety or effectiveness of their products. Sottera was also required to adopt quality controls and to place Proposition 65 warnings on the outside of packages of their products. The injunctive relief also had extensive point-of-sale limitations including prominent warnings that its products could not be sold to minors, and a prohibition on self-service displays. The consent Judgment prohibits self-service displays that are accessible to minors and requires that the company's products be put out of reach of customers, and requires that Sottera police their agents, distributors and retailers on those limitations. The Attorney General staff checks and follows up on reports of possible violations. Additionally, the staff have shared their concerns with Sottera for announcing they would begin sell flavors in a U.S. Senate Commerce Committee hearing.<sup>503</sup> The Attorney General's staff continues to monitor the website and it has not failed any of their compliance tests.<sup>503</sup>



In November 2010 Attorney General Jerry Brown settled his suit against e-cigarette marketer Smoking Everywhere<sup>527</sup> for making false claims about its products, failing to give the Proposition 65 warnings of dangerous reproductive toxins, marketing to minors, and failing to have adequate quality control in place to protect consumers. The settlement was very similar to the one reached with Sotterra in August 2010.

California Attorney General Kamala Harris (D) joined forty other state Attorneys General in signing a letter on September 24, 2013 to Margaret Hamburg, Commissioner of the U.S. Food and Drug Administration urging the agency to move quickly on regulating electronic cigarettes pursuant to its authority to do so under the federal Family Smoking Prevention and Tobacco Control Act.<sup>528</sup> Other than signing the letter to the FDA, up to March 2014 General Harris had taken no legal actions on electronic cigarettes despite their rapid growth in sales and documented misleading health claims.

### *Internet Sales*

California has two statutes directly regulating “remote sales” of tobacco where the buyer and the seller are not face-to-face in a retail store. Business & Professions Code §22963 requires that the remote seller verify that every customer is at least 18 years old by either matching the name, address and date of birth with a government database or by requiring the customer to attest in writing that he or she is at least 18 years old and provide a copy of a government-issued identification, such as a driver’s license or passport. In addition, the seller may not fill an order for less than two cartons of cigarettes, must call the customer to verify the order and deliver the order to a verified mailing address, not a Post Office box. Revenue & Taxation Code §30101.7 requires a “remote” seller to fully comply with the federal Jenkins Act by reporting every interstate sale of cigarettes or smokeless tobacco to the Board of Equalization. The Jenkins Act requires anyone selling cigarettes or smokeless tobacco from one state to another to a person who is not a tobacco distributor in the receiving state register with the attorney general and tobacco taxing agency of the receiving state, and to report each sale of tobacco products to the tobacco taxing agency in the receiving state. In addition, the California law requires that the delivery seller comply with the federal Jenkins Act, must pay the state excise tax on cigarettes or tobacco products delivered to a consumer in California and comply with all other state licensing, tax stamping and sales requirements applicable to tobacco products as if the delivery seller were located in California.<sup>503</sup>

***Other than signing the letter to the FDA, up to March 2014 General Harris had taken no legal actions on electronic cigarettes despite their rapid growth in sales and documented misleading health claims.***

In 2009, Attorney General Brown sued Hemi Group, LLC for illegally selling cigarettes via the Internet to consumers, unlicensed distributors, wholesalers, and tribal entities located in California in violation of California law. In September 2009, a settlement of the case was reached.<sup>529</sup> In addition to enjoining the defendant from further violations of California law, the settlement required Hemi Group to provide the Attorney General and the Board of Equalization the details of all transactions between Hemi Group and California consumers, unlicensed distributors, wholesalers and tribal entities since January 1, 2005, constituting over 100,000

illegal transactions.<sup>512</sup> The Board of Equalization has been attempting to collect all taxes owed. This action did not appear to deter other illegal Internet sellers. The Attorney General has sponsored two bills to ban remote sales (SB 1209 and AB 1617). Both bills were passed by the Legislature and vetoed by Governor Schwarzenegger.<sup>503</sup>

In June 2008, Attorney General Brown sued Scott Maybee, a member of the New York Seneca Tribe, alleging he had engaged in at least 166,716 California transactions in violation of both of the state's "remote sales" laws. Maybee claimed the sales were exempt from California law because of Indian tribal sovereignty as he sold the cigarettes from the Seneca Reservation in New York. In July 2010, the court found Maybee had violated both "remote sales" statutes, along with the unfair business practices law, Business & Professions Code §17200, awarded a civil penalty of \$130,000, and enjoined Maybee from further violations of law.<sup>530</sup> Maybee stopped illegal Internet sales nationwide after a major credit card company terminated Maybee and fined its member bank, First Regional Bank, \$25,000 for facilitating these illegal online tobacco sales. These actions made it possible for the Attorney General to get the bank to agree to Assurance referred to below.<sup>503</sup>

In September 2008, California, New York and Idaho entered into an Assurance of Discontinuance and Voluntary Compliance agreement with Los Angeles-based First Regional Bank.<sup>531</sup> During the investigation of the Maybee case initiated by California Attorney General Brown, it was determined by the three states that Los-Angeles-based First Regional Bank had been processing income from illegal sales of tobacco products by online tobacco retailers throughout the United States. At this point, major credit card companies had already agreed with the federal government to prevent their cards from being used to facilitate illegal tobacco sales, and FedEx and UPS refused to deliver cigarettes purchased online. Thus shutting down First Regional Bank's facilitation of illegal online sales furthered this effort to curtail youth smoking. This case was an enforcement of California law on internet sales, not the MSA: technically it was activity in furtherance of illegal conduct by Maybee.

### ***Contraband Tobacco Sales***

Cigarette manufacturers must be listed on the California Department of Justice Tobacco Directory of MSA-compliant manufacturers in order to sell their products in California. The cigarettes must also meet California's fire safe cigarette standard. The packs of cigarettes must have excise tax stamps affixed to them to evidence payment of the cigarette excise tax.

Darren Rose, a tobacco retailer, was selling to the general public cigarettes that were off-directory, untaxed, and not certified as fire-safe (as required by California law). Rose did not voluntarily comply with these state laws claiming he was an exempt Native American. (Off-directory means the manufacturer of the cigarettes had not complied with the California's tobacco directory law.) On February 14, 2013, Attorney General Kamala Harris (D) sued Rose, Rose claimed various exemptions based on his membership in a federally recognized Indian tribe and the businesses' location in Indian Country. The Superior Court of Shasta County rejected the exemptions and, on July 22, 2013 entered a preliminary injunction against Rose.<sup>532</sup> Rose's weak compliance with the injunction led the court to issue an order tightening the injunction. Rose closed both stores shortly after.<sup>503</sup>

Rufus and Kelly Sixkiller operated a tobacco store on the Torres-Martinez reservation in Riverside County where they sold off-directory, untaxed, and not certified as fire safe cigarettes to the general public. In March 2013 Attorney General Kamala Harris sued the Sixkillers and in 2013 obtained a preliminary injunction against them. After the Sixkillers attempted to evade the injunction by using Native Americans to facilitate cigarette purchases by non-tribal members, the court issued another order requiring the Sixkillers to keep detailed records of all their sales, instruct their employees on the requirements of the court's orders, and post a sign in the shop stating that sales to non-tribal members is illegal. The shop was later closed by the owners.<sup>503</sup>

Attorney General Kamala Harris sued Ardith Huber (Huber Enterprises), a tobacco retailer and distributor, in March 2011 for selling non-directory, untaxed, and non-fire-safe-certified cigarettes to the general public. Like Darren Rose, Huber claimed she was exempt from the state laws because of her membership in a federally recognized Indian tribe and her business was located in Indian Country. In November 2013, the Superior Court of Humboldt County granted a Preliminary Injunction against Huber to prohibit her from selling non-fire-safe-certified cigarettes to anyone but fellow members of the Wiyot Tribe on the Table Bluff Reservation.<sup>533</sup> Huber was sanctioned for violating the injunction and, as of August 2014, the case was set for trial.<sup>503</sup>

Retailer Black Hawk Tobacco, Inc., was sued in June 2009 by Attorney General Brown for selling cigarettes to the general public that were off-directory, untaxed, and not certified as fire-safe. The defendant had four smoke shops located on the reservation trust lands of the Agua Caliente Band of Cahuilla Indians near Palm Springs. Black Hawk had obtained the necessary retail tobacco licenses from the Board of Equalization. On March 26, 2010, the trial court in Riverside County entered a preliminary injunction to prohibit Black Hawk Tobacco from selling such contraband cigarettes to anyone except for untaxed cigarettes sold to any members of a federally recognized tribe in California on any reservation. Black Hawk appealed to the California Court of Appeals and lost in 2011.<sup>534</sup> After the case was sent back to the trial court, it imposed a fine of \$3.5 million and issued a permanent injunction prohibiting defendants from selling cigarettes to the general public that were off-directory, untaxed, unstamped, and not certified as fire-safe in July 2012.<sup>535</sup> In November 2012, the trial court awarded the Attorney General's Office \$890,391 for attorney and paralegal work, plus the costs of hiring investigators and expert witnesses.<sup>536</sup>

Attorney General Brown sued Nativebuy, Inc. in September 2010 for selling off-directory, untaxed, unstamped and non-fire-safe-certified cigarettes. In December 2012, the Superior Court of Riverside County assessed \$5 million in penalties against Nativebuy for about 190,000 violations of the California and federal law.<sup>537</sup>

In August 2011, General Harris sued Larry Sault, the owner of Nativebuy, Inc. for selling cigarettes to the public that were off-directory, untaxed, and not certified as fire safe operating as Road Runner Trading Post on the Cahuilla Band of Indian's reservation in Anza, California. In October 2013, the court entered a \$4.3 million default judgment against Road Runner.<sup>503</sup>

## Conclusion

The California Department of Justice continued to enforce both the Master Settlement Agreement and state laws affecting tobacco marketing and sales in California in the period 2007-2013, but with markedly decreasing vigor when compared with 1999-2006. As chief law enforcement officer of the state, the California Attorney General has a responsibility to the citizens of the state to protect them from tobacco industry efforts to maximize profits at the expense of the health of Californians using the MSA and state tobacco marketing and sales laws. Even with its shortcomings, the MSA provides some effective legal tools to keep the tobacco industry in check; California also has some good tobacco marketing and sales laws that restrict tobacco manufacturers and retailers. Without the full weight of the authority of the Office of the Attorney General enforcing the MSA and the state laws, the public health of all Californians is put at risk. The engagement of the National Association of Attorneys General in the smokefree movies effort was actively promoted and supported by General Lockyer and completely ignored by Generals Brown and Harris. The totality of the conduct shows that Brown and Harris did not consider tobacco control enforcement activities to be of major importance to their Attorney General administrations.

***The California Department of Justice continued to enforce...laws affecting tobacco marketing and sales in California in the period 2007-2013, but with markedly decreasing vigor when compared with 1999-2006***



## CHAPTER 7: DISCUSSION AND RECOMMENDATIONS

- California's position as a leader in tobacco control is under threat by the resurgence of the tobacco industry, the emergence of new unregulated tobacco products, and decreasing spending power of the tobacco control program.
- A major source of tobacco industry influence in California is campaign contributions and lobbying expenditures. The trend through the period 2003-2010 was one of increasing expenditures.
- State Democratic leadership including Governor Jerry Brown (\$55,500), Assembly Speaker John Pérez (\$36,300), and Assembly Government Organization Committee Chair Isadore Hall (\$39,700) accepted tobacco industry contributions.
- Countering a resurging tobacco industry will require advocates to be much more visible and assertive in challenging politicians who take tobacco money.
- Concentrating on local action allows for diverse innovative policymaking and is an environment in which policymakers are relatively more sensitive to public support for public health and less susceptible to lobbyists and campaign contributions.
- Electronic cigarette lobbying organizations should be viewed with the same concern as traditional tobacco manufacturing lobbying.
- California's Tobacco Control Program funding has been eroding, new sources of revenue are needed. The small margin by which Proposition 29 lost shows that a public health victory is within reach for a future tax initiative that is properly framed, particularly making it a clear top priority to give funding for tobacco control efforts makes the initiative easier to defend to the public and public opinion leaders.
- The 2014-2015 California State Budget Supplemental Reporting Language requires an examination of the Board of Equalization's funding from Proposition 99 collection of the retail licensing fee, which provides an opportunity for the tobacco control community to press the legislature to increase the tobacco retail license fees.
- The diversions from Proposition 99 programs (as well as other tobacco tax funded programs, such as First 5) could be ended by making the tobacco retail licensing fee an annual payment of \$249.

Between 2007 and 2014 tobacco control efforts in California continued to be met by opposition from the tobacco industry.

***Through the use of campaign contributions and the lobbying of the Democratic leadership in the State Assembly, the industry was able to kill important tobacco control legislation.***

At the state-level the industry dominates tobacco control policies. Through the use of campaign contributions and the lobbying of the Democratic leadership in the State Assembly, the industry was able to kill important tobacco control legislation. Through massive spending they narrowly defeated the tobacco tax initiative Proposition 29. The emergence of the electronic cigarette industry (which is increasingly controlled by the cigarette companies) worked to block

clean indoor air ordinances and retail licensing requirements. In 2009, 14.8% of all deaths were attributed to smoking in California. The economic burden in California, amounted to \$18.1 billion in 2009.<sup>7</sup> California's Tobacco Control Program has been put in jeopardy through a loss of

spending power and incoming revenue. Despite major setbacks at the state level, locally California has still been a leader in developing innovative ways to reduce tobacco use.

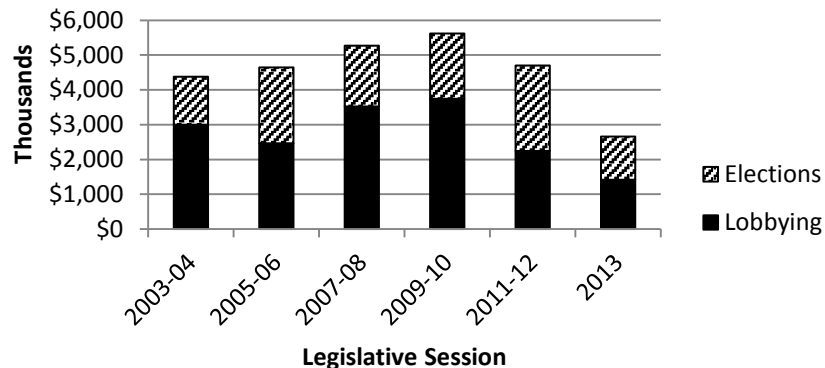
### Tobacco Industry Influence

Tobacco industry influence in California comes from campaign contributions and lobbying expenditures (Figure 7.1). The trend through the period 2003-2010 was one of increasing expenditures. The most important component of tobacco industry influence to come out of the period 2003-2013 was the birth and significant growth of tobacco industry contributions to non-party committees; by the 2011-12 election cycle, contributions to nonparty committees was nearly as much as the total of contributions to individual candidates and political parties combined. In the 2011-12 election cycle, total tobacco industry campaign contributions were \$2,458,885 compared to \$1,270,287 in the 1991-92 election cycle. If that total of 1991-92 contributions is adjusted to 2012 dollars, it would take \$2,146,785 in 2012 dollars to equal the total contributions in 1991-92, a difference of \$312,100 (12.6%) more than the adjusted 1991-92 expenditures. In the 2011-12 election cycle, only 26.7% of contributions were to individual candidates, but in 1991-92, contributions to individual candidates was 72.5% of total contributions. With almost three quarters of tobacco industry campaign contributions going to political parties and non-party committees, it is difficult to trace funds to individual campaigns.

*With almost three quarters of tobacco industry campaign contributions going to political parties and non-party committees, it is difficult to trace funds to individual campaigns*

One trend that is in the public record is the increase in Democrats taking individual campaign contributions after the 2012 election, including Governor Jerry Brown (\$55,500); his predecessors Pete Wilson (R), Gray Davis (D) and Arnold Schwarzenegger (R) accepted no direct tobacco industry contributions.

**Total Tobacco Industry Expenditures for Candidate Elections and Lobbying, 2003-2013**



**Figure 7.1. Total Tobacco Industry Expenditures for Candidate Elections and Lobbying, 2003-2013<sup>2</sup>**

Assembly Speaker John Perez (D, Dist. 53, \$36,300) took tobacco money while his immediate predecessor Karen Bass (D, Dist. 47) took none. Going back to 1996, out of the six Speakers preceding Perez, two took tobacco industry money while serving as Speaker: Antonio Villaraigosa (D, Dist. 45, \$500, 1998-2000) and Fabian Nunez (D, Dist. 46, \$10,800, 2004-2008). 2012 would be the first time in years the tobacco industry would give almost equally to the Republican and Democratic parties. The acceptance of tobacco money by Democratic leadership should be a concern for the public and tobacco control advocates. Leadership controls what committees hear certain bills, who chairs the committees, and set both policy and appropriation agendas.

***The most important component of tobacco industry influence to come out of the period 2003-2013 was the birth and significant growth of tobacco industry contributions to non-party committees***

Seven tobacco control measures were introduced in 2013, and two passed and were signed by Governor Brown, and two carried over to 2014. One bill that became law in 2013 was AB 352 prohibiting smoking in foster care homes authored by Assemblymember Isadore Hall (D, Dist. 4, \$39,700). Hall's bill was not considered aggressive tobacco control policy by health advocates. Hall was number 9 among the top lifetime legislative recipients of tobacco industry contributions and number 3 among Democrats. Hall was Chair of the Assembly Government Organization Committee which hears all tobacco bills and in which tobacco control bills often died or were killed during his tenure as Chair.

***It is important that elected officials be held accountable to taking money and compromising with the tobacco industry.***

It is important that elected officials be held accountable for taking the tobacco industry's money and supporting the industry's policy objectives. It is the responsibility of public health advocacy organizations to educate the public about these connections.

### **Statewide Elected Officials Fail to Lead on Tobacco Control**

Statewide elected officials play an important role in prioritizing public policy and enforcing law. Between 2007 and 2014, California's executive leadership including Jerry Brown in both his role as Governor and Attorney General, Governor Schwarzenegger and Attorney General Kamala

***Under both administrations, there was no support for a tobacco tax increase, closing loopholes in the state clean indoor air law, improving the CTCP through budgeting, or regulating electronic cigarettes.***

Harris have failed to prioritize important tobacco control policies. Without prioritizing tobacco control, tobacco companies continue to profit at the expense of the health of Californians and the California economy.

More tobacco control legislation passed under Governor Brown than under Governor Schwarzenegger. During Schwarzenegger's second term (2006-2010), twenty-seven tobacco control bills were introduced, seven passed (26%) but Schwarzenegger vetoed five of them



so only two became law (7%). During Governor Brown's first three years, twenty-two tobacco control bills were introduced, nine passed (41%) and seven became law (32%). Brown signed AB 1301 (Hill) which made it easier for the Board of Equalization to fine retailers by eliminating the 13% compliance threshold for selling to minors. The bill was one of the few wins for health advocates. However, Brown vetoed Assembly Bill 217, which would have closed one of California's clean indoor air loopholes by prohibiting smoking inside nursing homes and other long-term healthcare facilities in California and eliminated secondhand tobacco smoke exposure to protect non-smoking workers, non-facility workers and patients.

Neither administration prioritized major tobacco control policies. Under both administrations, there was no support for a tobacco tax increase, closing loopholes in the state clean indoor air law, improving the CTCP through budgeting, or regulating electronic cigarettes.

2007-2014 was marked by a decline in the Attorney General's enforcement of the restrictions on marketing set by the MSA. Neither Attorney Generals Brown nor Harris have joined the National Association of Attorney Generals on battling smoking in the movies, an important tobacco control policy priority. Attorney General Harris has taken no legal action against any cigarette company for marketing violations of the MSA or on electronic cigarettes despite the rapid growth of the industry and the developing body of research highlighting health concerns.

***Advocates need to pressure the Governor to make tobacco control policy a priority and shame him for his ties to the tobacco industry. They need to press the Attorney General to enforce the non-economic provisions of the MSA.***

It is important that statewide political leadership prioritize tobacco control. Accomplishing this goal will require advocates to press the Governor to make tobacco control a priority and to stop taking money from the tobacco industry. Additionally, they will need to press the Attorney General to enforce the noneconomic provisions of the MSA. As more cigarette manufacturers enter the e-cigarette market, leadership needs to recognize this as an important public health concern for the state.

### **Local Tobacco Control Efforts**

Even before the passage of Proposition 99, local governments in California have been the best avenue for tobacco control efforts in California.<sup>254, 538</sup> Concentrating on local action allows for diverse innovative policymaking and is an environment in which policymakers are relatively more sensitive to public support for public health and less susceptible to lobbyists and campaign contributions.

Between 2007 and 2014 California continued its leadership on local tobacco control efforts, despite the major influence the tobacco industry has had over state policymaking. Strides were made in tobacco control in emerging areas such as smoking in multi-unit housing, smokefree outdoor policies, improving retail licensing ordinances, and the use and sales of electronic

***The American Lung Association's grading system for local governments has played an important role in shaming local officials into improving tobacco control policies.***

cigarettes.<sup>254</sup> The American Lung Association's grading system for local governments has played an important role in shaming local officials into improving tobacco control policies.

Smoke free multi-unit housing was a strong area of local action in California, with important support from the California Tobacco Control Program's competitive grants program to local advocates and its smokefree media campaigns, as have been measures to end smoking in outdoor areas such as restaurant patios and beaches. All these changes not only protect nonsmokers from secondhand smoke, but contribute to changing social norms and facilitate smoking cessation.

***Unlike the weak state law, these local laws include annual renewal of licenses with significant renewal fees to pay for enforcement of laws prohibiting sales of tobacco to***

Retail licensing restrictions are an important element of local tobacco control policy. California's statewide retail licensing ban enacted in 2003 does little to curb illegal sales to minors. Passage of AB 71, the STAKE Act, in 2003, which required retailers to obtain a one-time license to engage in the sale of tobacco products, was followed by an increase in the number of strong local retail licensing laws from 4 to 141. Unlike the

weak state law, these local laws include annual renewal of licenses with significant renewal fees to pay for enforcement of laws prohibiting sales of tobacco to minors. When considering a strong retail licensing ordinance at the local level, advocates must be prepared for attacks from tobacco industry's allied organizations including the National Merchants Association. Shared arguments between these allies and the tobacco industry include that the state law is sufficient to prevent youth initiation and that retailers will go out of business if such laws are adopted.<sup>539</sup>

## **Electronic Cigarettes**

Between 2007 and 2013 the rise of electronic cigarettes presented a new challenge for tobacco control. E-cigarettes are widely marketed on the Internet, and on television and radio, with claims of helping smokers quit, a healthier alternative to tobacco smoking, with secondhand smoke replaced by "harmless water vapor."<sup>49</sup> Electronic cigarette use has been rising among children, and school administrators have become increasingly concerned. In the absence of action from the federal government on electronic cigarettes, it is important that state and local governments establish policies restricting their sale and use. The voluntary health organizations, who are key players and opinion leaders in tobacco control in California, have been slow to address the problem of electronic cigarettes.

Though cigarette manufacturers have no public credibility, they have played an increasingly powerful role behind the scenes, especially in the Legislature, particularly as they have entered the e-cigarette market. Not surprisingly, the fight in Los Angeles over the regulation of e-cigarettes illustrates how the e-cigarette industry – which, as noted above, is being increasingly dominated by the major tobacco manufacturing companies – continues to use historic tobacco industry strategies<sup>282-283, 372, 538, 540</sup> to mobilize opposition, including recruiting bar operators and

***The voluntary health organizations, who are key players and opinion leaders in tobacco control in California, have been slow to address the problem of electronic cigarettes.***

tobacco retailers to make claims that restrictions on sales and use would harm small businesses. They also used more modern tactics including "Twitter bombs" and other social media and internet forums to recruit opposition from e-cigarette users and to intimidate public officials.

In contrast to the state Legislature, where tobacco interests are in resurgence and have blocked or hijacked meaningful legislation (such as Senator Ellen Corbett's SB 648), committed local officials, supported by local health advocates (and, belatedly, the major state voluntary health organizations) have overcome industry opposition. As a result, as of August 2014, 41% of California's population was covered by smokefree laws that included e-cigarettes.

In the absence of effective state action, beginning in 2006, local governments took on the task of regulating the retail environment for electronic cigarettes. Prior to the state law restricting sales to minors, there were reports of e-cigarettes being sold to children at mall kiosks and out of ice cream trucks. By August 2014, 17 cities had regulated the sale and distribution of electronic cigarettes by including them in their tobacco retail licensing laws. These retail licensing laws address emerging products, including electronic cigarettes, by including local licensing requirements, penalties for noncompliance, and enforcement mechanisms and serve as good models for similar legislation elsewhere.

Tobacco control policies need to be carefully crafted so they are inclusive of e-cigarettes and prepare for other products that may emerge on the market. Educating the population about the harmful effects of e-cigarettes is important for public health, as is viewing the e-cigarette lobbying with the same concern as the traditional tobacco manufacturing lobbying.

One important player that has been missing from the e-cigarette debate has been the California Department of Public Health's California Tobacco Control Program. To effectively address rising electronic cigarette use, the CTCPC needs to integrate strong messaging about e-cigarettes (including the fact that the same tobacco industry is now selling them, that an important effect of e-cigarettes is to keep people smoking conventional cigarettes,<sup>49</sup> and that they contain the addictive drug nicotine) into its media education efforts.

### **The Tobacco Control Program Funding Challenges**

With ever-declining inflation-adjusted resources from Proposition 99, the sole source of state funding for the tobacco control program, it is time for tobacco control advocates to insert themselves into the legislative budget process so that the available Proposition 99 funds are used to restore the effectiveness of the California Tobacco Control Program. The most direct way to do this would be to allocate 90% of the Proposition 99 Unallocated Account to the California

***With ever-declining inflation-adjusted resources from Proposition 99, the sole source of state funding for the tobacco control program, it is time for tobacco control advocates to insert themselves into the legislative budget process.***

***Inflation has seriously eroded the purchasing power of the money raised by Proposition 99***

Tobacco Control Program. Doing so would curb the effects of inflation that have been damaging to the program.

### ***New Sources of Revenue for Tobacco Control Programs***

For many years, California set the bar in tobacco control with substantial funding for tobacco control programs, the first statewide smokefree workplaces law, and rapid declines in smoking prevalence and consumption. However, inflation has seriously eroded the purchasing power of the money raised by Proposition 99 to support tobacco control efforts; it only cost 53 cents in 1989 to buy what cost \$1 in 2013. We now see the impact of that loss of purchasing power in a rate of decline in California cigarette consumption that is less than the rate of decline in US cigarette consumption, and a lower percentage of decline in California youth smoking prevalence than in the US.

Tobacco control advocates need to look beyond an increase in the tobacco excise tax for new funding as history has shown how difficult it is to increase the excise tax in California despite successful efforts to increase tobacco excise taxes in most of the other states since 2000.

The California tobacco control program has been a remarkable investment of taxpayer money. From 1989 to 2008, the California Tobacco Control Program cost \$2.4 billion and resulted in

***From 1989 to 2008, the California Tobacco Control Program cost \$2.4 billion and resulted in \$243 billion in healthcare savings.***

\$243 billion in healthcare savings.<sup>541</sup> This return on investment calculation does not account for other savings attributable to improved quality of life of smokers who quit, and improved productivity attributable to reduced tobacco-related diseases. Tobacco control advocates should demand that the Governor propose and the Legislature approve investing

adequate revenues in the tobacco control programs to restore their scope and effectiveness to where they were when the voters approved Proposition 99.

All of these tactics will require aggressive outside advocacy efforts by tobacco control advocates; inside advocacy, alone, will not work. This should start with a public education program on the wisdom of investing in tobacco control: a 55-to-1 return on investment is likely the highest in public fund investment in California. Wrestling Proposition 99 Unallocated Account funds from the entrenched beneficiaries of those funds that have received the appropriations for decades will be difficult; any request for tapping the General Fund for increased tobacco control monies will meet strong resistance from the governor and the Legislature.

***One important player that has been missing from the e-cigarette debate has been the California Department of Public Health's California Tobacco Control Program.***

## ***Board of Equalization Charge***

The Cigarette and Tobacco Products Licensing Act of 2003 required retailers to obtain a license to sell tobacco products, but only imposed a onetime fee of \$100 to cover administration, which raised only a little more than \$1 million annually, while the cost of administration was over \$9 million annually. The shortfall in AB 71 revenue for the cost of BOE administration was allocated by the Legislature proportionately among Proposition 99, Proposition 10, the Breast Cancer Research Fund and the General Fund accounts.<sup>63</sup> This has not been an appropriate use of Proposition 99 funds, because it does not involve research of tobacco-related diseases; school and community health education programs about tobacco; fire prevention; and environmental conservation and damage restoration programs

The origin of this diversion of Proposition 99 revenues to BOE was revealed in the May 21, 2014 report of the Assembly Budget Subcommittee No. 4 State Administration:

In the 2006-07 Governor's budget the BOE acknowledged the AB 71 licensing fee revenues were declining (from \$17.1 million to \$2.1 million) and asked for reimbursement authority for the costs of the program from the General Fund and the three special funds – Breast Cancer, Prop 99 and Prop 10. The BOE made this change in the funding stream to support the AB 71 program without new legislative authorization and created a new cost allocation methodology between the General Fund and special funds that remains today.<sup>249</sup>

The language of Proposition 99 clearly limits payments from Proposition 99 revenue: “With the exception of payments of refunds made pursuant to Article 1 (commencing with Section 30361) of Chapter 6, *and reimbursement of the State Board of Equalization for expenses incurred in the administration and collection of the tax imposed by Section 30123*, pursuant to its powers vested by this part, all moneys raised pursuant to the taxes imposed by Section 30123 shall be deposited into the fund as provided in subdivision (b) [emphasis added]” Health & Safety Code §30124(a). The Legislative Analyst Office report on Proposition 99 as written in 1988 stated: “Administration of the surtax on cigarettes and tobacco products would increase annual costs to the State Board of Equalization by approximately \$500,000 in 1988-89 and \$300,000 in subsequent years. These costs would be reimbursed out of the proceeds of the additional taxes.”<sup>249</sup>

***Tobacco control programs  
are being reduced to  
subsidize the cost of the retail  
sales of tobacco products.***

The Legislature passed AB 2344 in 2008 to impose annual renewal fees to eliminate this AB 71 shortfall, but Gov. Arnold Schwarzenegger vetoed the bill.<sup>64</sup> In FY 2014, the appropriation from Proposition 99 gross revenue to BOE was \$10 million; it reduced Health Education Account funding for the tobacco control programs by \$2 million and reduced Research Account funding for TRDRP by \$0.5 million. Thus, tobacco control programs are being reduced to subsidize the cost of the retail sales of tobacco products.

In 2014, Supplemental Budget Reporting Language required that the BOE prepare a detailed breakdown of BOE expenditures on both the Proposition 99 tax collection and on the AB 71

tobacco retailer licensing administration, and the methods used for allocating costs for Proposition 99 tax collection and AB 71 administration. Additionally, it required BOE to convene all stakeholders to develop a report that describes at least three alternative approaches for future funding of the AB 71 licensing program. This gives health advocates an opportunity to inform the Legislature about a need to increase the tobacco retail license fee.

***The percentage of Proposition 99 tax revenue allocated BOE to cover the costs of collecting the tax could be returned to FY 2000-01 level by assessing an annual tobacco retail licensing fee of ... \$248 per license.***

In FY 2000-01, the BOE was appropriated approximately \$1.3 million or 0.3% of Proposition 99 funds to recover the cost of collecting the tobacco tax. Before the passage of AB 71, funds remained relatively stable. By FY 2013-14 this amount had increased to \$10 million or 3.7% of total revenues, presumably because of the increased costs associated with administering tobacco retail licenses. In FY 2013-14 Proposition 99 yielded \$264 million in tobacco tax revenue. Assuming that the cost of collecting these taxes remained at 0.3% of revenues, the cost of BOE of collecting the tax would be \$792,000. Assuming that the increase in BOE

charges against Proposition 99 from 0.3% to 3.7% is due to the cost of enforcing AB 71, the BOE spent \$9,195,000 enforcing AB 71. There were 37,006 tobacco licenses in California in 2013,<sup>542</sup> Therefore, the percentage of Proposition 99 tax revenue allocated BOE to cover the costs of collecting the tax could be returned to FY 2000-01 level by assessing an annual tobacco retail licensing fee of  $\$9,195,000/37,006 = \$248$  per license.

The retail licenses should be renewed annually, similar to retail alcohol licenses, and adjusted for inflation. Tobacco control advocates should partnering with the First 5 Commission to ensure that the diversions from Proposition 99 and First 5 Funds end to pay for enforcement of AB 71.

### ***Cancer Registry***

The diversion of funds from the Proposition 99 Research Account to the Department of Public Health Cancer Registry account has been depriving the Tobacco-Related Disease Research Program of resources since 1996. This diversion started out as a small percentage of the total Research Account, but by FY 2014 it amounted to 40.3 percent of the total Research Account. It is unclear from available data how the appropriation from the Research Account for the Cancer Registry is actually being used, or what the annual cost of the Cancer Registry program is. However, TRDRP reported in 2007 that the Department of Finance and CDPH stated that most of the diverted Research Account money was used as salary support for personnel in the Cancer Registry and in the Environmental Health Investigations unit of CDPH.<sup>65</sup> These expenditures appear to be a violation of the Proposition 99 mandate for the Research Account and warrant attention by health advocates and the Legislature in the same manner as is being done with the BOE use

***It is unclear from available data how the appropriation from the Research Account for the Cancer Registry is actually being used, or what the annual cost of the Cancer Registry program is.***

of Proposition 99 funds for enforcement of AB 71.

For fiscal year 2008, TRDRP requested that the Governor's Budget shift the funding for the Cancer Registry from the Proposition 99 Research Account to the Proposition 99 Unallocated Account.<sup>65</sup> The Proposition 99 Unallocated Account receives 25% of the Proposition 99 gross revenues, and may be appropriated for any of the purposes set out in Proposition 99, which includes tobacco-related disease research.

### **Proposition 29: The (Barely) Failed Tobacco Tax Initiative**

The failure of Proposition 29 was a major setback for tobacco control funding. Proposition 29 would have raised an estimated \$810 million in the first fiscal year 2013-14, including 20% of revenue (approximately \$162 million) allocated to reinvigorate the California Tobacco Control Program. Battling the tobacco industry on initiatives is difficult given the overwhelming amount of money they can and will spend to defeat tax measures, but it is possible.<sup>495, 540</sup> Because the election was so close – Proposition 29 lost by a mere 0.4%, the narrowest defeat of an initiative in California<sup>543</sup> – it is difficult to pinpoint precisely what would have led to a victory. The weak media campaign and failure to more directly engage the industry is one thing that was under the proponents' control. The fact that the primary purpose was to fund biomedical research rather than tobacco control activities that are more obviously connected to the tax itself also likely contributed to the loss.

***The small margin the initiative lost by shows that a public health victory is within reach for a future tax initiative***

The small margin the initiative lost by shows that a public health victory is within reach for a future tax initiative that is properly framed, particularly to give funding for tobacco control efforts clear top priority in order to make the initiative easier to defend to the public and public opinion leaders.<sup>495</sup>

### **Conclusion**

California has historically been a trendsetter in developing tobacco control policies that reduce tobacco use. Locally the state continued to push the envelope by adopting comprehensive tobacco control policies including smokefree multi-unit housing, restricting the sales and use of e-cigarettes, and prohibiting smoking in outdoor spaces. However, the success of local governments has been counterbalanced by a rise of tobacco industry influence at the state level. Both the Governor and Legislature's Democratic Leadership have been accepting campaign contributions from the tobacco industry and preventing important tobacco control policies from passing. The state's tobacco control program has seen a decline in purchasing power and has failed to address contemporary issues, most notably e-cigarette use. The state's once-cutting-edge

***Both the Governor and Legislature's Democratic Leadership have been accepting campaign contributions from the tobacco industry and preventing important tobacco control policies from passing.***

media campaign has become cautious and muted.

Public health advocates need to press on politicians of all parties to refuse tobacco industry money and to support public health over the tobacco industry. One way to do this would be to assign individual state officials and legislators annual tobacco policy letter grades in the hope that doing so would motivate pro-health policymaking, just as the American Lung Association has done for communities at the local level.





## References

1. California Secretary of State. How to Qualify an Initiative. 2013. <http://www.sos.ca.gov/elections/ballot-measures/how-to-qualify-an-initiative.htm>
2. California Secretary of State. Campaign Finance. 2014. <http://cal-access.sos.ca.gov/campaign/>
3. Department of Health and Human Services. BRFSS Prevalence and Trends Data - Data Display. Atlanta, GA: Centers for Disease Control and Prevention, Office of Surveillance, Epidemiology, and Laboratory Services 2013. <http://apps.nccd.cdc.gov/brfss/display.asp>
4. California Secretary of State. Lobbying Activity. 2014. <http://cal-access.sos.ca.gov/lobbying/>
5. Orzechowski and Walker. The Tax Burden On Tobacco, Historical Compilation, Volume 48. 2013.
6. California Department of Public Health. Health Summit Equity Charts. 2013.
7. Max W, Sung H-Y, Shi Y, Stark B. The Cost of Smoking in California 2009. University of California San Francisco 2009. 2014.
8. Donoho P. Proposition 10 Campaign Committee. 29 September 1998. Philip Morris. <http://legacy.library.ucsf.edu/tid/alw62i00>.
9. Tobacco Education and Research Oversight Committee. Toward a Tobacco-Free California 2012-2014. Saving Lives, Saving Money. Master Plan of the Tobacco Education and Research Oversight Committee. 2012. <http://www.cdph.ca.gov/programs/tobacco/Documents/TEROC/Full%20Master%20Plan-Web.pdf>
10. Tobacco Education and Research Oversight Committee. Master Plan of the Tobacco Education and Research Oversight Committee for California 2006-2008. 2006 March. <http://www.cdph.ca.gov/services/boards/teroc/Documents/TEROCMasterPlan06-08.pdf>
11. Tobacco Education and Research Oversight Committee. Toward a Tobacco-Free California 2009-2011. Endangered Investment. Master Plan of the Tobacco Education and Research Oversight Committee. 2009. <http://www.cdph.ca.gov/services/boards/teroc/Documents/TEROCMasterPlan09-11.pdf>
12. Hong M-K, Barnes R, Glantz S. Tobacco Control in California 2003-2007: Missed Opportunities, pp. 82-105. *Center for Tobacco Control Research and Education* 2007 November 2007. <http://repositories.cdlib.org/ctcre/tcpmus/CA2007>
13. Novotny T, Siegel M. California's tobacco control sage. *Health Aff (Millwood)*. 1996;15(1):58-72.
14. Pierce J, Gilpin E, Emery S, White M, Rosbrook B, Berry C, Farkas A. Has the California tobacco control program reduced smoking? *JAMA*. 1998;280(10):893-9.
15. Fichtenberg C, Glantz S. Association of the California Tobacco Control Program with declines in cigarette consumption and mortality from heart disease. *N Engl J Med*. 2000;343(24):1772-7.
16. Norman G, Ribisl K, Howard-Pitney B, Howard K, Unger J. The relationship between home smoking bans and exposure to state tobacco Control efforts and smoking behaviors. *Am J Health Promot*. 2000;15(2):81-8.
17. Rohrbach L, Howard-Pitney B, Unger J, Dent C, Howard K, Cruz T, Ribisl K, Norman G, Fishbein H, Johnson C. Independent evaluation of the California Tobacco Control Program:

- relationships between program exposure and outcomes, 1996-1998 *Am J Public Health*. 2002;92(6):975-83.
18. Gilpin E, Lee L, Pierce J. Changes in population attitudes about where smoking should not be allowed: California versus the rest of the USA. *Tob Control*. 2004;13(1):38-44.
  19. Gilpin E, Pierce J. The California Tobacco Control Program and potential harm reduction through reduced cigarette consumption in continuing smokers. *Nicotine Tob Res*. 2002;4(Suppl 2):S157-66.
  20. Al-Delaimy W, Pierce J, Messer K, White M, Trinidad D, Gilpin E. The California Tobacco Control Program's effect on adult smokers: (2) Daily cigarette consumption levels. *Tob Control*. 2007;16(2):91-5.
  21. Levy D, Hyland A, Higbee C, Remer L, Compton C. The role of public policies in reducing smoking prevalence in California: results from the California tobacco policy simulation model. *Health Policy*. 2007;82(2):167-85.
  22. Messer K, Pierce J. Changes in age trajectories of smoking experimentation during the California Tobacco Control Program. *Am J Public Health*. 2010;100(7):1298-306.
  23. Lightwood J, Glantz S. The effect of the California tobacco control program on smoking prevalence, cigarette consumption and healthcare costs: 1989-2008. *PLoS One*. 2013;8(2):e47145.
  24. Tang H, Abramssohn E, Park H, Cowling D, Al-Delaimy W. Using a cessation-related outcome index to assess California's cessation progress at the population level. *Tob Control*. 2010;19(Suppl 1):I56-61.
  25. Miller L, Max W, Sung H, Rice D, Zaretsky M. Evaluation of the economic impact of California's Tobacco Control Program: a dynamic model approach. *Tob Control*. 2010;19(Suppl 1):i68-76.
  26. Barnoya J, Glantz S. Association of the California tobacco control program with declines in lung cancer incidence. *Cancer Causes Control*. 2004;15(7):689-95.
  27. Cowling D, Yang J. Smoking attributable cancer mortality in California, 1979-2005. *Tob Control*. 2010;19(Suppl 1):i62-7.
  28. Pierce J, Messer K, White M, Kealey S, Cowling D. Forty years of faster decline in cigarette smoking in California explains current lower lung cancer rates. *Cancer Epidemiol Biomarkers Prev*. 2010;19(11):2801-10.
  29. California Department of Finance. California Population Estimates, 1900-2013. 2013 December 2013. [http://www.dof.ca.gov/research/demographic/reports/estimates/e-7/documents/E-7\\_Report\\_1900-July\\_2013w.xls](http://www.dof.ca.gov/research/demographic/reports/estimates/e-7/documents/E-7_Report_1900-July_2013w.xls)
  30. Stevens C. Interview of Colleen Stevens by Kate Schwartz. 2013.
  31. Roeseler A. Email Draft Report Comments August 28. 2014.
  32. Zhan X, Cowling DW, Tang H. The impact of social norm change strategies on smokers' quitting behaviours. *Tobacco Control*. 2010;19(1):51-5.
  33. Elliot S. California Revamps Its Campaign Against Smoking. *The New York Times*. January 11. p. [http://www.nytimes.com/2011/01/18/business/media/18adnewsletter1.html?pagewanted=all&\\_r=0](http://www.nytimes.com/2011/01/18/business/media/18adnewsletter1.html?pagewanted=all&_r=0)
  34. Roeseler A, Hagaman T, Kurtz C. The use of training and technical assistance to drive and improve performance of the California Tobacco Control Program. *Health Promot Pract*. 2011;12(6 Suppl 2):130S-43S.

35. Treiber J, Cassady D, Kipke R, Kwon N, Satterlund T. Building the evaluation capacity of California's local tobacco control programs. *Health Promot Pract.* 2011;12(6 Suppl 2):118S-24S.
36. The Local Lead Agency Project Directors Association. *Grassroots Tobacco Control - Success Stories from California's Local Lead Agencies (LLAs)*, June 2007-June 2011. 2012 March 2012.
37. Francis J, Abramssohn E, Park H. Policy-driven tobacco control. *Tob Control.* 2010;19(Suppl 1):i16-20.
38. Modayil M, Cowling D, Tang H, Roeseler A. An evaluation of the California community intervention. *Tob Control.* 2010;19(Suppl 1):i30-6.
39. Satterlund T, Treiber J, Haun S, Cassady D. Evaluating Local Policy Adoption Campaigns in California: Tobacco Retail License (TRL) Adoption. *J Community Health.* 2013;DOI 10.1007/s10900-013-9803-9.
40. Roeseler A, Feighery E, Cruz T. Tobacco marketing in California and implications for the future. *Tob Control.* 2010;19(Suppl 1):i21-9.
41. Satterlund T, Treiber J, Kipke R, Cassady D. A qualitative evaluation of 40 voluntary, smokefree, multiunit, housing policy campaigns in California. *Tob Control.* 2013(Online First, August 31, 2013, doi:10.1136/tobaccocontrol-2012-050923).
42. California Department of Public Health. *About the California Tobacco Control Program (Making a Difference)*. California Tobacco Control Program 2012 January 2012. <http://www.cdph.ca.gov/programs/tobacco/Documents/Making%20a%20Difference%20012012.pdf>
43. California Department of Public Health. *Thrown Away*. 2013 [August 12, 2013]; Available from: <http://www.youtube.com/watch?v=86rGycyHq6E>.
44. California Tobacco Control Program. *The Environmental Impact of Tobacco Waste Summit, Summit Background & Purpose*. 2011 [September 16, 2013]; Available from: <http://www.cce.csus.edu/conferences/ctcp/eitws12/bckgrnPurpose.htm>.
45. California Tobacco Control Program. *Tobacco Product Waste Reduction ToolKit*. 2013 April <http://69.195.124.81/~cigwaste/wp-content/uploads/2013/04/Tobacco-Waste-Toolkit.pdf>
46. Quinn V. *California Tobacco Control Program, Media & Communications - A look ahead PowerPoint Presentation*. In: Swartz K, editor. 2013.
47. California Department of Public Health. *CTCP Solicitation 12-10305 - California Tobacco Advertising Study and Retail Environment Campaign Evaluation Study*. California Tobacco Control Program 2012. <https://tcforg.catcp.org/index.cfm?fuseaction=opportunities.fileFetch&docID=456>
48. Feighery E, Schleicher N, Haladjian H. *Tobacco Marketing in California Retail Outlets, 2000-2005: How the Retail Environment has Changed Over Time and How Community Characteristics Shape It*. Public Health Institute 2009 February <http://www.cdph.ca.gov/programs/tobacco/Documents/Resources/Publications/CDPHTobMarketing00-05.pdf>
49. Grana R, Benowitz N, Glantz S. *Background on E-Cigarettes (Electronic Nicotine Delivery Devices)*. San Francisco, California: Center for Tobacco Control Research and Education 2013 December 2013. <http://escholarship.org/uc/item/13p2b72n>
50. Pannoni A. *Teen E-Cigarette Use a Growing Concern for Parents, School Officials*. US News. May 26. p. <http://www.usnews.com/education/blogs/high-school-notes/2014/05/26/teen-e-cigarette-use-a-growing-concern-for-parents-school-officials>

51. Tobacco Education and Research Oversight Committee. TEROC E-Cigarette Position. 2014 February 26.  
<http://www.cdph.ca.gov/programs/tobacco/Documents/TEROC/TEROC%20Position%20on%20E-Cig%20Use.pdf>
52. Roeseler A, Burns D. The quarter that changed the world. *Tobacco Control*. 2010;19:3-15.
53. Ong M. Email to Elizabeth Cox 9/24. 2014.
54. California Department of Public Health. Advancing Health Equity in Tobacco Control: Health Equity Summit Proceedings. 2014 February.  
<http://www.cdph.ca.gov/programs/tobacco/Documents/Resources/Publications/HealthEquitySum-Web.pdf>
55. California Health and Safety Code, §§104420(n)(1) and (2), (2013).
56. California Department of Education. Press Release - Most Local Educational Agencies in California are Tobacco Free. 2012 October 12.
57. WestEd. Evaluation of the In-School Evaluation of Tobacco Use Prevention Education, 2009-2010: Technical Findings and Documentation. California Department of Public Health 2013.
58. Centers for Disease Control and Prevention. Best Practices for Comprehensive Tobacco Control Programs. 2007.  
[http://www.cdc.gov/tobacco/stateandcommunity/best\\_practices/index.htm](http://www.cdc.gov/tobacco/stateandcommunity/best_practices/index.htm)
59. California Department of Education. Number of Students Enrolled in Public Schools. 2013 October 7. [http://www.ed-data.k12.ca.us/App\\_Resx/EdDataClassic/fsTwoPanelPopup.aspx?#!bottom=/\\_layouts/EdDataClassic/StudentTrendsNew.asp?reportNumber=128&fyr=2013&level=04&report=enrollment](http://www.ed-data.k12.ca.us/App_Resx/EdDataClassic/fsTwoPanelPopup.aspx?#!bottom=/_layouts/EdDataClassic/StudentTrendsNew.asp?reportNumber=128&fyr=2013&level=04&report=enrollment)
60. Park H, Dent C, Abramsohn E, Dietsch B, McCarthy W. Evaluation of California's in-school tobacco use prevention education (TUPE) activities using a nested school-longitudinal design, 2003-2004 and 2005-2006 *Tob Control*. 2010;19(Suppl 1):i43-50.
61. WestEd. Evaluation of the In-School Evaluation of Tobacco Use Prevention Education, 2007-2008: Technical Findings and Documentation. California Department of Public Health 2010 November
62. California Tobacco-Related Disease Research Program. Research Priorities. 2013 [September 26, 2013]; Available from: <http://www.trdrp.org/priorities/index.php>.
63. Johnson E. Assembly Committee on Government Organization Analysis of AB 2344. 2008 February 27. [http://www.leginfo.ca.gov/pub/07-08/bill/asm/ab\\_2301-2350/ab\\_2344\\_cfa\\_20080415\\_132101\\_asm\\_comm.html](http://www.leginfo.ca.gov/pub/07-08/bill/asm/ab_2301-2350/ab_2344_cfa_20080415_132101_asm_comm.html)
64. Schwarzenegger A. Veto Message for AB 2344. In: Assembly CS, editor. 2008.
65. Hong M-K, Barnes R, Glantz S. Tobacco Control in California 2003-2007: Missed Opportunities, pp. 18-19. *Center for Tobacco Control Research and Education* 2007 November 2007. <http://repositories.cdlib.org/ctcre/tcpmus/CA2007>
66. California Tobacco Control Program. California Tobacco Control Program Statewide Training and Technical Assistance Providers. 2014 [March 5, 2014]; Available from: <http://www.cdph.ca.gov/programs/tobacco/Documents/Statewide%20TAT%20Projects.pdf>.
67. Tobacco Education and Research Oversight Committee. Minutes of the TEROC Meeting on Monday, September 24, 2012. 2012.  
<http://www.cdph.ca.gov/programs/tobacco/Documents/TEROC/September%2024%202012%20Minutes%20Final.pdf>

68. Office of the Attorney General. 58 Ops.Cal.Atty.Gen. 586 (1975). 1975
69. Office of the Attorney General. 63 Ops.Cal.Atty.Gen. 290 (1980). 1980.
70. Office of the Attorney General. 74 Ops.Cal.Atty.Gen. 10 (1981). 1981.
71. Office of the Attorney General. 88 Ops.Cal.Atty.Gen. 56 (2005). 2005.
72. Department of General Services. State Contracting Manual, 4.04.4, 4.06. 2013.  
<http://www.dgs.ca.gov/ols/Resources/StateContractManual.aspx>
73. Tobacco Education and Research Oversight Committee. Minutes of TEROC Meeting, February 12, 2014. Sacramento, CA2014.
74. Ong M. Re: Delay of California Tobacco Control Program (CTCP) Contracts. In: Chapman R, editor. Sacramento, CA2012.
75. California Department of Public Health. California Tobacco Control Program (CTCP), California Tobacco Control I-Clearinghouse (CTCIC), Request for proposals (RFP) 10-10046. 2010.
76. Tobacco Education and Research Oversight Committee. Minutes of TEROC Meeting, October 1, 2013. Oakland, CA2013.  
<http://www.cdph.ca.gov/programs/tobacco/Documents/TEROC/10113MinutesFinal.pdf>
77. Ong M. Re: Delay of California Tobacco Control Program (CTCP) Contracts In: Chapman R, editor. Sacramento, CA2013.
78. California Tobacco Control Program. CTCP Expiring Contracts. 2013 October 30, 2013.
79. Tobacco Education and Research Oversight Committee. Tobacco Education and Research Oversight Committee Meeting Agenda, Thursday, October 31, 2013, Sacramento CA. 2013.  
<http://www.cdph.ca.gov/programs/tobacco/Documents/TEROC/October%2031,%202013%20TEROC%20Agenda.pdf>
80. Tobacco Education and Research Oversight Committee. Minutes of TEROC Meeting, October 31, 2013. Sacramento, CA2013.  
<http://www.cdph.ca.gov/programs/tobacco/Documents/TEROC/October%2031,%202013%20Minutes-Final.pdf>
81. California State Auditor. Report 2012-105 - Departments of Public Health and Social Services: Weaknesses in the Administration of the Child Health and Safety Fund and the State Children's Trust Fund Limit Their Effectiveness. 2012 November  
<http://www.bsa.ca.gov/pdfs/reports/2012-105.pdf>
82. California State Auditor. Report 2009-103 - Departments of Health Care Services and Public Health: Their Actions Reveal Flaws in the State's Oversight of the California Constitution's Implied Civil Service Mandate and in the Departments' Contracting for Information technology Services. 2009 September <http://www.bsa.ca.gov/pdfs/reports/2009-103.pdf>
83. Young A. State plans to cut 68 jobs through public Health Insitutute contract. Sacramento Business Journal. (Sacramento, CA) January 10, 2014. p.  
<http://www.bizjournals.com/sacramento/news/2014/01/10/public-health-institute-food-workers-lay.html>
84. Ortiz J. Jerry Brown's budget calls for more state workers, less job outsourcing. Sacramento Bee. (Sacramento, CA) January 20, 2014. p.  
<http://www.sacbee.com/2014/01/20/6079759/jerry-browns-budget-calls-for.html>
85. Tobacco Education and Research Oversight Committee. Audio files of October 31, 2013 TEROC meeting. Sacramento, CA 2013.

86. Editorial Board. Dr. Pan's bill threatens to fix tobacco control program that isn't broken. *Sacramento Bee*. (Sacramento, CA) December 9, 2013. p.
87. Tobacco Education and Research Oversight Committee. Minutes of TEROC Meeting, December 11, 2013. Los Angeles, CA. 2013.  
<http://www.cdph.ca.gov/programs/tobacco/Documents/TEROC/December%2011,%202013%20Minutes%20-%20Final.pdf>
88. California Const. Art. VII, Sec. 4, (2014).
89. Tobacco Education and Research Oversight Committee. Audio files of December 11, 2013 TEROC meeting. Sacramento, CA 2013.
90. California Tobacco Control Program. Make Tobacco History - Request for Applications #14-10013. 2014 January 23, 2014.  
<https://tcfor.catcp.org/index.cfm?fuseaction=opportunities.viewOpp&oppID=43>
91. Tobacco Education and Research Oversight Committee. Audio files of February 12, 2014 TEROC meeting. Sacramento, CA 2014.
92. Givel M, Dearlove J, Glantz S. Tobacco Policy Making in California 1999-2001: Stalled and Adrift. *Center for Tobacco Control Research and Education. Tobacco Control Policy Making: United States*. Paper CA20012001 July 2001. <http://escholarship.org/uc/item/3bz9p3zb>
93. Glantz SA, Begay ME. Tobacco Industry Campaign Contributions Are Affecting Tobacco Control Policymaking in California. *JAMA*. 1994;272(15):1176-82.
94. Monardi F, Glantz SA. Are Tobacco Industry Campaign Contributions Influencing State Legislative Behavior? *Am J Public Health*. 1998;88(6):918-23.
95. Fair Political Practices Commission. Proposition 34: Changes to California Campaign Finance Law. 2013. <http://www.fppc.ca.gov/?id=244>
96. California Secretary of State. Proposition 34 - Text of Proposed Law. 2000.  
[http://vote2000.sos.ca.gov/VoterGuide/text/text\\_proposed\\_law\\_34.htm](http://vote2000.sos.ca.gov/VoterGuide/text/text_proposed_law_34.htm)
97. Morain D. Big Tobacco and its money make comeback - some Democrats decide it's OK to cash the checks. *The Sacramento Bee*. (Sacramento, CA) February 9, 2014. California Forum, p. 1E.
98. Givel M, Glantz S. Tobacco lobby political influence on US state legislatures in the 1990s. *Tobacco Control*. 2001;10:124-34.
99. Goldstein A, Berman N. State tobacco lobbyists and organizations in the United States: crossed lines. 1996.
100. Bowen D. Lobbying Filing Requirements. 2014 [9/23/2014]; Available from: <http://www.sos.ca.gov/prd/lobbying-info/filing-requirements/linfo-filing-requir.htm>.
101. Secretary of State. Lobbying Activity: Individual Lobbyists. 2013; Available from: <http://cal-access.sos.ca.gov/Lobbying/Lobbyists/>.
102. Rosenthal L. California Democrats Accepting More Money From Tobacco Companies. *The Sacramento Bee*. August 2. p. <http://www.sacbee.com/2014/08/02/6601133/california-democrats-accepting.html>
103. Chaloupka FJ. Macro-social influences: the effects of prices and tobacco-control policies on the demand for tobacco products. *Nicotine Tob Res*. 1999;1(Suppl 1):S105-9.
104. Chaloupka FJ, Cummings KM, Morley CP, Horan JK. Tax, price and cigarette smoking: evidence from the tobacco documents and implications for tobacco company marketing strategies. *Tob Control*. 2002;11(Suppl 1):l62-72.
105. Gallet CA, List JA. Cigarette demand: a meta-analysis of elasticities. *Health Econ*. 2003;12:821-35.

106. Grossman M, Chaloupka FJ. Cigarette Taxes: The Straw to Break the Camel's Back. *Public Health Rep.* 1997;112:291-7.
107. Carpenter C, Cook PJ. Cigarette taxes and youth smoking: New evidence from national, state, and local Youth Risk Behavior Surveys. *Journal of Health economics.* 2008 March 27(2):287-99.
108. Buchanan W. State's Fiscal Outlook Much Better. *San Francisco Chronicle.* (San Francisco) November 4, 2012. p. <http://www.sfgate.com/news/article/State-s-fiscal-outlook-much-brighter-4037701.php>
109. Harmon S. Tobacco's Influence Runs Deep in the Golden State; over the Last Decade Cigarette Makers Spent Nearly \$100 Million on Campaigns. *Contra Costa Times.* (Contra Costa)p. [http://www.times-standard.com/ci\\_18520630](http://www.times-standard.com/ci_18520630)
110. Senate Constitutional Amendment 13 Taxation: Cigarettes, May 31 [http://www.leginfo.ca.gov/pub/07-08/bill/sen/sb\\_0001-0050/sca\\_13\\_bill\\_20070531\\_introduced.html](http://www.leginfo.ca.gov/pub/07-08/bill/sen/sb_0001-0050/sca_13_bill_20070531_introduced.html)
111. Senate Constitutional Amendment 13: State Finance September 17 2008 [http://www.leginfo.ca.gov/pub/07-08/bill/sen/sb\\_0001-0050/sca\\_13\\_bill\\_20080917\\_chaptered.html](http://www.leginfo.ca.gov/pub/07-08/bill/sen/sb_0001-0050/sca_13_bill_20080917_chaptered.html)
112. Assembly Bill 89: Tobacco Tax, California State Assembly. January 5, 2009 [http://www.leginfo.ca.gov/pub/09-10/bill/asm/ab\\_0051-0100/ab\\_89\\_bill\\_20090105\\_introduced.html](http://www.leginfo.ca.gov/pub/09-10/bill/asm/ab_0051-0100/ab_89_bill_20090105_introduced.html)
113. Skelton G. Lighting Up a Revenue Idea. *Los Angeles Times.* Aug 13 2009. p. <http://articles.latimes.com/2009/aug/13/local/me-cap13>
114. Torlakson T. The Tobacco Tax Is a No-Brainer. *Calitics.* p. <http://www.calitics.com/diary/9195/raising-the-tobacco-tax-a-budget-nobrainier>
115. Knox J. Elizabeth Cox Interview of American Cancer Society : Jim Knox. San Francisco 2013.
116. Amazeen K. Elizabeth Cox Interview of American Lung Association: Kimberly Amazeen 12/20. San Francisco 2013.
117. Kim N. Stigma of Lung Cancer Stymies Research Funds. *LA Times.* (Los Angeles)p. <http://articles.latimes.com/2009/aug/24/opinion/oe-norris24>
118. Assembly Constitutional Amendment 22: Tobacco Tax, California State Assembly. April 16, 2002 [http://www.leginfo.ca.gov/pub/09-10/bill/asm/ab\\_0001-0050/aca\\_22\\_bill\\_20090416\\_introduced.html](http://www.leginfo.ca.gov/pub/09-10/bill/asm/ab_0001-0050/aca_22_bill_20090416_introduced.html)
119. Assembly Bill 267: Education Finance Districts, February 11, 2009 [http://www.leginfo.ca.gov/pub/09-10/bill/asm/ab\\_0251-0300/ab\\_267\\_bill\\_20090211\\_introduced.html](http://www.leginfo.ca.gov/pub/09-10/bill/asm/ab_0251-0300/ab_267_bill_20090211_introduced.html)
120. Senate Bill 600: Cigarette and tobacco products taxes, February 27, 2009 [http://www.leginfo.ca.gov/pub/09-10/bill/sen/sb\\_0551-0600/sb\\_600\\_bill\\_20090227\\_introduced.html](http://www.leginfo.ca.gov/pub/09-10/bill/sen/sb_0551-0600/sb_600_bill_20090227_introduced.html)
121. Cortez J. Board of Equalization: Staff Legislative Bill Analysis: SB 600 (Steinberg and Padilla). 2009 June 24. <http://www.boe.ca.gov/legdiv/pdf/sb0600-3jc.pdf>
122. Knox J. Interview of Jim Knox, Vice President, Legislative Advocacy, American Cancer Society by Kate Swartz. 2013.
123. Morgan J, Batch E. Elizabeth Cox Interview of the American Heart Association Interview: Jamie Morgan and Eric Batch 12/23. 2013.



124. SB 600 Cigarette and Tobacco Products Taxes: Amended, [http://www.leginfo.ca.gov/pub/09-10/bill/sen/sb\\_0551-0600/sb\\_600\\_bill\\_20090413\\_amended\\_sen\\_v98.html](http://www.leginfo.ca.gov/pub/09-10/bill/sen/sb_0551-0600/sb_600_bill_20090413_amended_sen_v98.html)
125. Sinclair Paint Co. v. State Board of Equalization, 15 Cal.4th 866, 937 P.2d 1350 (Calif. 1997). 1997.
126. Assembly Bill X3 2: Budget Act of 2008: As Smended, February 14, 2009 [http://www.leginfo.ca.gov/pub/09-10/bill/asm/ab\\_0001-0050/abx3\\_2\\_cfa\\_20090629\\_111241\\_sen\\_floor.html](http://www.leginfo.ca.gov/pub/09-10/bill/asm/ab_0001-0050/abx3_2_cfa_20090629_111241_sen_floor.html)
127. Assembly Bill X3 39: As Amended, June 18, 2009 [http://www.leginfo.ca.gov/pub/09-10/bill/asm/ab\\_0001-0050/abx3\\_39\\_bill\\_20090628\\_amended\\_asm\\_v98.html](http://www.leginfo.ca.gov/pub/09-10/bill/asm/ab_0001-0050/abx3_39_bill_20090628_amended_asm_v98.html)
128. Senate Committee on Health. Staff Analysis SB 1109 (Cox) CCFP: Funding. 2010. [http://www.leginfo.ca.gov/pub/09-10/bill/sen/sb\\_1101-1150/sb\\_1109\\_cfa\\_20100413\\_163431\\_sen\\_comm.html](http://www.leginfo.ca.gov/pub/09-10/bill/sen/sb_1101-1150/sb_1109_cfa_20100413_163431_sen_comm.html)
129. SB 653: Local Taxation: As Introduced, 2011-2012. California State Senate. Feburary 18 2011 [http://www.leginfo.ca.gov/pub/11-12/bill/sen/sb\\_0651-0700/sb\\_653\\_bill\\_20110427\\_amended\\_sen\\_v97.html](http://www.leginfo.ca.gov/pub/11-12/bill/sen/sb_0651-0700/sb_653_bill_20110427_amended_sen_v97.html)
130. Miller G. Senate Governance and Finance Committee Analysis of SB 653. 2011 May 4. [http://www.leginfo.ca.gov/pub/11-12/bill/sen/sb\\_0651-0700/sb\\_653\\_cfa\\_20110428\\_151855\\_sen\\_comm.html](http://www.leginfo.ca.gov/pub/11-12/bill/sen/sb_0651-0700/sb_653_cfa_20110428_151855_sen_comm.html)
131. SB 653: Local Taxation: As Amended, April 14 2011 [http://www.leginfo.ca.gov/pub/11-12/bill/sen/sb\\_0651-0700/sb\\_653\\_bill\\_20110531\\_amended\\_sen\\_v96.html](http://www.leginfo.ca.gov/pub/11-12/bill/sen/sb_0651-0700/sb_653_bill_20110531_amended_sen_v96.html)
132. Pan R. Assembly Health Committe Analysis on AB 768 (De Leon) 2013 May 6. [http://www.leginfo.ca.gov/pub/13-14/bill/sen/sb\\_0751-0800/sb\\_768\\_cfa\\_20130520\\_095446\\_sen\\_comm.html](http://www.leginfo.ca.gov/pub/13-14/bill/sen/sb_0751-0800/sb_768_cfa_20130520_095446_sen_comm.html)
133. Robinson-Taylor. Senate Committee on Health: SB 768 Staff Analysis. 2013. [http://www.leginfo.ca.gov/pub/13-14/bill/sen/sb\\_0751-0800/sb\\_768\\_cfa\\_20130506\\_165533\\_sen\\_comm.html](http://www.leginfo.ca.gov/pub/13-14/bill/sen/sb_0751-0800/sb_768_cfa_20130506_165533_sen_comm.html)
134. Ingenito R. California State Senate Appropriations Committee Bill Analysis SB 768 (De Leon). LegInfo.ca.gov 2013 5/20/2013. [http://www.leginfo.ca.gov/pub/13-14/bill/sen/sb\\_0751-0800/sb\\_768\\_cfa\\_20130520\\_095446\\_sen\\_comm.html](http://www.leginfo.ca.gov/pub/13-14/bill/sen/sb_0751-0800/sb_768_cfa_20130520_095446_sen_comm.html)
135. Batch E. Interview of Eric Batch, Vice President of Advocacy for the Western States Affiliate of the American Heart Association, by Kate Swartz. 2013.
136. Barnes RL, Hammond SK, Glantz SA. The Tobacco Industry's Role in the 16 Cities Study of Secondhand Tobacco Smoke: Do the Data Support the Stated Conclusions? Environ Health Perspect. 2006;114(12):1890-7.
137. Bero L, Glantz S. Tobacco industry response to a risk assessment of environmental tobacco smoke. Tob Control. 1993;2:103-13.
138. Drope J, Bialous SA, Glantz SA. Tobacco Industry efforts to present ventilation as an alternative to smoke-free environments in North America. Tob Control. 2004;13(Supp 1):i41-i7.
139. Hirschhorn N, Bialous SA. Second hand smoke and risk assessment: what was in it for the tobacco industry? Tob Control. 2001;10:375-82.
140. Hong MK, Bero LA. How the tobacco industry responded to an influential study of the health effects of secondhand smoke. Br Med J. 2002;325(7377):1413-6.

141. Muggli ME, Forster J, Hurt RD, Repace J. The Smoke You Don't See: Uncovering Tobacco Industry Scientific Strategies Aimed Against Environmental Tobacco Smoke Policies. *Am J Public Health*. 2001;91(9):1419-23.
142. California Department of Public Health. What Are Your City's Outdoor Smoking Policies? 2014 [7/30/2014]; Available from: <http://www.tobaccofreeca.com/smoking-problem/secondhand-smoke/public/>.
143. McGreevey P. Jenny Oropeza Dies at 53; State Senator from Long Beach. *Los Angeles Times*. October 22, 2010. p. <http://articles.latimes.com/2010/oct/22/local/la-me-jenny-oropeza-20101022>
144. Liu M. Senate Committee on Natural Resources Senate Bill 1418 Bill Analysis. 2008 March 21, 2008. [http://www.leginfo.ca.gov/pub/07-08/bill/sen/sb\\_1401-1450/sb\\_1418\\_cfa\\_20080321\\_113349\\_sen\\_comm.html](http://www.leginfo.ca.gov/pub/07-08/bill/sen/sb_1401-1450/sb_1418_cfa_20080321_113349_sen_comm.html)
145. Corbett E. Senate Judiciary Committee Analysis: SB 1598 (Padilla). 2008. [http://www.leginfo.ca.gov/pub/07-08/bill/sen/sb\\_1551-1600/sb\\_1598\\_cfa\\_20080430\\_154512\\_sen\\_comm.html](http://www.leginfo.ca.gov/pub/07-08/bill/sen/sb_1551-1600/sb_1598_cfa_20080430_154512_sen_comm.html).
146. Schoenmarkin S. Secondhand Smoke Seepage into Multi-Unit Affordable Housing. 2010 April. [http://publichealthlawcenter.org/sites/default/files/resources/tclc-syn-secondhand-2010\\_0.pdf](http://publichealthlawcenter.org/sites/default/files/resources/tclc-syn-secondhand-2010_0.pdf)
147. Glantz SA, Balbach ED. *Tobacco War: Inside the California Battles*, p. 97-119. Berkeley, CA: University of California Press; 2000.
148. Clark T. Assembly Committee on Judiciary SB 1598 (Padillia): Bill Analysis. 2008 April 30, 2008. [http://www.leginfo.ca.gov/cgi-bin/postquery?bill\\_number=sb\\_1598&sess=0708&house=B&author=padilla](http://www.leginfo.ca.gov/cgi-bin/postquery?bill_number=sb_1598&sess=0708&house=B&author=padilla)
149. Bowen D. Altria and Its Clients Lobbyist Reports. 2014. <http://cal-access.sos.ca.gov/Lobbying/Employers/Detail.aspx?id=1143248&session=2011>.
150. Bewely L. Memo on Dennis Loper: Lobbyist for the Smokeless Tobacco Council. 16 Feb 1989. RJ Reynolds. <http://legacy.library.ucsf.edu/tid/vrf27a00>.
151. Khuel S. California State Senate Health Committee Staff Analysis of AB 3010 2008. [http://www.leginfo.ca.gov/pub/07-08/bill/asm/ab\\_3001-3050/ab\\_3010\\_cfa\\_20080617\\_153243\\_sen\\_comm.html](http://www.leginfo.ca.gov/pub/07-08/bill/asm/ab_3001-3050/ab_3010_cfa_20080617_153243_sen_comm.html)
152. Blakeslee S. Assembly Bill 3010: Mental Health Facilities. 2009 April 10. [http://www.leginfo.ca.gov/pub/07-08/bill/asm/ab\\_3001-3050/ab\\_3010\\_bill\\_20080410\\_amended\\_asm\\_v97.html](http://www.leginfo.ca.gov/pub/07-08/bill/asm/ab_3001-3050/ab_3010_bill_20080410_amended_asm_v97.html)
153. Protection and Advocacy Inc. AB 3010 (Blakslee) Request for Signature. 2008. [http://www.disabilityrightsca.org/opr/PRAT2008/09\\_AB\\_3010\\_Blakeslee.pdf](http://www.disabilityrightsca.org/opr/PRAT2008/09_AB_3010_Blakeslee.pdf)
154. Ader M. Assembly Committee on Appropriations Analysis of AB 3010 2008 April 30, 2008. [http://www.leginfo.ca.gov/pub/07-08/bill/asm/ab\\_3001-3050/ab\\_3010\\_cfa\\_20080429\\_154544\\_asm\\_comm.html](http://www.leginfo.ca.gov/pub/07-08/bill/asm/ab_3001-3050/ab_3010_cfa_20080429_154544_asm_comm.html)
155. Senate Bill 4: State Beaches and Parks: Smoking Ban, December 4, 2006 [http://www.leginfo.ca.gov/pub/07-08/bill/sen/sb\\_0001-0050/sb\\_4\\_bill\\_20061204\\_introduced.html](http://www.leginfo.ca.gov/pub/07-08/bill/sen/sb_0001-0050/sb_4_bill_20061204_introduced.html)
156. Robert Wood Johnson Foundation. New Grants Support the Spread of Tobacco Policy Changes to Protect Americans' Health. 2004. <http://www.rwjf.org/en/about-rwjf/newsroom/newsroom-content/2004/12/new-grants-support-the-spread-of-tobacco-policy-changes-to-prote.html>

157. California State Legislature. Glossary of Terms. 2013 [1/6/2014]; Available from: <http://www.legislature.ca.gov/quicklinks/glossary.html>.
158. AB 574: Health Facilities: Smoking, <http://www.leginfo.ca.gov/cgi-bin/postquery>
159. Ader M. Assembly Committee on Appropriations Staff Analysis of AB 574. 2009. [http://www.leginfo.ca.gov/pub/09-10/bill/asm/ab\\_0551-0600/ab\\_574\\_cfa\\_20090505\\_172534\\_asm\\_comm.html](http://www.leginfo.ca.gov/pub/09-10/bill/asm/ab_0551-0600/ab_574_cfa_20090505_172534_asm_comm.html)
160. Breathe LA. AB 574: Smoke Free Hospitals. Los Angeles 2010; Available from: <http://www.breathela.org/advocacy/ab-574-smoke-free-hospitals>.
161. Governor Arnold Schwarzenegger. Veto Message of AB 574 (Hill). 2009 10/12/2009. [http://www.leginfo.ca.gov/pub/09-10/bill/asm/ab\\_0551-0600/ab\\_574\\_vt\\_20091012.html](http://www.leginfo.ca.gov/pub/09-10/bill/asm/ab_0551-0600/ab_574_vt_20091012.html)
162. Caswell G. California State Assembly Public Safety Committee SB 796 (Blakeslee): Committee Analysis. 2011 June 20, 2011. [http://www.leginfo.ca.gov/pub/11-12/bill/sen/sb\\_0751-0800/sb\\_796\\_cfa\\_20110620\\_152236\\_asm\\_comm.html](http://www.leginfo.ca.gov/pub/11-12/bill/sen/sb_0751-0800/sb_796_cfa_20110620_152236_asm_comm.html)
163. Senate Bill 796: State Hospitals: Prohibited Items: As Amended, March 29 [http://www.leginfo.ca.gov/pub/11-12/bill/sen/sb\\_0751-0800/sb\\_796\\_bill\\_20110329\\_amended\\_sen\\_v98.html](http://www.leginfo.ca.gov/pub/11-12/bill/sen/sb_0751-0800/sb_796_bill_20110329_amended_sen_v98.html)
164. California Senate Bill 332: Landlord Rights, September 6, 2011 [http://www.leginfo.ca.gov/pub/11-12/bill/sen/sb\\_0301-0350/sb\\_332\\_bill\\_20110906\\_chaptered.html](http://www.leginfo.ca.gov/pub/11-12/bill/sen/sb_0301-0350/sb_332_bill_20110906_chaptered.html)
165. Lopez F. Assembly Committee on Governmental Organization Analysis of SB 332 2011 July 5. [http://www.leginfo.ca.gov/pub/11-12/bill/sen/sb\\_0301-0350/sb\\_332\\_cfa\\_20110705\\_133312\\_asm\\_comm.html](http://www.leginfo.ca.gov/pub/11-12/bill/sen/sb_0301-0350/sb_332_cfa_20110705_133312_asm_comm.html)
166. Perez A. Senate Committee on Labor and Industrial Relations Analysis of SB 575 2011 June 20. [http://www.leginfo.ca.gov/pub/11-12/bill/sen/sb\\_0551-0600/sb\\_575\\_cfa\\_20110620\\_153336\\_asm\\_comm.html](http://www.leginfo.ca.gov/pub/11-12/bill/sen/sb_0551-0600/sb_575_cfa_20110620_153336_asm_comm.html)
167. Hall I. SB 575 (Desalnier) Amendment Mock Ups provided by American Heart Association. 2011.
168. Knox J. Email to Elizabeth Cox 9/10. 2014.
169. Lopez F. Assembly Committee on Governmental Organization Analysis of SB 575 2011 July 5 [http://www.leginfo.ca.gov/pub/11-12/bill/sen/sb\\_0551-0600/sb\\_575\\_cfa\\_20110705\\_133817\\_asm\\_comm.html](http://www.leginfo.ca.gov/pub/11-12/bill/sen/sb_0551-0600/sb_575_cfa_20110705_133817_asm_comm.html)
170. Assembly Bill 1278: Health Facilities Smoking: As Amended, January 4, 2011 [http://www.leginfo.ca.gov/pub/11-12/bill/asm/ab\\_1251-1300/ab\\_1278\\_bill\\_20120104\\_amended\\_asm\\_v95.html](http://www.leginfo.ca.gov/pub/11-12/bill/asm/ab_1251-1300/ab_1278_bill_20120104_amended_asm_v95.html)
171. Johnson K. Senate Appropriations Committee Analysis of AB 1278. 2009 June 29. [http://www.leginfo.ca.gov/pub/09-10/bill/asm/ab\\_0551-0600/ab\\_574\\_cfa\\_20090629\\_154759\\_sen\\_comm.html](http://www.leginfo.ca.gov/pub/09-10/bill/asm/ab_0551-0600/ab_574_cfa_20090629_154759_sen_comm.html)
172. Marchland. Senate Committee on Health Analysis of AB 1278 (Hill). 2012 June 11, 2011. [http://www.leginfo.ca.gov/pub/11-12/bill/asm/ab\\_1251-1300/ab\\_1278\\_cfa\\_20120611\\_154550\\_sen\\_comm.html](http://www.leginfo.ca.gov/pub/11-12/bill/asm/ab_1251-1300/ab_1278_cfa_20120611_154550_sen_comm.html)
173. Brown J. Veto Message of AB 1278. 2012 September 23. [http://www.leginfo.ca.gov/pub/11-12/bill/asm/ab\\_1251-1300/ab\\_1278\\_vt\\_20120923.html](http://www.leginfo.ca.gov/pub/11-12/bill/asm/ab_1251-1300/ab_1278_vt_20120923.html)
174. Vagadori K. Richard Barnes Interview of Youth Advocacy Network: Kimberlee Vagadori September 17. 2013.

175. Johnson E. Assembly Government Organization Committee Analysis of AB 795. 2011 May 4. [http://www.leginfo.ca.gov/pub/11-12/bill/asm/ab\\_0751-0800/ab\\_795\\_cfa\\_20110503\\_132358\\_asm\\_comm.html](http://www.leginfo.ca.gov/pub/11-12/bill/asm/ab_0751-0800/ab_795_cfa_20110503_132358_asm_comm.html)
176. Assembly Bill 795: Higher Education: Smoking Enforcement: As Amended, May 28, 2011 [http://www.leginfo.ca.gov/pub/11-12/bill/asm/ab\\_0751-0800/ab\\_795\\_bill\\_20110428\\_amended\\_asm\\_v95.html](http://www.leginfo.ca.gov/pub/11-12/bill/asm/ab_0751-0800/ab_795_bill_20110428_amended_asm_v95.html)
177. Johnson E. Assembly Floor Analysis of AB 795 2011 May 20. [http://www.leginfo.ca.gov/pub/11-12/bill/asm/ab\\_0751-0800/ab\\_795\\_cfa\\_20110520\\_155830\\_asm\\_floor.html](http://www.leginfo.ca.gov/pub/11-12/bill/asm/ab_0751-0800/ab_795_cfa_20110520_155830_asm_floor.html)
178. Warner J. American Lung Association in California Applauds New College Smoking Enforcement Law. 2012. [http://www.sdcity.edu/Portals/0/Home/SmokeFreeCampus/2011/2152\\_American\\_Lung\\_Association-CA\\_Applauds\\_New\\_College\\_Smoking\\_Enforcement\\_Law\\_10.11.pdf](http://www.sdcity.edu/Portals/0/Home/SmokeFreeCampus/2011/2152_American_Lung_Association-CA_Applauds_New_College_Smoking_Enforcement_Law_10.11.pdf)
179. Brown J. Veto Message for AB 217. 2012 September 29. [http://www.leginfo.ca.gov/pub/11-12/bill/asm/ab\\_0201-0250/ab\\_217\\_vt\\_20120928.html](http://www.leginfo.ca.gov/pub/11-12/bill/asm/ab_0201-0250/ab_217_vt_20120928.html)
180. Glantz S. California Governor Brown Channels Philip Morris in Vetoing Smokefree Nursing Homes. November 2, 2012. p. <http://www.tobacco.ucsf.edu/calif-governor-brown-channels-philip-morris-vetoing-smokefree-nursing-homes>
181. Assembly Committee on Education. AB 320 (Nazarian): Assembly Committee on Education Committee Analysis. 2013 March 20, 2013. [http://www.leginfo.ca.gov/pub/13-14/bill/asm/ab\\_0301-0350/ab\\_320\\_cfa\\_20130318\\_154911\\_asm\\_comm.html](http://www.leginfo.ca.gov/pub/13-14/bill/asm/ab_0301-0350/ab_320_cfa_20130318_154911_asm_comm.html)
182. Assembly Bill 746: Smoking in Multi-Unit Housing, February 12, 2013 [http://www.leginfo.ca.gov/pub/13-14/bill/asm/ab\\_0701-0750/ab\\_746\\_bill\\_20130221\\_introduced.pdf](http://www.leginfo.ca.gov/pub/13-14/bill/asm/ab_0701-0750/ab_746_bill_20130221_introduced.pdf)
183. Assembly Committee on Housing and Community Development Staff. Analysis of AB 746. 2013 April 17. [http://www.leginfo.ca.gov/pub/13-14/bill/asm/ab\\_0701-0750/ab\\_746\\_cfa\\_20130416\\_113317\\_asm\\_comm.html](http://www.leginfo.ca.gov/pub/13-14/bill/asm/ab_0701-0750/ab_746_cfa_20130416_113317_asm_comm.html)
184. Halstead R. Marin Assemblyman Levine draws attention with bill cracking down on smoking in multi-family housing. Marin Independent Journal. March 23. p. [http://www.marinij.com/ci\\_22842788/marin-assemblyman-levine-draws-attention-bill-cracking-down](http://www.marinij.com/ci_22842788/marin-assemblyman-levine-draws-attention-bill-cracking-down)
185. Brown M. Senate Human Services Committee Analysis of AB 352. 2013 June 7.
186. Bayer R, Bachynski E. Banning Smoking in Parks and On Beaches: Science, Policy, and Politics of Denormalization. *Health Affairs*. 2013;32(7):1291-8.
187. Assembly Bill 1142: State Beaches: Smoking Ban: As Amended, February 22, 2013 [http://www.leginfo.ca.gov/pub/13-14/bill/asm/ab\\_1101-1150/ab\\_1142\\_bill\\_20130321\\_amended\\_asm\\_v98.pdf](http://www.leginfo.ca.gov/pub/13-14/bill/asm/ab_1101-1150/ab_1142_bill_20130321_amended_asm_v98.pdf)
188. Lopez F. Assembly Governmental Organization Committee Analysis of AB 1142 2013 April 23. [http://www.leginfo.ca.gov/pub/13-14/bill/asm/ab\\_1101-1150/ab\\_1142\\_cfa\\_20130423\\_141234\\_asm\\_comm.html](http://www.leginfo.ca.gov/pub/13-14/bill/asm/ab_1101-1150/ab_1142_cfa_20130423_141234_asm_comm.html)
189. American Lung Association. State of Tobacco Control 2008. 2009. <http://www.lung.org/assets/documents/publications/state-of-tobacco-control/state-of-tobacco-control-5.pdf>
190. Ader M. Assembly Committee on Appropriations Staff Analysis of AB 2662 2008 April 23. [http://www.leginfo.ca.gov/pub/07-08/bill/asm/ab\\_2651-2700/ab\\_2662\\_cfa\\_20080422\\_154727\\_asm\\_comm.html](http://www.leginfo.ca.gov/pub/07-08/bill/asm/ab_2651-2700/ab_2662_cfa_20080422_154727_asm_comm.html)

191. Dymally M. Senate Health Committee Analysis of Assembly Bill 2662 2008 4/7/2008. [http://www.leginfo.ca.gov/pub/07-08/bill/asm/ab\\_2651-2700/ab\\_2662\\_cfa\\_20080407\\_101243\\_asm\\_comm.html](http://www.leginfo.ca.gov/pub/07-08/bill/asm/ab_2651-2700/ab_2662_cfa_20080407_101243_asm_comm.html)
192. Franzoia B. California State Senate Appropriation Committee Analysis AB 2662 (Dymally). 2008 4/22/2013. [http://www.leginfo.ca.gov/pub/07-08/bill/asm/ab\\_2651-2700/ab\\_2662\\_cfa\\_20080422\\_154727\\_asm\\_comm.html](http://www.leginfo.ca.gov/pub/07-08/bill/asm/ab_2651-2700/ab_2662_cfa_20080422_154727_asm_comm.html)
193. Radosevich M. 2009: SB 220 Assembly Committee on Health Analysis June 22, 2010. [http://www.leginfo.ca.gov/pub/09-10/bill/sen/sb\\_0201-0250/sb\\_220\\_cfa\\_20100618\\_142408\\_asm\\_comm.html](http://www.leginfo.ca.gov/pub/09-10/bill/sen/sb_0201-0250/sb_220_cfa_20100618_142408_asm_comm.html)
194. Senate Bill 220: Cessation Aides, 8/31/2010 [http://www.leginfo.ca.gov/cgi-bin/postquery?bill\\_number=sb\\_220&sess=0910&house=B&author=yee](http://www.leginfo.ca.gov/cgi-bin/postquery?bill_number=sb_220&sess=0910&house=B&author=yee)
195. Dunstan C. Senate Health Committee Analysis of SB 220 (Yee). 2010 August 8. [http://www.leginfo.ca.gov/pub/09-10/bill/sen/sb\\_0201-0250/sb\\_220\\_cfa\\_20100831\\_144953\\_sen\\_comm.html](http://www.leginfo.ca.gov/pub/09-10/bill/sen/sb_0201-0250/sb_220_cfa_20100831_144953_sen_comm.html)
196. The American Lung Association. American Lung Association Supports SB 220. 2010; Available from: <http://www.lung.org/associations/states/california/for-the-media/american-lung-association-in.html>.
197. Koffman M, Dunton K, Senkewicz M. Implementation of tobacco cessation coverage under the Affordable Care Act: Understanding how private healthinsurance policies cover tobacco cessation treatments Washington D.C.: Georgetown Health Policy Institute,2012. <http://www.tobaccofreekids.org/pressoffice/2012/georgetown/coveragereport.pdf>
198. None. Senator Leland Yee Introduces SB 220, A Bill Requiring Coverage for Tobacco Cessation. March 12. p. <http://sfcitizen.com/blog/2010/03/12/senator-leland-yee-introduces-sb-220-a-bill-requiring-coverage-for-tobacco-cessation/>
199. Radosevich M. Assembly Committee on Health Anlaysia of AB 220 (Yee). 2010 June 18, 2010 [http://www.leginfo.ca.gov/pub/09-10/bill/sen/sb\\_0201-0250/sb\\_220\\_cfa\\_20100618\\_142408\\_asm\\_comm.html](http://www.leginfo.ca.gov/pub/09-10/bill/sen/sb_0201-0250/sb_220_cfa_20100618_142408_asm_comm.html)
200. Schwarzenegger A. Veto Messgae for SB 220. 2010 Spetmeber 30. [http://www.leginfo.ca.gov/pub/09-10/bill/sen/sb\\_0201-0250/sb\\_220\\_vt\\_20100930.html](http://www.leginfo.ca.gov/pub/09-10/bill/sen/sb_0201-0250/sb_220_vt_20100930.html)
201. Miller G. Senate Revenue and Taxation Committee Analysis of SB 554 2007 May 7. [http://www.leginfo.ca.gov/pub/07-08/bill/sen/sb\\_0551-0600/sb\\_554\\_cfa\\_20070507\\_154956\\_sen\\_comm.html](http://www.leginfo.ca.gov/pub/07-08/bill/sen/sb_0551-0600/sb_554_cfa_20070507_154956_sen_comm.html)
202. Brewer R. Assembly Committee on Government Organization Analysis of Assembly Bill 689 2009 April 29. [http://www.leginfo.ca.gov/pub/09-10/bill/asm/ab\\_0651-0700/ab\\_689\\_cfa\\_20090429\\_165439\\_asm\\_comm.html](http://www.leginfo.ca.gov/pub/09-10/bill/asm/ab_0651-0700/ab_689_cfa_20090429_165439_asm_comm.html)
203. Ruff D. Assembly Committee on Revenue and Taxation Analysis of AB 689 2009 April 17. [http://www.leginfo.ca.gov/pub/09-10/bill/asm/ab\\_0651-0700/ab\\_689\\_cfa\\_20090417\\_114236\\_asm\\_comm.html](http://www.leginfo.ca.gov/pub/09-10/bill/asm/ab_0651-0700/ab_689_cfa_20090417_114236_asm_comm.html)
204. California Board of Equalization. Cigarettes Labeled as Little or Small Cigars Are Considered Cigarettes for Tax Purposes. Sacramento, CA2010 April. <http://www.boe.ca.gov/sptaxprog/pdf/boe400lsc.pdf>
205. Johnson E. Bill Analysis of AB 1301 for Assembly Governmental Organization Committee. 2011 May 4, 2011. [http://www.leginfo.ca.gov/pub/11-12/bill/asm/ab\\_1301-1350/ab\\_1301\\_cfa\\_20110503\\_132511\\_asm\\_comm.html](http://www.leginfo.ca.gov/pub/11-12/bill/asm/ab_1301-1350/ab_1301_cfa_20110503_132511_asm_comm.html)
206. The Center for Tobacco Policy & Organizing. Matrix of Strong Local Tobacco Retailer Licensing Ordinances. American Lung Association in California, 2013 September 2013.

<http://center4tobaccopolicy.org/wp-content/uploads/2013/09/Matrix-of-Strong-Local-Tobacco-Retailer-Licensing-Ordinances-September-2013.pdf>

207. Coxe N, Webber W, Burkhart J, Broderick B, Yeager K, Jones L, Fenstersheib M. Use of Tobacco Retail Permitting to Reduce Youth Access and Exposure to Tobacco in Santa Clara County, California. *Prev Med.* 2014;doi: 10.1016/j.ypmed.2014.01.023.

208. Bird J. Guv Signs Hill Bill: Crackdown on Stores Selling Tobacco to Minors Pacific Ripetide. p. [http://www.pacificaripetide.com/pacifica\\_riptide/2012/09/guv-signs-hill-bill-crackdown-on-stores-selling-tobacco-to-minors.html](http://www.pacificaripetide.com/pacifica_riptide/2012/09/guv-signs-hill-bill-crackdown-on-stores-selling-tobacco-to-minors.html)

209. Mckenzie M. Senate Appropriations Committee Analysis of AB 2344 (Beall). 2008 08/07/2008. [http://www.leginfo.ca.gov/pub/07-08/bill/asm/ab\\_2301-2350/ab\\_2344\\_cfa\\_20080807\\_142656\\_sen\\_comm.html](http://www.leginfo.ca.gov/pub/07-08/bill/asm/ab_2301-2350/ab_2344_cfa_20080807_142656_sen_comm.html)

210. Hughes B. Bill Analysis of AB 2344 for Senate Revenue and Taxation Committee. 2008 June 25, 2008. [http://www.leginfo.ca.gov/pub/07-08/bill/asm/ab\\_2301-2350/ab\\_2344\\_cfa\\_20080623\\_162857\\_sen\\_comm.html](http://www.leginfo.ca.gov/pub/07-08/bill/asm/ab_2301-2350/ab_2344_cfa_20080623_162857_sen_comm.html)

211. Breath California. Support AB 2344 (Beall) Protect Funding fo Tobacco Prevention and Cessation Program. Los Angeles2008; Available from: <http://www.breathela.org/advocacy/support-ab-2344-beall-protect-funding-tobacco-prevention-and-cessation-programs>.

212. Brewer R. Bill Analysis of AB 2757 for Assembly Governmental Organization Committee. 2010 April 21, 2010. [http://www.leginfo.ca.gov/pub/09-10/bill/asm/ab\\_2751-2800/ab\\_2757\\_cfa\\_20100420\\_132658\\_asm\\_comm.html](http://www.leginfo.ca.gov/pub/09-10/bill/asm/ab_2751-2800/ab_2757_cfa_20100420_132658_asm_comm.html)

213. Bradford S. Assembly Bill 2757: Blunt Wraps. 2010. [http://www.leginfo.ca.gov/pub/09-10/bill/asm/ab\\_2751-2800/ab\\_2757\\_bill\\_20100219\\_introduced.html](http://www.leginfo.ca.gov/pub/09-10/bill/asm/ab_2751-2800/ab_2757_bill_20100219_introduced.html)

214. Padilla A. Press Release: Senator Padilla Announces Legislation to Prohibit New Tobacco Retailers Within 600 Feet of Schools. 2012 January 11, 2012. <http://sd20.senate.ca.gov/news/2012-01-11-senator-padilla-announces-legislation-prohibit-new-tobacco-retailers-within-600-feet>

215. Dave P. Effort To Restrict Tobacco Sales Around Schools Advances. Neon Tommy. (Los Angeles)p. <http://www.neontommy.com/2010/01/la-city-council-seeks-to-restr>

216. Senate Bill 601: Retail Tobacco Licenses: As Amended, April 28, 2009 [http://www.leginfo.ca.gov/pub/09-10/bill/sen/sb\\_0601-0650/sb\\_601\\_bill\\_20090428\\_amended\\_sen\\_v97.html](http://www.leginfo.ca.gov/pub/09-10/bill/sen/sb_0601-0650/sb_601_bill_20090428_amended_sen_v97.html)

217. Mckenzie M. Senate Appropriations Committee Analysis on AB 602 (Padilla). 2009 May 11, 2009. [http://www.leginfo.ca.gov/pub/09-10/bill/sen/sb\\_0601-0650/sb\\_602\\_cfa\\_20090511\\_112745\\_sen\\_comm.html](http://www.leginfo.ca.gov/pub/09-10/bill/sen/sb_0601-0650/sb_602_cfa_20090511_112745_sen_comm.html)

218. Senate Bill 601: Tobacco Retail Licensing: Bill History, February 27, 2009 [http://www.leginfo.ca.gov/pub/09-10/bill/sen/sb\\_0601-0650/sb\\_601\\_bill\\_20100201\\_history.html](http://www.leginfo.ca.gov/pub/09-10/bill/sen/sb_0601-0650/sb_601_bill_20100201_history.html)

219. Dunstan. Senate Health Committee Staff Analysis of SB 602 2009 April 15. [http://www.leginfo.ca.gov/pub/09-10/bill/sen/sb\\_0601-0650/sb\\_602\\_cfa\\_20090413\\_154500\\_sen\\_comm.html](http://www.leginfo.ca.gov/pub/09-10/bill/sen/sb_0601-0650/sb_602_cfa_20090413_154500_sen_comm.html)

220. Senate Bill 602: Food Saftey Act: As Amended, JULY 1, 2009 [http://www.leginfo.ca.gov/pub/09-10/bill/sen/sb\\_0601-0650/sb\\_602\\_bill\\_20100105\\_amended\\_asm\\_v92.html](http://www.leginfo.ca.gov/pub/09-10/bill/sen/sb_0601-0650/sb_602_bill_20100105_amended_asm_v92.html)

221. Senate Bill 603: Tobacco Retail Licensing, February 29, 2009 [http://www.leginfo.ca.gov/pub/09-10/bill/sen/sb\\_0601-0650/sb\\_602\\_bill\\_20090227\\_introduced.html](http://www.leginfo.ca.gov/pub/09-10/bill/sen/sb_0601-0650/sb_602_bill_20090227_introduced.html)

222. Senate Bill 603: Retail Licensing: As Amended, June 1, 2009  
[http://www.leginfo.ca.gov/pub/09-10/bill/sen/sb\\_0601-0650/sb\\_603\\_bill\\_20090601\\_amended\\_sen\\_v95.html](http://www.leginfo.ca.gov/pub/09-10/bill/sen/sb_0601-0650/sb_603_bill_20090601_amended_sen_v95.html)
223. Brewer R. Assembly Committee on Government Organization Analysis of SB 603 2009 July 7. [http://www.leginfo.ca.gov/pub/09-10/bill/sen/sb\\_0601-0650/sb\\_603\\_cfa\\_20090707\\_143103\\_asm\\_comm.html](http://www.leginfo.ca.gov/pub/09-10/bill/sen/sb_0601-0650/sb_603_cfa_20090707_143103_asm_comm.html)
224. Brewer R. Assembly Committee on Governmental Organization Committee Analysis of AB 2733 2010 April 25. [http://www.leginfo.ca.gov/pub/11-12/bill/asm/ab\\_1301-1350/ab\\_1301\\_cfa\\_20110503\\_132511\\_asm\\_comm.html](http://www.leginfo.ca.gov/pub/11-12/bill/asm/ab_1301-1350/ab_1301_cfa_20110503_132511_asm_comm.html)
225. Leaf K. Email from Karen Leaf to Elizabeth Cox dated September 3, 2014. 2014.
226. Brewer R. Assembly Committee on Governmental Organization Analysis of AB 2496 2010 April 12. [http://www.leginfo.ca.gov/pub/09-10/bill/asm/ab\\_2451-2500/ab\\_2496\\_cfa\\_20100412\\_094146\\_asm\\_comm.html](http://www.leginfo.ca.gov/pub/09-10/bill/asm/ab_2451-2500/ab_2496_cfa_20100412_094146_asm_comm.html)
227. Dunstan, inventor The Senate Committee on Health Analysis of AB 2496 2010 June 6.
228. Lui. Senate Governance and Finance Committee Analysis of SB 330 (Padilla). 2011 January 6, 2012. [http://www.leginfo.ca.gov/pub/11-12/bill/sen/sb\\_0301-0350/sb\\_330\\_cfa\\_20120106\\_094304\\_sen\\_comm.html](http://www.leginfo.ca.gov/pub/11-12/bill/sen/sb_0301-0350/sb_330_cfa_20120106_094304_sen_comm.html)
229. Lui. Senate Governance and Finance Committee Analysis of SB 331 (Padilla). 2012 January 6, 2012. [http://www.leginfo.ca.gov/pub/11-12/bill/sen/sb\\_0301-0350/sb\\_331\\_cfa\\_20120106\\_094348\\_sen\\_comm.html](http://www.leginfo.ca.gov/pub/11-12/bill/sen/sb_0301-0350/sb_331_cfa_20120106_094348_sen_comm.html)
230. Padilla A. SB 331: Tobacco Retail Licenses: As Amended. 2012 January 4 2012. [http://www.leginfo.ca.gov/pub/11-12/bill/sen/sb\\_0301-0350/sb\\_331\\_bill\\_20120104\\_amended\\_sen\\_v97.html](http://www.leginfo.ca.gov/pub/11-12/bill/sen/sb_0301-0350/sb_331_bill_20120104_amended_sen_v97.html)
231. Youth Leadership Initiative. YLI Youth Gain Passage of California Law Preventing Underage Tobacco Sales. 2011; Available from: <http://www.yli.org/yliyouthgainpassageofcaliforniaunderagetobaccolaw>.
232. Assembly Bill 1301: Retail tobacco sales: STAKE ACT, February 18, 2013 [http://www.leginfo.ca.gov/pub/11-12/bill/asm/ab\\_1301-1350/ab\\_1301\\_bill\\_20110218\\_introduced.html](http://www.leginfo.ca.gov/pub/11-12/bill/asm/ab_1301-1350/ab_1301_bill_20110218_introduced.html)
233. Orr. Senate Committee on Health Analysis of AB 1301 (Hill). 2012 June 11, 2012. [http://www.leginfo.ca.gov/pub/11-12/bill/asm/ab\\_1301-1350/ab\\_1301\\_cfa\\_20120611\\_155215\\_sen\\_comm.html](http://www.leginfo.ca.gov/pub/11-12/bill/asm/ab_1301-1350/ab_1301_cfa_20120611_155215_sen_comm.html)
234. Tobacco Control Legal Consortium. Regulating Electronic Cigarettes and Similar Devices. 2013. <http://publichealthlawcenter.org/sites/default/files/resources/TCLC-Guide-Reg%20E-Cig-Devices-2013.pdf>
235. Corbett E. Press Release: Legislation Aimed at Stopping the Sale to Minors of Electronic Cigarettes Passes Unanimously. 2009; Available from: <http://sd10.senate.ca.gov/news/2009-07-08-legislation-senator-ellen-m-corbett-stop-sale-electronic-cigarettes-minors-passes-un>.
236. Schwarzenegger A. Senate Bill 400 (Corbett): Veto Message. 2009 October 12, 2009. [http://www.leginfo.ca.gov/pub/09-10/bill/sen/sb\\_0351-0400/sb\\_400\\_vt\\_20091012.html](http://www.leginfo.ca.gov/pub/09-10/bill/sen/sb_0351-0400/sb_400_vt_20091012.html)
237. Senate Joint Resolution 8: FDA Regulation of Electronic Cigarettes, May 19, 2009 [http://www.leginfo.ca.gov/pub/09-10/bill/sen/sb\\_0001-0050/sjr\\_8\\_bill\\_20090519\\_introduced.html](http://www.leginfo.ca.gov/pub/09-10/bill/sen/sb_0001-0050/sjr_8_bill_20090519_introduced.html)
238. Senate Bill 882: Electronic Cigarettes, January 4, 2010 [http://www.leginfo.ca.gov/pub/09-10/bill/sen/sb\\_0851-0900/sb\\_882\\_bill\\_20100114\\_introduced.html](http://www.leginfo.ca.gov/pub/09-10/bill/sen/sb_0851-0900/sb_882_bill_20100114_introduced.html)

239. Brewer R. California Assembly Committee on Government Organization Analysis of SB 882. 2010 June 22. [http://www.leginfo.ca.gov/pub/09-10/bill/sen/sb\\_0851-0900/sb\\_882\\_cfa\\_20100622\\_123829\\_asm\\_comm.html](http://www.leginfo.ca.gov/pub/09-10/bill/sen/sb_0851-0900/sb_882_cfa_20100622_123829_asm_comm.html)
240. Senator Ellen Corbett. SB 648: Electronic Cigarettes. 2013 February 22, 2010. [http://www.leginfo.ca.gov/pub/13-14/bill/sen/sb\\_0601-0650/sb\\_648\\_bill\\_20130222\\_introduced.pdf](http://www.leginfo.ca.gov/pub/13-14/bill/sen/sb_0601-0650/sb_648_bill_20130222_introduced.pdf)
241. Thompson D. Bill Would Treat E-cigarettes Like Other Tobacco. KPBS. (San Diego) May 24 2013. p. <http://www.kpbs.org/news/2013/may/24/bill-would-treat-e-cigarettes-like-other-tobacco/>
242. The Editorial Board. EDITORIAL: Big Tobacco snuffs out e-cigarette legislation. The Fresno Bee. (Fresno) June 29. p. <http://www.fresnobee.com/2014/06/29/4002850/editorial-big-tobacco-snuffs-out.html?sp=/99/274/>
243. Sweeney M. Editorial: Big tobacco flexes muscle on e-cigarette bill. Capitol Weekly. August 5. p. <http://capitolweekly.net/big-tobacco-flexes-muscle-e-cigarette-bill/>
244. None. Assembly Appropriations Committee: Unofficial Ballot: SB 648: E-Cigarettes. 2014. [http://www.leginfo.ca.gov/pub/13-14/bill/sen/sb\\_0601-0650/sb\\_648\\_vote\\_20140806\\_000003\\_asm\\_comm.html](http://www.leginfo.ca.gov/pub/13-14/bill/sen/sb_0601-0650/sb_648_vote_20140806_000003_asm_comm.html)
245. Federal Trade Commission. Federal Trade Commission Cigarette Report for 2011. 2013.
246. Pan R. Assembly Bill 1218: Tax Credits for Tobacco Retailers. 2011 April 7,\. [http://www.leginfo.ca.gov/pub/11-12/bill/asm/ab\\_1201-1250/ab\\_1218\\_bill\\_20110407\\_amended\\_asm\\_v98.html](http://www.leginfo.ca.gov/pub/11-12/bill/asm/ab_1201-1250/ab_1218_bill_20110407_amended_asm_v98.html)
247. Fuentes F. Assembly Bill 2026: Motion Picture Industry Tax Credit. 2012 February 23, 2010. [http://www.leginfo.ca.gov/pub/11-12/bill/asm/ab\\_2001-2050/ab\\_2026\\_bill\\_20120223\\_introduced.html](http://www.leginfo.ca.gov/pub/11-12/bill/asm/ab_2001-2050/ab_2026_bill_20120223_introduced.html)
248. Mitchell D. Assmely Committee on Arts Entrtainement and Toursim Analysis of AB 2026: Film Tax Credits 2012 April 17. [http://www.leginfo.ca.gov/pub/11-12/bill/asm/ab\\_2001-2050/ab\\_2026\\_cfa\\_20120416\\_093132\\_asm\\_comm.html](http://www.leginfo.ca.gov/pub/11-12/bill/asm/ab_2001-2050/ab_2026_cfa_20120416_093132_asm_comm.html)
249. Legislative Analyst's Office. The Supplemental Report of the 2014-2015 Budget Package. 2014 August. <http://lao.ca.gov/reports/2014/supplemental/2014-15-supplemental-report.pdf>
250. McKorkle S. Press Release: "SNUFF TOBACCO MONEY OUT OF CALIFORNIA POLITICS" LAUNCHES WEBSITE TO EXPOSE POLITICANS". 2014 September 29.
251. Cal/OSHA Consultation Service. AB 13 Fact Sheet-California Workplace Smoking Restrictions. Sacramento, California: Occupational Safety and Health Administration 1995 January 1, 1995. [http://www.dir.ca.gov/dosh/dosh\\_publications/smoking.html](http://www.dir.ca.gov/dosh/dosh_publications/smoking.html)
252. The Center for Tobacco Policy & Organizing. Comprehensive Outdoor Secondhand Smoking Ordinances. American Lung Association in California 2013. [http://www.center4tobaccopolicy.org/CTPO/\\_files/\\_file/Comprehensive%20Outdoor%20Secondhand%20Smoke%20Ordinances%20March%202013.pdf](http://www.center4tobaccopolicy.org/CTPO/_files/_file/Comprehensive%20Outdoor%20Secondhand%20Smoke%20Ordinances%20March%202013.pdf)
253. U.S. Surgeon General. The Health Consequences of Involuntary Exposure to Tobacco Smoke: A Report of the Surgeon General. Atlanta, Georgia Centers for Disease Control and Prevention (CDC) 2006. <http://www.ncbi.nlm.nih.gov/books/NBK44324/?report=reader>
254. Francis J, Abramsohn E, Park H-Y. Policy-driven tobacco control. Tobacco Control. 2010;19:16-20.



255. American Lung Association. Implementing Smoke-free Multi-Unit Housing Laws in Two Working Class California Urban Communities: Richmond and Oakland. Oakland, California: American Lung Association 2013.
256. Community Partners. About Us. Los Angeles, California 2014 [cited 2014 August 4]; Available from: <http://www.communitypartners.org/about-us>.
257. Smokefree Apartment House Registry. Information Page #1. Los Angeles, California: Nightwatch; 2004 [cited 2014 August 4 ]; Available from: [http://www.smokefreeapartments.org/general\\_01.html](http://www.smokefreeapartments.org/general_01.html).
258. Hong M-K, Barnes R, Glantz S. Tobacco Control in California 2003-2007: Missed Opportunities, pp. 106-07. *Center for Tobacco Control Research and Education* 2007 November 2007. <http://repositories.cdlib.org/ctcre/tcpmus/CA2007>
259. A Resolution of the City Council of the City of Thousand Oaks Requiring as a Condition of Funding All New Publicly Assisted Rental Residential Projects That Smoking Be Prohibited Inside One-Third of Approved Units, Resolution No. 2004-136. City Council of the City of Thousand Oaks,. September 14, 2004
260. A Resolution of the City Council of the City of Thousand Oaks Requiring as a Condition of Funding for Publicly Assisted Rental REsidential Projects that Smoking be Prohibited Inside Certain Number of Units and Superseding Council Resolution No. 2004-136, City Council of the City of Thousand Oaks,. March 6, 2007
261. Chen S. Interview of Serena Chen, Regional Advocacy Director, American Lung Association in California, September 18, 2013. 2013.
262. Americans for Nonsmokers' Rights. The Smoker Next Door: Handling Unwanted Tobacco Smoke In Apartments And Condominiums. Berkeley, California: ANRF; 2009 [updated April 17, 2012; cited 2014 July 22]; Available from: <http://www.no-smoke.org/document.php?id=213>.
263. ChangeLab Solutions. I heard that a court recently decided outdoor secondhand smoke can be considered a nuisance. What does this mean for tobacco control advocates? Oakland, California 2014 [cited 2014 July 3]; Available from: <http://changelabsolutions.org/tobacco-control/question/i-heard-court-recently-decided-outdoor-secondhand-smoke-can-be-considered-nuisance-wha>.
264. Wickinoff J, Gottlieb M, Mello M. Regulation of Smoking in Public Housing. *The New England Journal of Medicine*. 2010 June 17(362):2319-25.
265. Leading Age. About LeadingAge. Washington D.C.2014 [cited 2014 August 4]; Available from: [http://www.leadingage.org/About\\_LeadingAge.aspx](http://www.leadingage.org/About_LeadingAge.aspx).
266. Chen S. Stoneman Village I & II. Oakland, California American Lung Association in California 2008 [nd].
267. Chen S. Independence Plaza, City of Alameda Housing Authority. Alameda, California: East Bay Smoke-Free Housing Project 2008 June 2008
268. Independence Plaza Smoking Policy Committee. Independence Plaza Resident Survey Results Alameda, California 2007 September 2007
269. Office of Environmental Health Hazard Assessment. Air Toxicology and Epidemiology. Sacramento, California: Government of California 2006 February 2. [http://oehha.ca.gov/air/environmental\\_tobacco/index.html](http://oehha.ca.gov/air/environmental_tobacco/index.html)
270. Leff L. City ready to make secondhand smoke a public nuisance. *Ventura County Star*. (Ventura, California) August 27, 2006. p. <http://infoweb.newsbank.com/iw->

- search/we/InfoWeb?p\_product=AWNB&p\_theme=aggregated5&p\_action=doc&p\_docid=113C54218723CDF8&p\_docnum=1&p\_queryname=2
271. Dublin City Council. Agenda Statement City Council Meeting Date June 6 2006. Dublin, California: City of Dublin2006 Juen 6, 2006.
272. Cave B. Secondhand smoke in common areas may constitute a public nuisance. London, United Kingdom: Association of Corporate Counsel 2009 [cited 2014 July 3]; Available from: <http://www.lexology.com/library/detail.aspx?g=c034f0dc-c38c-4a1b-93bd-5ae09820cb8f>.
273. Join Together Staff. Secondhand Smoke Called 'Public Nuisance'. New York, New York Partnership for Drug-Free Kids 2006 [cited 2014 July 3]; Available from: <http://www.drugfree.org/join-together/secondhand-smoke-called-public-nuisance/>.
274. Tri-Valley Herald. Dublin Liberties go up in Smoke. Tri-Valley Herald. (Dublin, California ) August 17, 2006. p.
275. Chen S. Secondhand smoke editorial misled readers. Tri-Valley Herald. (Dublin, California) August 24, 2006. p.
276. Chen S. Personal Communication with Serena Chen In: Barry R, editor. San Francisco, California 2014.
277. Oremus W. Belmont passes tough anti-smoking law. San Jose Mercury News. (San Jose, California) September 11, 2007. p. [http://www.mercurynews.com/peninsula/ci\\_6867281?nclick\\_check=1](http://www.mercurynews.com/peninsula/ci_6867281?nclick_check=1)
278. Belmont City Council. Minutes of the November 14, 2006 Hearing. Belmont, California City of Belmont 2006 November 14.
279. California's Clean Air Project. Welcome! Sacramento, California: ETR Services; [NY] [cited 2014 August 4]; Available from: <http://ccap.etr.org/>.
280. American Nonsmokers' Rights Foundation. U.S. Local Laws and Policies Restricting or Prohibiting Smoking in Private Units of Multi-Unit Housing. 2014 July 3, 2014. <http://www.no-smoke.org/pdf/smokefreemuh.pdf>
281. American Lung Association. Matrix of Local Smokefree Housing Policies. California Department of Public Health2011 November. <http://www.hcd.ca.gov/codes/rt/Matrix%20of%20Local%20Smokefree%20Housing%20Policies%20November%202011%20%28update%29.pdf>
282. Samuels B, Glantz SA. The Politics of Local Tobacco Control. JAMA. 1991;266(15):2110-7.
283. Traynor MP, Begay ME, Glantz SA. New Tobacco Industry Strategy to Prevent Local Tobacco Control. JAMA. 1993;270(4):479 - 86.
284. American Nonsmokers' Rights Foundation. U.S. Local Laws and Policies Restricting or Prohibiting Smoking in Private Units of Multi-Unit Housing. 2013 October 1, 2013. <http://www.no-smoke.org/pdf/smokefreemuh.pdf>
285. The Center for Tobacco Policy & Organizing. Becoming a Policy Wonk on Nonsmoking Housing Units Ordinances: Answers to Tough Questions from Opponents and Elected Officials. Sacramento, California: American Lung Association; 2011 [cited 20104 June 27]; Available from: <http://www.hcd.ca.gov/codes/rt/Becoming%20a%20Policy%20Wonk%20on%20Nonsmoking%20Housing%20Units%20Ordinances%20November%202011.pdf>.
286. Hyland A, Barnoya J, Corral JE. Smoke-free air policies: past, present and future. Tob Control. 2012 Mar;21(2):154-61.

287. Usher N. No-Smoking Signs Go Up at Two L.A. County Beaches. Los Angeles Times. (Los Angeles, California ) July 3, 2004. p. <http://articles.latimes.com/2004/jul/03/local/me-beaches3>
288. Berger R. Parks and Recs Gets it Right. Santa Monica Daily Press. (Santa Monica, California) July 24, 2002. p. <http://issuu.com/smdp/docs/072402>
289. Flynn K. L.A. council approves beach smoking ban ORDINANCE: Dockweiler, Cabrillo, Venice and Will Rogers beaches will be affected. Mayor Hahn plans to OK the measure. Copley News Service. (Los Angeles, California) April 24, 2004 p. [http://forum.surfermag.com/forum/ubbthreads.php?ubb=showflat&Number=454274&site\\_id=1#import](http://forum.surfermag.com/forum/ubbthreads.php?ubb=showflat&Number=454274&site_id=1#import)
290. Gaura MA. Ugly butts may be banned from towns' beaches / Santa Cruz, Capitola see benefits in smoke-free zones. SF Gate (San Francisco, California ) July 25, 2004. p. <http://www.sfgate.com/bayarea/article/CENTRAL-COAST-Ugly-butts-may-be-banned-from-2706015.php>
291. California Air Resources Board. Proposed Identification of Environmental Tobacco Smoke as a Toxic Air Contaminant Sacramento, California: California Environmental Protection Agency 2006 January 26. <http://www.arb.ca.gov/regact/ets2006/etsfro.pdf>
292. U.S. Surgeon General. Preventing Tobacco Use Among Youth and Young Adults: A Report of the Surgeon General. Atlanta, Georgia: U.S. Department of Health and Human Services 2012. <http://www.surgeongeneral.gov/library/reports/preventing-youth-tobacco-use/full-report.pdf>
293. Klepeis NE, Ott WR, Switzer P. Real-time measurement of outdoor tobacco smoke particles. J Air Waste Manage. 2007 May;57(5):522-34.
294. American Lung Association. State of Tobacco Control: California Local Grades. Sacramento, California: American Lung Association 2009 January <http://www.lung.org/associations/states/california/assets/pdfs/full-report.pdf>
295. American Lung Association in California. State of Tobacco Control California Local Grades. Oakland, California ALA2010 2010. <http://www.lung.org/associations/states/california/advocacy/fight-/sotc2010-local-county-grades.html>
296. Williams L. Personal Communication with Liz Williams. In: Barry R, editor. San Francisco, California 2014.
297. Ibrahim J, Glantz S. Tobacco Policy Making in California 2001-2003: No Longer Finishing First. *Center for Tobacco Control Research and Education* 2003 June 2003. <http://escholarship.org/uc/item/037948rj.pdf>
298. Herrera K. The Promenade's Final Drag? Santa Monica Daily Press. (Santa Monica, California) May 10, 2006. p. <http://www.ttac.org/tcn/materials/pdfs/06.07.06/smdp.pdf>
299. Berger R. Personal Communication with Robert Berger. In: Barry R, editor. San Francisco, California 2014.
300. Weber MD, Simon P, Messex M, Aragon L, Kuo T, Fielding JE. A Framework for Mobilizing Communities to Advance Local Tobacco Control Policy: The Los Angeles County Experience. American Journal of Public Health. 2012 May;102(5):785-8.
301. Mosher M. Yes to surfin', but no to smokin': Malibu begins enforcing smoking ban on beaches. NBC News. (Malibu, California) May 26, 2004. p. [http://www.ttac.org/tcn/materials/pdfs/06.07.06/Yestosurfin\\_butnotosmokin-U.S.News-MSNBC.com.pdf](http://www.ttac.org/tcn/materials/pdfs/06.07.06/Yestosurfin_butnotosmokin-U.S.News-MSNBC.com.pdf)

302. Americans for Nonsmokers' Rights. Municipalities with Smokefree Beach Laws Enacted as of July 3, 2014 Berkeley, California: ANR2014 July 3, 2014. <http://www.no-smoke.org/pdf/SmokefreeBeaches.pdf>
303. Berger R. Fresh Air Dining. Santa Monica, CA: Healthier Solutions 2005.
304. Berger R. Tobacco Control Policies Enacted in Los Angeles County 1998-2011. Santa Monica, CA: Healthier Solutions 2011.
305. Dearlove JV, Bialous SA, Glantz SA. Tobacco industry manipulation of the hospitality industry to maintain smoking in public places. *Tob Control*. 2002;11(2):94-104.
306. Berger R. Tobacco-Free Policies: Moving Beyond the Indoor Environment The LA County Experience. Los Angeles, CA Los Angeles County Department of Public Health 2011 2011.
307. Tobacco Control and Prevention Program. City of Los Angeles Smoke-Free Outdoor Dining Ordinance. Los Angeles, CA: County of Los Angeles Department of Public Health; 2011 [cited 2014 September 4]; Available from: <http://publichealth.lacounty.gov/tob/>.
308. ChangeLab Solutions. [Expanded Definition of Tobacco Products]. Berkeley, CA: ChangeLab Solutions 2005 April 2005
309. Roeseler A. Personal Communication with April Roeseler of the California Tobacco Control Program. In: Barry R, editor. San Francisco, California 2014.
310. Wakefield M, Forster J. Growing evidence for new benefit of clean indoor air laws: reduced adolescent smoking. *Tob Control*. 2005;14(5):292-3.
311. Alesci N, Forster J, Blaine T. Smoking visibility, perceived acceptability, and frequency in various locations among youth and adults. *Prev Med*. 2003;36(3):272-81.
312. Landman A, Ling PM, Glantz SA. Tobacco Industry Youth Smoking Prevention Programs: Protecting the Industry and Hurting Tobacco Control. *Am J Public Health*. 2002;92(6):917-30.
313. Sebrie EM, Glantz SA. Attempts to Undermine Tobacco Control: Tobacco Industry "Youth Smoking Prevention" Programs to Undermine Meaningful Tobacco Control in Latin America. *Am J Public Health*. 2007;97(8):1357-67.
314. Wakefield MA, Terry-McElrath Y, Emery S, Saffer H, Chaloupka F, Szczpka G, Flay B, O'Malley PM, Johnston LD. Effect of Televised, Tobacco Company-Funded Smoking Prevention Advertising on Youth Smoking-Related Beliefs, Intentions, and Behavior. *Am J Public Health*. 2006;96(12):2154-60.
315. Ling PM, Landman A, Glantz SA. It is time to abandon youth access tobacco programmes. *Tob Control*. 2002 Mar;11(1):3-6.
316. American Cancer Society Cancer Action Network, American Lung Association, American Heart Association, Campaign for Tobacco-Free Kids. Policy Guidance Document Regarding E-Cigarettes and Other Electronic Smoking Devices. Washington D.C. 2013 June 2013.
317. The Center for Tobacco Policy & Organizing. Local Policies on the Use of Electronic Cigarettes. Sacramento, California: American Lung Association 2014 May <http://center4tobaccopolicy.org/wp-content/uploads/2014/05/Local-Policies-on-Use-of-E-Cigs-May-2014.pdf>
318. Americans for Nonsmokers' Rights. Current Status Data CA Clean Air 2007-2014. Berkeley, California: ANR2014 July 9, 2014.

319. Humboldt County Department of Health and Human Services. Tobacco-Free Humboldt. Humboldt, California 2014 [cited 2014 August 14]; Available from: <http://humboldt.gov/662/Tobacco-Free-Humboldt>.
320. Eureka City Council. Agenda Summary Regulating Smoking in Indoor and Outdoor Places Eureka, California: City of Eureka 2010 July 6, 2010. <http://www.ci.eureka.ca.gov/civica/filebank/blobdload.asp?BlobID=6467>
321. Eureka City Council. One Page Outline of the Smoking Ordinance. Eureka, California: Humboldt County Department of Health and Human Services 2010 July 20, 2010. <http://www.ci.eureka.ca.gov/civica/filebank/blobdload.asp?BlobID=6494>
322. Tobacco Education Network. TEN Community Coalition Eureka, California 2014 [cited 2014 August 14]; Available from: <http://humboldtten.posthaven.com/>.
323. Eureka, California, Municipal Code Section 11, Chapter 97.01-97.99 (2010). <http://www.ci.eureka.ca.gov/civica/filebank/blobdload.asp?BlobID=6467>
324. American's for Nonsmokers' Rights. U.S. State and Local Laws Regulating Use of Electronic Cigarettes As of April 29, 2014 Berkeley, California: American's for Nonsmokers' Rights 2014 April 29, 2014 <http://no-smoke.org/pdf/ecigslaws.pdf>
325. The City of Eureka. Smokefree City of Eureka What you need to know. Eureka, California: Tobacco-Free Humboldt Program 2010 July 2010 <http://humboldt.gov/DocumentCenter/Home/View/2053>
326. Consumer Advocates for Smoke-Free Alternatives. Call to Action! Contra Costa County, California E-Cigarette Usage Ban Birmingham, AL 2013 [cited 2014 September 9]; Available from: <http://blog.casaa.org/2013/03/call-to-action-contra-costa-county.html>.
327. Smoke-Free Alternatives Trade Association. January 13, 2014. Washington D.C. 2014 [cited 2014 September 9]; Available from: <http://us6.campaign-archive1.com/?u=e739583f3fc216a80b74c12c3&id=dcbe7af12c>.
328. Gorman S. Los Angeles City Council approves e-cigarette ban. Reuters (Los Angeles, California ) March 4, 2014. p. <http://www.reuters.com/article/2014/03/04/us-usa-ecigarettes-california-idUSBREA2324920140304>
329. Batch E. Interview with American Heart Association's Eric Batch In: Barry R, editor. San Francisco, California 2014.
330. Manzanilla N. Electronic mail from Nora Manzanilla of Los Angeles City Attorney Office's Tobacco Enforcement Program In: Rachel Barry, editor. San Francisco, 2014.
331. ChangeLab Solutions. Electronic Cigarettes How are they and could be regulated. Oakland, California 2011 October. [www.changelabsolutions.org/tobacco-control](http://www.changelabsolutions.org/tobacco-control)
332. Orlov R. PUBLIC HEALTH - L.A. council regulates e -cigarettes like tobacco. Daily Breeze. (Torrence, California) March 5, 2014. p. [http://infoweb.newsbank.com/iw-search/we/InfoWeb?p\\_product=AWNB&p\\_theme=aggregated5&p\\_action=doc&p\\_docid=14C5C00C5DDCF560&p\\_docnum=10&p\\_queryname=7](http://infoweb.newsbank.com/iw-search/we/InfoWeb?p_product=AWNB&p_theme=aggregated5&p_action=doc&p_docid=14C5C00C5DDCF560&p_docnum=10&p_queryname=7)
333. Pueblo y Salud. Welcome. Bienvenido. San Fernando, California 2014 [cited 2014 July 28]; Available from: <http://pys.org/>.
334. Lyons S. Personal Communication with American Cancer Society Cancer Action Network Spencer Lyons. In: Barry R, editor. San Francisco 2014.
335. Knox J. Electronic mail with Jim Knox VP of Government Relations for American Cancer Society Cancer Action Network In: Barry R, editor. San Francisco, CA 2014.
336. Los Angeles City Clerk Connect. Council File: 13-1204-S1. Los Angeles, California: City of Los Angeles 2014 [cited 2014 August 12]; Available from:

<http://cityclerk.lacity.org/lacityclerkconnect/index.cfm?fa=ccfi.viewrecord&cfnumber=13-1204-S1>.

337. Ibrahim J, Glantz S. Tobacco Policy Making in California 2001-2003: No Longer Finishing First. San Francisco, California: Center for Tobacco Control Research and Education 2003 June 2003. <http://escholarship.org/uc/item/037948rj>

338. California Secretary of State. California Automated Lobbying and Campaign Contribution and Expenditure Search System (Cal-Access). 2014 [cited 2014]; Available from: <http://cal-access.ss.ca.gov/>.

339. Koretz P. Motion [for City Attorney to Prepare and Present an Ordinance for a Moratorium on the sale of e-cigarettes to minors]. Los Angeles, California: Los Angeles City Council 2013 September 11, 2013. [http://clkrep.lacity.org/onlinedocs/2013/13-1204\\_MOT\\_09-11-13.pdf](http://clkrep.lacity.org/onlinedocs/2013/13-1204_MOT_09-11-13.pdf)

340. Moreno JH. Seal Beach Approves Moratorium on E-Cigarette Vendors. KTLA (Seal Beach, California ) August 27, 2013. p. <http://ktla.com/2013/08/27/seal-beach-approves-moratorium-on-e-cigarette-vendors/>

341. Feuer M. Draft ordinance amending articles 6.9 and 7 of the Los Angeles Municipal Code to add products containing biologically active amounts of nicotine to the definition of tobacco products and to make other changes to the tobacco retailers permit and to self-service display of tobacco products regulations. Los Angeles, California: Office of the City Attorney 2013 October 23, . [http://clkrep.lacity.org/onlinedocs/2013/13-1204\\_RPT\\_ATTY\\_10-23-13.pdf](http://clkrep.lacity.org/onlinedocs/2013/13-1204_RPT_ATTY_10-23-13.pdf)

342. Uang R, Barnes R, Glantz S. Tobacco Policymaking in Illinois, 1965-2014: Gaining Ground in a Short Time. San Francisco, California Center for Tobacco Control and Research Education 2014 May 2014. <http://www.escholarship.org/uc/item/6805h95r>

343. Briant T. Dear Councilmember O'Farrell and Council members. Minneapolis, Minnesota National Association of Tobacco Outlets, INC. 2013 October 21, 2013. [http://clkrep.lacity.org/onlinedocs/2013/13-1204\\_pc\\_2\\_10-23-13.pdf](http://clkrep.lacity.org/onlinedocs/2013/13-1204_pc_2_10-23-13.pdf)

344. Food and Drug Administration, Proposed Rule on Deeming Tobacco Products To Be Subject to the Federal Food, Drug, and Cosmetic Act, as Amended by the Family Smoking Prevention and Tobacco Control Act; Regulations on the Sale and Distribution of Tobacco Products and Required Warning Statements for Tobacco Products (April 25, 2014), Docket No. FDA-2014-N-0189, RIN 0910-AG38, 79 F.R. 23142, <https://www.federalregister.gov/articles/2014/04/25/2014-09491/deeming-tobacco-products-to-be-subject-to-the-federal-food-drug-and-cosmetic-act-as-amended-by-the>

345. American E-Liquid Manufacturing Standards Association. E-Liquid Manufacturing Standards. Internet: AEMSA2012 December 6. [http://clkrep.lacity.org/onlinedocs/2013/13-1204\\_pc\\_1\\_10-23-13.pdf](http://clkrep.lacity.org/onlinedocs/2013/13-1204_pc_1_10-23-13.pdf)

346. Saloojee Y, Dagli E. Tobacco industry tactics for resisting public policy on health. Bulletin of the World Health Organization. 2000;78(7):902-10.

347. Hallet C. Dear Council President Herb Wesson Jr. . Berkeley, California: Americans for Nonsmokers' Rights 2013 December 2, 2013. [http://clkrep.lacity.org/onlinedocs/2013/13-1204\\_misc\\_12-3-13.pdf](http://clkrep.lacity.org/onlinedocs/2013/13-1204_misc_12-3-13.pdf)

348. Hallett C. Personal Communication with Cynthia Hallet. In: Barry R, editor. San Francisco, California 2014.

349. Consumer Advocates for Smoke-Free Alternatives. Call to to Action: Los Angeles E-Cigarette Usage Ban. 2014 [cited 2014 August 12]; Available from: <http://blog.casaa.org/2014/01/call-to-to-action-los-angeles-e.html>.
350. Deasy J. Dear Council Member Mitch O'Farrel and Members of the City Council. Los Angeles, California: Board of Education 2014 January 6, 2014. [http://clkrep.lacity.org/onlinedocs/2013/13-1204-s1\\_pc\\_1-6-14.pdf](http://clkrep.lacity.org/onlinedocs/2013/13-1204-s1_pc_1-6-14.pdf)
351. Samet JM. Honorable Members. Los Angeles, California: University of Southern California 2014 January 9, 2014. [http://clkrep.lacity.org/onlinedocs/2013/13-1204-s1\\_pc\\_1-9-14.pdf](http://clkrep.lacity.org/onlinedocs/2013/13-1204-s1_pc_1-9-14.pdf)
352. Stagg K. E-Cigarettes: An Unregulated Product with Unknown Health Risks Chicago, Illinois: Chicago Department of Public Health 2014 July 9, 2014.
353. Stagg K. Personal Communication with Kendall Stagg of the Chicago Health Department. In: Barry R, editor. San Francisco, California 2014.
354. Hallet C. New York City, Chicago, and San Francisco Implementing Electronic Cigarette Laws: Millions protected from exposure to e-cigarette secondhand aerosol. PR Newswire. (Berkeley, California ) April 28, 2014. p. <http://www.prnewswire.com/news-releases/new-york-city-chicago-and-san-francisco-implementing-electronic-cigarette-laws-millions-protected-from-exposure-to-e-cigarette-secondhand-aerosol-257066191.html>
355. Fallin A, Grana R, Glantz SA. 'To quarterback behind the scenes, third-party efforts': the tobacco industry and the Tea Party. *Tob Control*. [Research Support, N.I.H., Extramural]. 2014 Jul;23(4):322-31.
356. Bialous S, Glantz S. ASHRAE Standard 62: tobacco industry's influence over national ventilation standards. *Tob Control*. 2002;11:315-28.
357. McDaniel PA, Intinarelli G, Malone RE. Tobacco industry issues management organizations: creating a global corporate network to undermine public health. *Globalization and health*. 2008;4:2.
358. [no author]. Morris P. The Role of Infotab November 20, 1981 1981. <http://legacy.library.ucsf.edu/tid/blp39e00/pdf>.
359. Smoke-Free Alternatives Trade Association. Ron Tully. Washington D.C. 2014 [cited 2014 August 28]; Available from: <http://sfata.org/ron-tully/>.
360. Valencia J-A. José-Antonio Valencia LinkedIn Profile. LinkedIn; 2014 [cited 2014 August 28]; Available from: [https://www.linkedin.com/profile/view?id=35486005&authType=NAME\\_SEARCH&authToken=N0OB&locale=es\\_ES&srchid=2190436541409266679434&srchindex=5&srchtotol=621&trk=vsrp\\_people\\_res\\_name&trkInfo=VSRPsearchId%3A2190436541409266679434%2CVSRPtargetId%3A35486005%2CVSRPcmpt%3Aprimary](https://www.linkedin.com/profile/view?id=35486005&authType=NAME_SEARCH&authToken=N0OB&locale=es_ES&srchid=2190436541409266679434&srchindex=5&srchtotol=621&trk=vsrp_people_res_name&trkInfo=VSRPsearchId%3A2190436541409266679434%2CVSRPtargetId%3A35486005%2CVSRPcmpt%3Aprimary).
361. Neporent. E-Cigarette Health Row Catches Fire. ABC News,. Decemeber 10. p. <http://abcnews.go.com/Health/cigarette-health-row-catches-fire/story?id=21153225>
362. Gieringer D. Scientific Review Finds No Evidence E-Cig Vapors Pose Harm. Los Angeles, CA: Los Angeles City Clerk 2014 January 14, 2014. [http://clkrep.lacity.org/onlinedocs/2013/13-1204-S1\\_pc\\_1\\_1-14-14.pdf](http://clkrep.lacity.org/onlinedocs/2013/13-1204-S1_pc_1_1-14-14.pdf)
363. Burstyn I. Peering through the mist: systematic review of what the chemistry of contaminants in electronic cigarettes tells us about health risks. *BMC Public Health*. 2014 January 9, 2014;14(1):18.
364. Glantz S. Personal Communication with Stanton Glantz. In: Barry R, editor. San Francisco, California 2014.

365. Samet JM. Dear Council Member O'Farrell. Los Angeles, California: University of Southern California 2014 February 20, 2014. [http://clkrep.lacity.org/onlinedocs/2013/13-1204-s1\\_pc\\_2-20-14.pdf](http://clkrep.lacity.org/onlinedocs/2013/13-1204-s1_pc_2-20-14.pdf)
366. Felberbaum M. Old Tobacco Playbook Gets New Use By E-Cigarettes. Associated Press ([Online]) August 3, 2013. p. <http://bigstory.ap.org/article/old-tobacco-playbook-gets-new-use-e-cigarettes>
367. Infoplease. Top 50 Cities in the U.S. by Population and Rank. [online] Pearson Education; 2014 [cited 2014 September 10 ]; Available from: <http://www.infoplease.com/ipa/A0763098.html>.
368. blu eCigs. Ecig Ban Radio Spots Los Angeles. [online] Lorillard 2014 [cited 2014 September 12]; Available from: <https://soundcloud.com/blucigs/sets/ecig-ban-radio-spots-los>.
369. Blu Nation. Takin' It to the Streets: Protest Pro Tips. North Carolina Lorillard Technologies Inc. ; 2014 [cited 2014 August 6]; Available from: <http://www.blucigs.com/protest-pro-tips/>.
370. City Ethics Committee. Report for Eck and Eck. Los Angeles, California: City of Los Angeles 2014 March 31, 2014. [http://ethics.lacity.org/disclosure/index.cfm?fuseaction=home.view&LOB\\_QTR\\_RPT\\_ID=17527](http://ethics.lacity.org/disclosure/index.cfm?fuseaction=home.view&LOB_QTR_RPT_ID=17527)
371. City Ethics Committee. Report for Veronica Perez. Los Angeles: City of Los Angeles 2014 March 31, 2014. [http://ethics.lacity.org/disclosure/index.cfm?fuseaction=home.view&LOB\\_QTR\\_RPT\\_ID=17287](http://ethics.lacity.org/disclosure/index.cfm?fuseaction=home.view&LOB_QTR_RPT_ID=17287)
372. Apollonio D, Bero L. The Creation of Industry Front Groups: The Tobacco Industry and "Get Government Off Our Back". *Am J Public Health*. 2007;97(3):419-27.
373. Mailyan MM. Dear Councilmember LaBonge. Los Angeles, California: Vapor Shop Lounge in Sherman Oaks 2014 February 13, 2014. [http://clkrep.lacity.org/onlinedocs/2013/13-1204-s1\\_pc\\_2-13-14.pdf](http://clkrep.lacity.org/onlinedocs/2013/13-1204-s1_pc_2-13-14.pdf)
374. Consumer Advocates for Smoke-Free Alternatives. E-cigarettes and other Tobacco Harm reduction strategies: a collection of success stories. Washington, D.C. 2014 [cited 2014 August 5 ]; Available from: <http://myemail.constantcontact.com/CASAA-launches-tobacco-harm-reduction-success-stories-collection---please-submit-your-story-.html?soid=1103672706610&aid=8OWkM9IQ3UM>.
375. Jones S. Dear Councilmember LaBonge. Los Angeles, California: XOXO Vapor Bar 2014 February 14, 2014. [http://clkrep.lacity.org/onlinedocs/2013/13-1204-s1\\_pc\\_2-14-14.pdf](http://clkrep.lacity.org/onlinedocs/2013/13-1204-s1_pc_2-14-14.pdf)
376. Carmona R. L.A. e-cigarette ban could hurt anti-smoking efforts: Guest commentary. *Los Angeles Daily News*. (Los Angeles, California) February 19, 2014. p. <http://www.dailynews.com/opinion/20140219/la-e-cigarette-ban-could-hurt-anti-smoking-efforts-guest-commentary>
377. SourceWatch. American Council on Science and Health. Internet: The Center for Media and Democracy Freedomworks 2014 [cited 2014 August 5]; Available from: [http://www.sourcewatch.org/index.php/American\\_Council\\_on\\_Science\\_and\\_Health](http://www.sourcewatch.org/index.php/American_Council_on_Science_and_Health).
378. Whelan EM, Ross GL. ACSH's written testimony to the Los Angeles City Council re: e-cigarette legislation. Washington D.C. : American Council on Science and Health 2014 February 22, 2014. [http://clkrep.lacity.org/onlinedocs/2013/13-1204-s1\\_pc\\_2-22-14.pdf](http://clkrep.lacity.org/onlinedocs/2013/13-1204-s1_pc_2-22-14.pdf)
379. American Council on Science and Health. ACSH's written testimony to the Los Angeles City Council re: e-cigarette legislation. Washington D.C. 2014 February 22, 2014.



- <http://cityclerk.lacity.org/lacityclerkconnect/index.cfm?fa=ccfi.viewrecord&cfnumber=13-1204-S1>
380. City of Los Angeles. City of Los Angeles Speakers Cards. Los Angeles, California: Los Angeles City Council 2014 February 24, 2014. [http://clkrep.lacity.org/onlinedocs/2013/13-1204-S1\\_sc\\_02-24-14.pdf](http://clkrep.lacity.org/onlinedocs/2013/13-1204-S1_sc_02-24-14.pdf)
381. Blu Nation. Freedom Friday: Los Angeles Considering Public Vaping Ban LA is the latest city to talk banning. Greensboro, North Carolina: Lorillard; 2014 [cited 2014 July 29]; Available from: <http://www.blucigs.com/freedom-friday-los-angeles-latest-city-consider-ban-public-vaping/>.
382. Hendlin Y, Anderson SJ, Glantz SA. 'Acceptable rebellion': marketing hipster aesthetics to sell Camel cigarettes in the US. *Tob Control*. 2010 Jun;19(3):213-22.
383. Ling P, Lee YO, Hong J, Neilands TB, Jordan JW, Glantz SA. Social Branding to Decrease Smoking Among Young Adults in Bars. *American Journal of Public Health*. 2014 April 2014;104(4):751-60.
384. Ling PM, Neilands TB, Glantz SA. Young adult smoking behavior: a national survey. *American journal of preventive medicine*. 2009 May;36(5):389-94 e2.
385. Sepe E, Ling PM, Glantz SA. Smooth moves: Bar and nightclub tobacco promotions that target young adults. *American Journal of Public Health*. 2002 Mar;92(3):414-9.
386. Smith D. Personal Communication with Derek Smith. In: Barry R, editor. San Francisco, California 2014.
387. Garcia BA. San Francisco Department of Public Health Policy and Procedure Detail San Francisco, California: San Francisco Department of Public Health 2013 August 26. [http://www.sfdph.org/dph/files/PoliciesProcedures/OCS2\\_ECigaretteUseProhibition.pdf](http://www.sfdph.org/dph/files/PoliciesProcedures/OCS2_ECigaretteUseProhibition.pdf)
388. Hirsch D. Hazy Regulations For E-Cigarettes on the Vapory Coast. Mission Local. (San Francisco, California) January 17, 2014 p. <http://missionlocal.org/2014/01/hazy-regulations-e-cigarettes-vapory-coast/>
389. Callahan M. Electronic cigarettes covered under existing City smoke-free workplace policies. San Francisco, California: Department of Human Resources 2013 September 12. [http://www.sfdph.org/dph/files/PoliciesProcedures/OCS2\\_ECigaretteUseProhibition.pdf](http://www.sfdph.org/dph/files/PoliciesProcedures/OCS2_ECigaretteUseProhibition.pdf)
390. Dutra LM, Glantz SA. Electronic Cigarettes and Conventional Cigarette Use Among US Adolescents: A Cross-sectional Study. *JAMA pediatrics*. 2014 Mar 6.
391. Stevenson D. SF Considering tough restrictions on e-cigarettes. KTVU. (San Francisco) March 3, 2014. p. <http://www.ktvu.com/news/news/local/sf-considering-tough-restrictions-e-cigarettes/nd5Gc/>
392. Ray C. [Letter to Mayor Lee and Members of the Board of Supervisors]. Sacramento, California American Cancer Society Cancer Action Network 2014 March 4.
393. Gieringer D. Dear Council Member Koretz:. Oakland, California: CA National Organization for Reform of Marijuana Laws 2013 December 13, 2013. [http://clkrep.lacity.org/onlinedocs/2013/13-1204-S1\\_pc\\_12-13-13.pdf](http://clkrep.lacity.org/onlinedocs/2013/13-1204-S1_pc_12-13-13.pdf)
394. Lagos M. S.F. supes vote for same smoking laws for e-cigarettes. SF Gate. (San Francisco, California) March 19, 2014. p. <http://www.sfgate.com/default/article/S-F-supes-vote-for-same-smoking-laws-for-5329328.php>
395. Barry R. Personal Communication with Rachel Barry on San Jose Sampling Proposed Ordinance. In: Barry R, editor. San Francisco, California 2014.
396. Aragón T. What do zombies, body snatchers, and the tobacco industry have in common? The Berkeley Blog. Berkeley, California 2014.

397. Glantz S. State regulation of where e-cigs smoked needed regardless of FDA. In: Glantz S, editor. E-Cig Debate. San Francisco, California 2013.
398. California Tobacco Control Program. Combined Scope of Work for the Center for Tobacco Policy and Organizing Sacramento, California: California Department of Public Health 2009 January 1.
399. California Tobacco Control Program. Combined Scope of Work for Technical Assistance Legal Center. Sacramento, California: California Department of Public Health 2009 July 1, 2008.
400. California Tobacco Control Program. Scope of Work Object 2 for the California Youth Advocacy Network. Sacramento, California: California Department of Public Health 2009 July 1, 2007
401. Changelab Solutions. Tobacco Retailer Licensing An Effective Tool for Public Health. Oakland 2012 [cited 2014 August 15]; Available from: [http://changelabsolutions.org/sites/default/files/TobaccoRetailerLicensing\\_factsheet\\_FINAL\\_20120907.pdf](http://changelabsolutions.org/sites/default/files/TobaccoRetailerLicensing_factsheet_FINAL_20120907.pdf).
402. The Center for Tobacco Policy & Organizing. Matrix of Strong Local Tobacco Retailer Licensing Ordinances September Sacramento, California: American Lung Association 2013. <http://center4tobaccopolicy.org/wp-content/uploads/2013/09/Matrix-of-Strong-Local-Tobacco-Retailer-Licensing-Ordinances-September-2013.pdf>
403. The Center for Tobacco Policy & Organizing. Tobacco Retailer Licensing is Effective. Sacramento, California American Lung Association 2013 September <http://center4tobaccopolicy.org/wp-content/uploads/2013/09/Tobacco-Retailer-Licensing-is-Effective-September-2013.pdf>
404. An ordinance of the City Council of the City of Richmond Repealing Chapter 7.104 of the City of Richmond Municipal Code and Adding Chapter 7.106 Establishing a Tobacco Retailer License Stat. ORDINANCE NO.13-09 N.S. (May 19, 2009, 2009).
405. Campaign for Tobacco-Free Kids. State Cigarette Excise Tax Rates & Rankings. 2012 December 13, 2012. <http://www.tobaccofreekids.org/research/factsheets/pdf/0097.pdf>
406. Morain D. Big Tobacco fires up anti-tax effort - Slick ads aim to derail Prop. 29 cigarette levy. The Sacramento Bee. (Sacramento, CA) April 15, 2012. California Forum, p.
407. Kelly R. Interview of Regis Kelly, Director, California Institute for Quantitative Biosciences, by Kate Swartz. 2013.
408. University of California Office of the President. Governor Gray Davis Institutes for Science and Innovation. 2014 [April 18, 2014]; Available from: <http://www.ucop.edu/california-institutes>.
409. Bowen D. Campaign Finance - Leadership California. 2009. <http://cal-access.sos.ca.gov/Campaign/Committees/Detail.aspx?id=1274538&session=2009>
410. Gibbs T. Interview of Tim Gibbs, American Cancer Society Cancer Action Network, by Kate Swartz, February 12, 2013. 2013.
411. Hill N. HOPE 2010: California Cancer Research Act. 2009 September 22 #09-0034. [http://oag.ca.gov/system/files/initiatives/pdfs/09-0034%20%28i831\\_initiative\\_09-0034%29.pdf?](http://oag.ca.gov/system/files/initiatives/pdfs/09-0034%20%28i831_initiative_09-0034%29.pdf?)
412. Knox J. Interview of Jim Knox, Vice President, Legislative Advocacy, California American Cancer Society Cancer Action Network, by Kate Swartz. 2013.
413. Richman J. Perata's cigarette Tax measure finds First Five foes. Contra Costa Times. (Walnut Creek, CA) November 17, 2009. p.

414. Hill N. HOPE 2010: California Cancer Research Act. 2009 October 23 #09-0065. [http://oag.ca.gov/system/files/initiatives/pdfs/09-0065%20%28i862\\_09-0065\\_amdt\\_2ns%29.pdf?](http://oag.ca.gov/system/files/initiatives/pdfs/09-0065%20%28i862_09-0065_amdt_2ns%29.pdf?)
415. Hill N. HOPE 2010: California Cancer Research Act. 2009 December 7 #09-0097. [http://oag.ca.gov/system/files/initiatives/pdfs/09-0097%20%28i895\\_initiative\\_09-0097%29.pdf?](http://oag.ca.gov/system/files/initiatives/pdfs/09-0097%20%28i895_initiative_09-0097%29.pdf?)
416. May B. Interview of Beverly May, Director, Western Region and Ohio, Campaign for Tobacco-Free Kids by Kate Schartz, January 24, 2013. 2013.
417. Richman J. Don Perata and friends paid by Prop. 29 campaign. Bay Area News Group Political Blotter March 23, 2012. p. <http://www.ibabuzz.com/politics/2012/03/23/don-perata-friends-paid-by-prop-29-campaign/>
418. Smith S. Stan Glantz Interview with Steve Smith of Dewey Square Group. 2014.
419. Rayburn K. Perata will run for Oakland mayor. The Oakland Tribune. (Oakland, CA) March 31, 2009. Breaking, p.
420. Bowen D. Press Release: Tax-Related Initiative Enters Circulation. February 2, 2010. <https://www.sos.ca.gov/admin/press-releases/2010/db10-018.pdf>
421. Bowen D. Certification of Qualification of IMPOSES ADDITIONAL TAX ON CIGARETTES FOR CANCER RESEARCH INITIATIVE STATUTE for the next general election. California Secretary of State 2010 August 24. <http://www.sos.ca.gov/elections/ccrov/pdf/2010/august/10270km.pdf>
422. Californians for a Cure. Form 460 Recipient Committee Campaign Statement, 10/01/2010 - 12/31/2010. 2011 April 29, 2011. <http://cal-access.sos.ca.gov/PDFGen/pdfgen.prg?filingid=1572033&amendid=1>
423. Californians for a Cure. Form 460 Recipient Committee Campaign Statement, 10/01/2011 - 12/31/2011. 2012 April 10, . <http://cal-access.sos.ca.gov/PDFGen/pdfgen.prg?filingid=1637053&amendid=1>
424. Willcoxon A. Interview of Anne Willcoxon by Kate Swartz. 2013.
425. Williams J, Lin J. Brown urges lawmakers to allow special election. Associated Press State Wire: California. (Sacramento, CA) January 31, 2011. p.
426. Venezianno D. Interview of David Venezianno, CEO, American Cancer Society, CA Division, by Kate Swartz, January 10, 2013.
427. Bowen D. Statement of Vote, June 5, 2012 Presidential Primary Election. July 13, 2012.
428. Harmon S. Advocates of hike in tobacco tax air TV ad - underfunded backers of buck-a-pack increase fight industry assault. San Jose Mercury News. (San Jose, CA) May 9, 2012. Local, p. 1B.
429. Fairbank Maslin Maullin Metz & Associates - FM3. Proposition 29 Survey Tracking Survey. 2012, May 14-16, 2012.
430. Fairbank Maslin Maullin Metz & Associates - FM3. Public Opinion on Prop 29. 2012 June 2, 2012.
431. Fairbanks Maslin Maullin & Associates. Proposition 29 Survey Tracking Survey: Q5. May14-16,2012 2012.
432. Fairban Maslni Maullin & Associates. California Tobacco Tax Survey: Table 8. November 7-10, 2011 2011.
433. Baldassare M, Bonner D, Petek S, Shrestha J. California PPIo. Californiaian and their Government. March 2012.
434. Fairbank Maslin Maullin Metz & Associates - FM3. California Tobacco Tax Survey November 7-10 2011,. 2011.

435. Californians for a Cure. Major Supporters. 2012 April 18, 2012.
436. American Cancer Society, Bruzdinski C, Snipes K. Prop 29 Recap and Next Steps PowerPoint Presentation. 2012.
437. Bowen D. Official Voter Information Guide, California Presidential Primary Election, June 5, 2012. California Secretary of State 2012 March 12, .  
<http://vig.cdn.sos.ca.gov/2012/primary/pdf/english/complete.pdf>
438. Californians For a Cure. Prop 29 Volunteer Form. 2012 6/24/2014.  
[http://relay.acsevents.org/site/DocServer/Volunteer\\_recruitment\\_form\\_3-up.pdf?docID=227807](http://relay.acsevents.org/site/DocServer/Volunteer_recruitment_form_3-up.pdf?docID=227807)
439. Californians For a Cure. YES on Prop 29 Youtube Page. 2014 [cited 2014 6/24]; Available from: [https://www.youtube.com/channel/UC2\\_P97qocv2MITFklRzFu8w](https://www.youtube.com/channel/UC2_P97qocv2MITFklRzFu8w).
440. Yes on 29. "California Supports Big Tobacco" Yes on Prop 29 AD. In: A P, editor.: youtube; 2012
441. Sourcewatch.org. Ogilvy & Mather. 2014; Available from: [http://www.sourcewatch.org/index.php?title=Ogilvy\\_%26\\_Mather](http://www.sourcewatch.org/index.php?title=Ogilvy_%26_Mather).
442. Editors. A tobacco tax to save lives. San Francisco Chronicle. (San Francisco, CA) April 29, 2012. Insight, p. E10.
443. Editorial Staff. A vote for public health: Yes on Prop 29. Union-Tribune. (San Diego, CA) May 8, 2012. p. <http://www.utsandiego.com/news/2012/may/09/tp-a-vote-for-public-health-yes-on-prop-29/>
444. Editors. Tobacco tax will save lives - Initiative is only way to overcome clout of tobacco industry in capitol. The Sacramento Bee. (Sacramento, CA) April 22, 2012. Editorials, p. E6.
445. Editors. Don't be fooled about Prop 29. San Jose Mercury News. (San Jose, CA) June 1, 2012. Editorial, p. 10A.
446. Editors. Fund cancer research with Yes vote on 29. Bakersfield Californian. (Bakersfield, CA) May 5, 2012. Editorial Page, p.
447. Editors. Prop. 29 imperfect, but still deserves voters' support. Contra Costa Times. (Walnut Creek, CA) May 31, 2012. Opinion, p.
448. Editors. Preparing for the June primary. Lompoc Record. (Lompoc, CA) April 29, 2012. Editorials, p.
449. Editors. Preparing for the June primary. Santa Maria Times. (Santa Maria, CA) April 29, 2012. Editorials, p.
450. Editors. Vote yes to raise cigarette taxes. Daily Democrat. (Woodland, CA) May 20, 2012. Editorials, p.
451. Editors. Big tobacco blows smoke over Prop. 29. Daily Democrat. (Woodland, CA) June 3, 2012. Editorials, p.
452. Editors. No on Prop. 29 - Raising revenue to fund cancer research is not a priority in a state with more pressing problems. Los Angeles Times. (Los Angeles, CA) April 27, 2012. p.
453. Napolitano J. Legal guidelines for UC participation in ballot campaigns. 2014.  
<http://www.ucop.edu/state-governmental-relations/advocacy/legal-guidelines-ballot-campaigns.html>
454. Bowen D. Official Voter Information Guide, Presidential Primary Election, June 5, 2012. California Secretary of State.
455. No on 29 - Californians Against Out-Of-Control Taxes. Press Release - No on 29 Launches First Radio and Television Advertisements. 2012 April 16, 2012.
456. No on 29 - Californians Against Out-Of-Control Taxes. Press Release - No on 29 Begins Rotation on New Television Advertisement, "Lab Jobs". May 7, 2012.

457. No on 29 - Californians Against Out-Of-Control Taxes. Press Release - No on 29 Begins Rotation of New Television Advertisement, "Endorsements". 2012 May 29, 2012.
458. No on 29 - Californians Against Out-Of-Control Taxes. Press Release - No on 29 Announces Rotation of New Radio Advertisement, "Flawed". 2012 May 24, 2012.
459. Morain D. Proposition 29 - Big tobacco's unlikeliest ally - Physician speaks out against boost to cigarette taxes. The Sacramento Bee. (Sacramento, CA) May 6, 2012. California forum, p. E1.
460. Editors. Big Tobacco wants you to think doctors oppose cigarette tax. The Sacramento Bee. (Sacramento, CA) April 29, 2012. Editorials, p. E6.
461. Harmon S. Tobacco ad doctor appears mired in finance problems - physician's home is scheduled to be auctioned off after two bankruptcies. San Jose Mercury News. (San Jose, CA) May 5, 2012. Front, p. 1A.
462. McGruder C. An open letter to Dr. LaDonna Porter. San Francisco Bay View. (San Francisco, CA) May 10, 2012. p. <http://sfbayview.com/2012/yes-on-proposition-29/>
463. Waldman P. The fight to limit regulation of a military pollutant - science, the EPA and the Pentagon The Wall Street Journal. (New York, NY) December 29, 2005. p. <http://newsgroups.derkeiler.com/pdf/Archive/Talk/talk.politics.medicine/2005-12/msg00020.pdf>
464. Glantz S. LaDonna Porter, the tobacco industry spokesperson against Prop 29, advocated for toxic industries against public health. 2012 [April 8, 2014]; Available from: <http://tobacco.ucsf.edu/ladonna-porter-tobacco-industry-spokesphysician-against-prop-29-advocated-toxic-industries-against-p>.
465. Harmon S. Doctor in tobacco ads faced bankruptcies; house now being foreclosed. Contra Costa Times. (Walnut Creek, CA) May 4, 2012. Politics, p.
466. Morain D. Money talks when topic is ballot endorsements. Los Angeles Times. (Los Angeles, CA) October 22, 2006. p.
467. Yamamura K. Brown fires doctor in political ad. The Sacramento Bee. (Sacramento, CA) May 11, 2012. Main News, p. A4.
468. Seiler J. Brown Purges Respected Doctor. Calwatchdog. p. <http://calwatchdog.com/2012/05/11/brown-purges-respected-doctor/>
469. Aron H. Proposition 29: Cigarette Tax. LA Weekly. May 24. p. <http://www.laweekly.com/2012-05-24/news/proposition-29-cigarette-tax-unfair-to-poor/>
470. Harmon S. Support For New California Tobacco Tax Drops. San Jose Mercury. 6/23. p. [http://www.mercurynews.com/ci\\_20695414/support-new-california-tobacco-tax-drops](http://www.mercurynews.com/ci_20695414/support-new-california-tobacco-tax-drops)
471. Stock S, Wagner L, Carroll J. The Investigative Unit Follows Prop 29 Money Trail. NBC Bay Area. (San Francisco) June 4. p. <http://www.nbcbayarea.com/investigations/The-Investigative-Unit-Follows-Prop-29-Money-Trail--156450895.html>
472. Harmon S. Tobacco industry gearing up to take down California cigarette tax initiative. Contra Costa Times (Walnut Creek, CA) April 25, 2012. p.
473. Stock S, Wagner L, Carroll J. The Investigative Unit Follows Prop 29 Money Trail. KNTV, Channel 11. (San Jose, CA) June 4, 2012. p. <http://www.nbcbayarea.com/investigations/The-Investigative-Unit-Follows-Prop-29-Money-Trail--156450895.html>
474. Sutton D. Statement from David Sutton, Altria Spokesman. In: KNTV, editor. San Jose, CA 2012.

475. California Taxpayers Association. Statement from California Taxpayers Association. In: KNTV, editor. San Jose, CA 2012.
476. Spady D. Statement from David Spady, Americans for Prosperity California Director. In: KNTV, editor. San Jose, CA 2012.
477. Fallin A, Grana R, Glantz S. 'To quarterback behind the scenes, third party efforts':the tobacco industry and the Tea Party. *Tob Control*. 2013.
478. Canete J. Statement from Julian Canete, California hispanic Chambers of Commerce President & CEO. In: KNTV, editor. San Jose, CA2012.
479. No on 29 - Californians Against Out-Of-Control Taxes and Spending. Statement from No on 29 - Californians Against Out-Of-Control Taxes and Spending. In: KNTV, editor. San Jose, CA2012.
480. Glantz SA, Balbach ED. *Tobacco War: Inside the California Battles*, p. 9-16. Berkeley, CA: University of California Press; 2000.
481. California GASP, Californians for Clean Indoor Air. Clean Indoor Air Act of 1978. 1978/E 1978. RJ Reynolds. <http://legacy.library.ucsf.edu/tid/fmk77c00>.
482. Hanauer P, Kennedy S, Loveday P, Tabash E, White J. [Letter to Attorney General of California submitting draft of the Clean Indoor Air Act of 1978]. 1977 May 25. <http://legacy.library.ucsf.edu/tid/jqy25e00>
483. V. Lance Tarrance & Associates. A Political Survey of Smoking Attitudes in California. June 1977 1977. Brown & Williamson. <http://legacy.library.ucsf.edu/tid/nin40f00>.
484. Woodward & McDowell. California Action Plan for the Tobacco Institute. September 7, 1977 1977. Lorillard. <http://legacy.library.ucsf.edu/tid/iho71e00>.
485. Woodward & McDowell. Report on the Campaign to Defeat Proposition 5. California, 1978. January 1979. RJ Reynolds. <http://legacy.library.ucsf.edu/tid/lso13c00>.
486. Pepples E. Curt Judge's Letter Dated September 5, 1978. September 18, 1978 1978. Brown & Williamson. <http://legacy.library.ucsf.edu/tid/rbd04f00>.
487. Nielsen V, Pessner K, Levin M. Articles of Incorporation of Californians for Common Sense. December 2, 1977 1977. Lorillard. <http://legacy.library.ucsf.edu/tid/jfo44a00>.
488. RJ Reynolds. Californians for Common Sense. January 1, 1978 1978. RJ Reynolds. <http://legacy.library.ucsf.edu/tid/epi77c00>.
489. Woodward & McDowell. Report on the Campaign to Defeat Proposition 5. January 1979/E 1979. Lorillard. <http://legacy.library.ucsf.edu/tid/lso13c00>.
490. Durden D. No More RJRT Money to Californians for Common Sense Until Everything is Structurally Correct RJ Reynolds 1977 December 8, 1977. <http://legacy.library.ucsf.edu/tid/xzd99d00>
491. Tobacco Institute. T.I. Presentation - December 14, 1978. December 14, 1978 1978. Tobacco Institute. <http://legacy.library.ucsf.edu/tid/stv57b00>.
492. No on 29 - Californians Against Out-Of-Control Taxes. About Us. 2012 [June 7, 2012]; Californians Against Out-of-Control Taxes and Spending Coalition Members]. Available from: <http://www.noon29.com/about-us>.
493. Glantz S. Thousands of previously secret tobacco industry documents reveal linkgs between Big Tobacco and No on 29 endorsers. Center for Tobacco Control Research and Education May 19, 2012. <https://tobacco.ucsf.edu/thousands-previously-secret-tobacco-industry-documents-reveal-links-between-big-tobacco-and-no-29-en>

494. Lagos M. Millions Raised for, Against Prop. 29 Tobacco Tax. SFGATE. May 7. p. <http://www.sfgate.com/politics/article/Millions-raised-for-against-Prop-29-tobacco-tax-3538874.php>
495. Lum K, Barnes R, Glantz S. Enacting tobacco taxes by direct popular vote in the United States: lessons from 20 years of experience. *Tob Control*. 2009;18:377-86.
496. Silverman B. Interview of Bruce Silverman by Kate Swartz on April 5, 2013. 2013.
497. Lee P. Keye/Donna to Do Anti-Smoking Ads for State. *Los Angeles Times*. (Los Angeles, CA) January 27, 1990. p.
498. Keye P. Interview of Paul Keye by Richard Barnes, September 23, 2013. 2013.
499. Glantz S. Economic Impact of the California Cancer Research Act. University of California, San Francisco, Center for Tobacco Control Research and Education 2012 February 2012. <http://escholarship.org/uc/item/73g8m5j5>
500. McPherson B. Statement of Vote, November 7, 2006 General Election. 2006 December 16, 2006.
501. National Association of Attorneys General. Master Settlement Agreement. 1998 November 23, 1998. <http://www.naag.org/backpages/naag/tobacco/msa/msa-pdf/MSA%20with%20Sig%20Pages%20and%20Exhibits.pdf/download>
502. National Association of Attorneys General. Smokeless Tobacco Master Settlement Agreement. 1998 November 23, 1998. [http://www.naag.org/backpages/naag/tobacco/stmsa/stmsa\\_pdf/smokemsa.pdf/file\\_view](http://www.naag.org/backpages/naag/tobacco/stmsa/stmsa_pdf/smokemsa.pdf/file_view)
503. Leaf K. Email from to Elizabeth Cox September 3. 2014.
504. National Association of Attorneys General. Participating Manufacturer List. 2013 June 28, 2013. [http://www.naag.org/backpages/naag/tobacco/msa/participating\\_manu/2013-06-28%20PM%20List.pdf/file\\_view](http://www.naag.org/backpages/naag/tobacco/msa/participating_manu/2013-06-28%20PM%20List.pdf/file_view)
505. Term Sheet. 2013. [http://oag.ca.gov/sites/all/files/agweb/pdfs/tobacco/term\\_sheet.pdf?](http://oag.ca.gov/sites/all/files/agweb/pdfs/tobacco/term_sheet.pdf?)
506. Terminal Boredom. New Camel cigarette ad namedrops some Termbo's. 2007 [April 4, 2013]; Available from: <http://terminal-boredom.com/forums/index.php?topic=8201.0>.
507. State of California v. R.J. Reynolds Tobacco Company, No. JCCP 4041, Superior Court of California, County of San Diego. 2009.
508. State of California v. R.J. Reynolds Tobacco Company, No. JCCP 4041, Superior Court of California, County of San Diego. 2012.
509. In re Tobacco Cases I. 156 Cal. Rptr. 3d 755 (Cal. App. 4th Dist. April 26, 2013). 2013.
510. State of Vermont v R.J. Reynolds Tobacco Co., Docket No. S1087-05, Chittenden County Superior Court, State of Vermont, Findings of Fact, Conclusions of Law, and Interim Decision on Liability. 2010.
511. Assurance of Voluntary Compliance, Santa Fe Natural Tobacco Company. 2010.
512. Office of the Attorney General. Highlights. 2014. <http://oag.ca.gov/tobacco/highlights>
513. State of California v. U.S. Smokeless Tobacco Company, No. JCCP 4041, Superior Court of California, County of San Diego. 2007.
514. Glantz S. Smoke Free Movies. 2014 [February 24, 2014]; Available from: <http://smokefreemovies.ucsf.edu/problem/moviessell.html>.
515. Sorrell W. [Letter signed by 33 state Attorneys General to Major Studio Executives]. 2009.
516. Gansler D. [Letter signed by 32 state and territorial Attorneys General to the Chairmen of the major motion picture studios]. 2007.

517. Sorrell W. [Letter to Dan Glickman, Chairman and Chief Executive Officer, Motion Picture Association of America signed by 32 state and territorial Attorneys General]. 2007.
518. Sorrell W. [Letter to Dan Glickman, Chairman and Chief Executive Officer, Motion Picture Association of America, signed by 33 state and territorial Attorneys General]. 2007.
519. National Association of Attorneys General. [Letter signed by 38 state and territorial Attorneys General to chief executives of 10 studios without policies on smoking in youth rated movies]. 2012.
520. In the Matter of The Kroger Co., Assurance of Voluntary Compliance. 2007.
521. In the Matter of Motiva Enterprises LLC and Shell Oil Products US, Assurance of Voluntary Compliance. 2008.
522. In the Matter of Valero Retail Holdings, Inc. and Valero Marketing and Supply Company, Assurance of Voluntary Compliance. 2010.
523. In the Matter of Circle K Stores Inc, and Mac's Convenience Stores LLC, Assurance of Voluntary Compliance. 2011.
524. In the Matter of Walgreen Co., Assurance of Voluntary Compliance. 2002.
525. State of California v. Safeway, Inc., No. BC317112, Superior Court of California, County of Los Angeles, Stipulated Final Judgment. 2004.
526. State of California v. Sottera, Inc. d.b.a. NJOY, No. RG10528522 Superior Court of the State of California, County of Alameda, Stipulated Consent Judgment. 2010.
527. State of California v. Smoking Everywhere, *et al.*, No. RG10493637, Superior Court of the State of California, County of Alameda, . 2010.
528. National Association of Attorneys General. Re: FDA Regulation of E-Cigarettes. In: Margaret Hamburg C, U.S. Food and Drug Administration, editor. Washington, DC2013.
529. State of California v Hemi Group, LLC, Case No. 34-2009-00057798, Superior Court of the State of California, County of Sacramento, Consent judgment and Permanent Injunction. 2009.
530. State of California v Scott Maybee, *et al.* Case No. BC392147, Superior Court of the State of California, County of Los Angeles, Final Judgment. 2010.
531. Assurance of Discontinuance and Voluntary Compliance Between Attorneys General of California, New York and Idaho and First Regional Bank. 2008 September 2, 2008. [http://ag.ca.gov/cms\\_attachments/press/pdfs/n1612\\_document.pdf?](http://ag.ca.gov/cms_attachments/press/pdfs/n1612_document.pdf?)
532. State of California v Rose, Case No. 176689. Superior Court of the State of California, County of Shasta, Order Granting Preliminary Injunction, July 22, 2013. 2013.
533. State of California v Ardith Huber, individually and dba Huber Enterprises, Case No. DR110232, Superior Court of the State of California, County of Humboldt, Preliminary Injunction. 2013.
534. The People of California v. Black Hawk Tobacco, Inc. *et al.*, 133 Cal. Rptr. 3d 99 (Cal. Ct. App. 2011). 2011.
535. State of California v Black Hawk Tobacco, Inc., *et al.*, Case No. INC 087307, Superior Court of the State of California, County of Riverside, Final judgment. 2012.
536. State of California v Black Hawk Tobacco, Inc., *et al.*, Case No. INC 087307, Superior Court of the State of California, County of Riverside, Order Granting People's Motion for Attorney Fees and Costs. 2012.
537. State of California v Nativebuy, Inc., Case No. INC 10005471, Superior Court of the State of California, County of Riverside, Final Judgment. 2012.



538. Glantz SA, Balbach ED. Tobacco War: Inside the California Battles. Berkeley, CA: University of California Press; 1999.
539. The Center for Tobacco Policy & Organizing. The Neighborhood Market Association and Local Ordinances Related to Tobacco Retailers. Sacramento, California: American Lung Association in California 2013 September <http://center4tobaccopolicy.org/wp-content/uploads/2013/09/The-Neighborhood-Market-Association-and-Local-Ordinances-Related-to-Tobacco-Retailers-September-2013.pdf>
540. Ritch WA, Begay ME. Strange Bedfellows: The History of Collaboration Between the Massachusetts Restaurant Association and the Tobacco Industry. *Am J Public Health*. 2001;91(4):598 - 603.
541. Lightwood J, Glantz S. The effect of the California tobacco control program on smoking prevalence, cigarette consumption, and healthcare costs: 1989-2008. *PLoS One*. 2013;8(2):e47145.
542. Quinn V. Email from Valerie Quinn to Elizabeth Cox 8/21. 2014.
543. Secretary of State. 2012 Presidential Primary Election Results. 2012 June 5. <http://www.sos.ca.gov/elections/sov/2012-primary/pdf/2012-complete-sov.pdf>

## Appendices

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All appendices are available in the online version of this report, which is available at at <http://www.escholarship.org/uc/item/4jj1v7tv>.

Appendix 1 - Tobacco Industry Contributions to Non-Party Committees, 2007-2013

Recipient	Contributor	Year	Amount
AFRICAN AMERICAN VOTER REGISTRATION ALLIANCE FOR CALIFORNIA'S TOMORROW	Philip Morris	2007	\$5,000
	Philip Morris	2008	\$20,000
		2009	\$45,000
ASIAN AMERICAN SMALL BUSINESS PAC	Philip Morris	2007	\$15,000
		2010	\$10,000
	UST	2007	\$5,000
CALIFORNIA BUSINESS PAC	Philip Morris	2009	\$100,000
		2010	\$250,000
CALIFORNIA NOW INDEPENDENT EXPENDITURE COMMITTEE CALIFORNIA SENIOR ADVOCATES LEAGUE PAC CALIFORNIA TRAILBLAZERS CALIFORNIA VOTE PROJECT	Philip Morris	2012	\$50,000
	Philip Morris	2012	\$50,000
	Philip Morris	2013	\$25,000
	Philip Morris	2008	\$5,000
CALIFORNIA VOTE PROJECT 2010 CALIFORNIA VOTE PROJECT 2012	Philip Morris	2010	\$45,000
	Philip Morris	2011	\$50,000
		2012	\$50,000
		2013	\$25,000
CALIFORNIANS FOR CIVIL JUSTICE REFORM PAC (CCJR) CALIFORNIANS FOR RESPONSIBLE HEALTHCARE CALIFORNIANS FOR VOTER TURNOUT, EDUCATION & REGISTRATION	Philip Morris	2008	\$25,000
	Philip Morris	2013	\$20,000
	Philip Morris	2009	\$25,000
CALIFORNIANS UNITED CHAMBERPAC SMALL CONTRIBUTOR COMMITTEE		2010	\$10,000
	Philip Morris	2008	\$45,000
	Philip Morris	2008	\$10,000
COMMITTEE FOR COMMUNITY VALUES CWLAPAC	Philip Morris	2013	\$25,000
	RJ Reynolds	2009	\$200
		2010	\$200
	2011	\$200	
	2009	\$10,000	
	2008	\$1,000	

DIVERSITY PAC	California Distributors Ass'n Philip Morris	2009	\$2,931
		2008	\$10,000
		2009	\$5,000
		2010	\$10,000
		2012	\$25,000
	2013	\$25,000	
	Philip Morris	2013	\$25,000
		2013	\$50,000
	RJ Reynolds	2011	\$5,000
	Philip Morris	2008	\$30,000
			\$35,000
			\$50,000
		2009	\$15,000
2010		\$10,000	
		\$15,000	
	\$50,000		
	\$90,000		
	\$100,000		
	\$104,650		
	2011	\$30,000	
		\$50,000	
	2012	\$25,000	
		\$29,500	
		\$50,000	
		\$100,000	
	2013	\$20,000	
		\$25,000	
		\$30,000	
LEGISLATIVE BLACK COALITION INDEPENDENT EXPENDITURE COMMITTEE NEIGHBORHOOD MARKET ASSOCIATION PAC	Philip Morris	2007	\$15,000
	Philip Morris	2008	\$4,000
		2009	\$4,000
		2010	\$4,000
		2011	\$4,000
RJ Reynolds	2011	\$2,300	

PROTECT JOBS, THE ECONOMY AND EDUCATION REFORM CALIFORNIA NOW INDEPENDENT EXPENDITURE COMMITTEE  SMALL BUSINESS ACTION COMMITTEE PAC  UNITED FOR CALIFORNIA VOTE MATTERS VOTER EDUCATION & REGISTRATION FUND  VOTER REGISTRATION 2008 VOTING FOR A NEW CALIFORNIA YES WE CAN	Philip Morris	2009	\$15,826
	Philip Morris	2011	\$50,000
		2012	\$50,000
			\$96,702
			\$100,000
		2013	\$25,000
	RJ Reynolds	2013	\$200
	Philip Morris	2010	\$500,000
		2012	\$50,000
	Philip Morris	2008	\$15,000
	Philip Morris	2010	\$10,000
	Philip Morris	2007	\$50,000
		2008	\$10,000
		\$30,000	
UST	2007	\$2,500	
Philip Morris	2007	\$50,000	
Philip Morris	2009	\$25,000	
Philip Morris	2011	\$20,000	
	2012	\$20,000	

Appendix 2 - Tobacco Industry Contributions to Individual Candidates, 2007-2013

Recipient	Office	Party	District	Year	Contributor	Amount
AANESTAD, SAM	S	R	4	2007	UST	\$1,500
AANESTAD, SAM Total						
ACHADJIAN, KATCHO	A	R	35	2011	CA DISTRIBUTORS ASS'N	\$1,000
				2012	CA DISTRIBUTORS ASS'N	\$1,000
				2013	CA DISTRIBUTORS ASS'N	\$1,000
ACHADJIAN, KATCHO Total						
ACKERMAN, LINDA	A	R	72	2009	PHILIP MORRIS	\$3,900
ACKERMAN, LINDA Total						
ACKERMAN, RICHARD	S	R	33	2007	PHILIP MORRIS	\$3,200
					RJ REYNOLDS	\$2,000
					UST	\$1,500
ACKERMAN, RICHARD Total						
ADAMS, ANTHONY	A	R	59	2007	PHILIP MORRIS	\$3,600
ADAMS, ANTHONY Total						
AGHAZARIAN, GREG	A	R	26	2007	PHILIP MORRIS	\$3,600
					RJ REYNOLDS	\$2,000
				2008	RJ REYNOLDS	\$4,600
AGHAZARIAN, GREG Total						
ALBY, BARBARA	BOE	R	2	2010	CA DISTRIBUTORS ASS'N	\$10,200
ALBY, BARBARA Total						
ALEJO, LUIS	A	D	30	2013	PHILIP MORRIS	\$1,000
ALEJO, LUIS Total						
ALLEN, TRAVIS	A	R	72	2013	PHILIP MORRIS	\$8,000
ALLEN, TRAVIS Total						
					RJ REYNOLDS	\$1,500
ALLEN, TRAVIS Total						
						\$9,500

AMANTE, JERRY	A	R	70	2010	RJ REYNOLDS	\$1,500
AMANTE, JERRY Total						\$1,500
ANDERSON, JOEL	A	R	36	2007	PHILIP MORRIS	\$3,600
				2008	PHILIP MORRIS	\$3,600
				2009	CA DISTRIBUTORS ASS'N	\$1,500
				2008	RJ REYNOLDS	\$1,500
				2009	PHILIP MORRIS	\$3,900
ANDERSON, JOEL Total			77	2011	RJ REYNOLDS	\$3,000
				2013	PHILIP MORRIS	\$3,900
					RJ REYNOLDS	\$4,100
ARABO, AUDAY	A	D	78	2008	CA DISTRIBUTORS ASS'N	\$2,000
ARABO, AUDAY Total					PHILIP MORRIS	\$3,600
ASHBURN, ROY	BOE	R	2	2007	RJ REYNOLDS	\$5,600
				2008	RJ REYNOLDS	\$2,000
				2009	RJ REYNOLDS	\$1,500
				2009	PHILIP MORRIS	\$2,000
				2010	RJ REYNOLDS	\$5,000
ASHBURN, ROY Total					RJ REYNOLDS	\$1,500
BACA, JR., JOE	A	D	47	2012	RJ REYNOLDS	\$12,000
BACA, JR., JOE Total						\$3,000
BATEY, BILL	A	R	61	2012	PHILIP MORRIS	\$3,900
					RJ REYNOLDS	\$2,200
BATEY, BILL Total						\$6,100
BATTIN, JIM	LG	R	SW	2007	RJ REYNOLDS	\$2,000
				2007	UST	\$2,000
				2008	RJ REYNOLDS	\$1,500
BATTIN, JIM Total						\$5,500
BEALL, JIM	A	D	24	2008	CA DISTRIBUTORS ASS'N	\$1,000
BEALL, JIM Total						\$1,000
BENOIT, JOHN	S	R	37	2007	PHILIP MORRIS	\$1,500
				2008	PHILIP MORRIS	\$3,600
					RJ REYNOLDS	\$1,100

BENOIT, JOHN	S	R	37	2009	PHILIP MORRIS RJ REYNOLDS	\$3,900 \$3,000 \$13,100
BENOIT, JOHN Total						
BERRYHILL, BILL	A	R	26	2007	PHILIP MORRIS	\$3,600
				2008	PHILIP MORRIS	\$3,600
				2009	PHILIP MORRIS RJ REYNOLDS	\$7,800 \$1,500
				2010	RJ REYNOLDS	\$1,500
				2011	PHILIP MORRIS RJ REYNOLDS	\$7,800 \$1,500
				2012	CA DISTRIBUTORS ASS'N RJ REYNOLDS	\$2,500 \$5,000
BERRYHILL, BILL Total						
BERRYHILL, TOM	A	R	25	2007	PHILIP MORRIS	\$3,600
				2008	PHILIP MORRIS RJ REYNOLDS UST	\$3,600 \$1,500 \$1,800
				2009	PHILIP MORRIS RJ REYNOLDS	\$7,800 \$1,500
				2010	PHILIP MORRIS RJ REYNOLDS	\$3,900 \$1,500
				2011	PHILIP MORRIS RJ REYNOLDS	\$7,800 \$3,000
				BERRYHILL, TOM Total		
BIGELOW, FRANK	A	R	5	2013	PHILIP MORRIS RJ REYNOLDS	\$8,000 \$1,500
				BIGELOW, FRANK Total		
BOCANEGRA, RAUL	A	D	39	2010	CA DISTRIBUTORS ASS'N	\$1,500
				2011	CA DISTRIBUTORS ASS'N	\$1,000
				2013	PHILIP MORRIS	\$4,100
BOCANEGRA, RAUL Total						
BOGH, RUSS	S	R	37	2007	RJ REYNOLDS UST	\$2,000 \$3,600
				2008	RJ REYNOLDS	\$1,500
				BOGH, RUSS Total		



BRADFORD, STEVEN	A	D	51	2010	PHILIP MORRIS RJ REYNOLDS	\$4,900 \$1,500
	S	D	62	2011	PHILIP MORRIS RJ REYNOLDS	\$7,800 \$1,500
				2012	RJ REYNOLDS	\$3,000
	S	D	62	2013	RJ REYNOLDS	\$3,000
				2013	PHILIP MORRIS	\$4,100
BRADFORD, STEVEN Total						\$25,800
BROWN, CHERYL	A	D	47	2013	PHILIP MORRIS	\$8,000
BROWN, CHERYL Total						\$8,000
BROWN, JERRY	AG	D	SW	2009	PHILIP MORRIS	\$2,500
	G	D	SW	2013	PHILIP MORRIS	\$25,800
	G 2014	D	SW	2012	PHILIP MORRIS	\$26,000
				2013	PHILIP MORRIS	\$1,200
	G	D	SW	BRADFORD, STEVEN Total		
S	D	12	2010	CA DISTRIBUTORS ASS'N	\$3,000	
CABALLERO, ANNA Total						\$3,000
CALDERON, CHARLES	A	D	58	2007	CA DISTRIBUTORS ASS'N PHILIP MORRIS RJ REYNOLDS	\$1,500 \$3,600 \$2,000
	BOE 2014	D	SW	2008	PHILIP MORRIS	\$3,600
				2009	CA DISTRIBUTORS ASS'N PHILIP MORRIS	\$2,500 \$3,900
	BOE 2014	D	SW	2010	CA DISTRIBUTORS ASS'N PHILIP MORRIS RJ REYNOLDS	\$2,000 \$3,900 \$2,000
				2012	CA DISTRIBUTORS ASS'N	\$1,500
				2011	RJ REYNOLDS	\$2,000
	CALDERON, CHARLES Total					
CALDERON, IAN	A	D	57	2012	RJ REYNOLDS	\$3,500
	S	D	30	2013	PHILIP MORRIS RJ REYNOLDS	\$8,000 \$1,500
CALDERON, IAN Total						\$13,000
CALDERON, RON	A	D	58	2013	RJ REYNOLDS	\$1,500
	S	D	30	2007	PHILIP MORRIS	\$3,600

CALDERON, RON	S	D	30	2008	PHILIP MORRIS	\$3,600
					RJ REYNOLDS	\$1,500
				2009	RJ REYNOLDS	\$1,500
				2010	RJ REYNOLDS	\$2,500
				2011	RJ REYNOLDS	\$3,000
				2012	RJ REYNOLDS	\$1,500
CALDERON, RON Total						
CALDERON, TOM	A	D	58	2012	PHILIP MORRIS	\$3,900
					RJ REYNOLDS	\$1,500
				2012	RJ REYNOLDS	\$2,500
CALDERON, TOM Total						
CANNELLA, ANTHONY	S	R	12	2010	PHILIP MORRIS	\$3,900
					RJ REYNOLDS	\$6,400
				2011	PHILIP MORRIS	\$7,800
					RJ REYNOLDS	\$3,000
				2012	RJ REYNOLDS	\$3,000
				2013	RJ REYNOLDS	\$1,500
CANNELLA, ANTHONY Total						
CARTER, WILMER AMINA	A	D	62	2007	PHILIP MORRIS	\$3,600
				2008	PHILIP MORRIS	\$3,600
					RJ REYNOLDS	\$1,000
				2009	RJ REYNOLDS	\$1,500
				2010	PHILIP MORRIS	\$3,900
					RJ REYNOLDS	\$1,500
CARTER, WILMER AMINA Total						
CASERTA, DOMINIC	A	D	22	2008	CA DISTRIBUTORS ASS'N	\$1,000
				CASERTA, DOMINIC Total		
CHAVEZ, ARTURO	A	D	45	2011	CA DISTRIBUTORS ASS'N	\$1,000
				2012	CA DISTRIBUTORS ASS'N	\$1,500
				CHAVEZ, ARTURO Total		
CHAVEZ, ROCKY	A	R	76	2013	PHILIP MORRIS	\$8,000
					RJ REYNOLDS	\$3,000
CHAVEZ, ROCKY Total						
COGDILL, DAVE	S	R	14	2007	CA DISTRIBUTORS ASS'N	\$1,000
				COGDILL, DAVE Total		

COGDILL, DAVE	S	R	14	2007	PHILIP MORRIS RJ REYNOLDS UST	\$3,600 \$1,500 \$3,600
				2008	CA DISTRIBUTORS ASS'N PHILIP MORRIS RJ REYNOLDS UST	\$1,000 \$3,600 \$0 \$3,600
				2009	RJ REYNOLDS	\$1,000
				COGDILL, DAVE Total		\$19,400
CONWAY, CONNIE	A	R	26	2011	PHILIP MORRIS RJ REYNOLDS	\$7,800 \$3,900
				2012	CA DISTRIBUTORS ASS'N RJ REYNOLDS	\$1,000 \$2,500
				2008	PHILIP MORRIS	\$3,600
				2009	PHILIP MORRIS RJ REYNOLDS	\$7,800 \$1,500
				2010	RJ REYNOLDS	\$1,500
				2013	PHILIP MORRIS RJ REYNOLDS	\$4,100 \$2,500
				CONWAY, CONNIE Total		\$36,200
COOK, PAUL	A	R	65	2007	PHILIP MORRIS RJ REYNOLDS	\$3,600 \$1,000
				2008	PHILIP MORRIS RJ REYNOLDS	\$3,600 \$1,000
				2009	PHILIP MORRIS RJ REYNOLDS	\$3,900 \$2,000
				2010	RJ REYNOLDS	\$1,000
				2011	PHILIP MORRIS RJ REYNOLDS	\$3,900 \$2,500
				COOK, PAUL Total		\$22,500
CORREA, LOU	BOE	D	3	2013	PHILIP MORRIS RJ REYNOLDS	\$6,800 \$1,500
				2007	PHILIP MORRIS RJ REYNOLDS	\$3,600 \$1,200
				2008	PHILIP MORRIS	\$3,600

CORREA, LOU	S	D	34	2009	RJ REYNOLDS	\$1,500
				2010	RJ REYNOLDS	\$3,500
				2011	RJ REYNOLDS	\$2,000
CORREA, LOU Total						
COTO, JOE	A	D	23	2007	CA DISTRIBUTORS ASS'N	\$1,000
					PHILIP MORRIS	\$3,600
	S	D	15	2008	PHILIP MORRIS	\$3,600
				2011	CA DISTRIBUTORS ASS'N	\$1,500
					PHILIP MORRIS	\$3,900
				2012	RJ REYNOLDS	\$2,000
		2013	PHILIP MORRIS	\$3,900		
COTO, JOE Total						
COX, DAVE	S	R	1	2008	RJ REYNOLDS	\$1,500
				2009	RJ REYNOLDS	\$2,000
COX, DAVE Total						
DAHLE, BRIAN	A	R	1	2013	PHILIP MORRIS	\$8,000
DAHLE, BRIAN Total						
DALY, TOM	A	D	69	2013	PHILIP MORRIS	\$4,100
					RJ REYNOLDS	\$1,500
DALY, TOM Total						
DAVIS, MIKE	A	D	48	2010	CA DISTRIBUTORS ASS'N	\$2,000
				DAVIS, MIKE Total		
DE LA TORRE, HECTOR	A	D	50	2008	CA DISTRIBUTORS ASS'N	\$1,000
				DE LA TORRE, HECTOR Total		
DENHAM, JEFF	S	R	12	2007	PHILIP MORRIS	\$1,500
					UST	\$5,491
				2008	RJ REYNOLDS	\$2,000
					UST	\$5,000
				2009	PHILIP MORRIS	\$5,000
					RJ REYNOLDS	\$3,500
DENHAM, JEFF Total						
DEVORE, CHUCK	A	R	70	2007	PHILIP MORRIS	\$3,600
					RJ REYNOLDS	\$1,000
				2008	PHILIP MORRIS	\$3,600
DEVORE, CHUCK Total						

DEVORE, CHUCK	A	R	70	2008	RJ REYNOLDS	\$1,000
DEVORE, CHUCK Total						\$9,200
DONNELLY, TIM	A	R	33	2011	PHILIP MORRIS	\$7,800
				2012	RJ REYNOLDS	\$3,000
				2013	PHILIP MORRIS	\$4,100
					RJ REYNOLDS	\$1,500
				2010	PHILIP MORRIS	\$3,900
DONNELLY, TIM Total					\$20,300	
DUTTON, BOB	S	R	31	2007	RJ REYNOLDS	\$1,000
				2008	RJ REYNOLDS	\$2,000
				2009	PHILIP MORRIS	\$2,000
					RJ REYNOLDS	\$1,500
				2010	PHILIP MORRIS	\$1,900
				2011	PHILIP MORRIS	\$585
DUTTON, BOB Total					\$2,625	
						\$11,610
DUVALL, MIKE	A	R	72	2007	PHILIP MORRIS	\$3,600
				2008	PHILIP MORRIS	\$3,600
					RJ REYNOLDS	\$1,000
				2009	PHILIP MORRIS	\$3,900
DUVALL, MIKE Total					\$1,500	
						\$13,600
EMMERSON, BILL	A	R	63	2007	CA DISTRIBUTORS ASS'N	\$1,800
					PHILIP MORRIS	\$3,600
					RJ REYNOLDS	\$1,800
					UST	\$3,600
				2008	PHILIP MORRIS	\$3,600
					RJ REYNOLDS	\$3,600
					UST	\$2,575
				2009	PHILIP MORRIS	\$3,900
					RJ REYNOLDS	\$3,000
				2010	CA DISTRIBUTORS ASS'N	\$1,000
	PHILIP MORRIS	\$7,800				
	RJ REYNOLDS	\$5,400				
			2011	RJ REYNOLDS	\$2,000	

EMMERSON, BILL	S	R	23	2012	PHILIP MORRIS RJ REYNOLDS	\$3,900 \$3,300 \$50,875
EMMERSON, BILL Total						
ENG, MIKE	A	R	49	2009	CA DISTRIBUTORS ASS'N	\$1,500
				2012	CA DISTRIBUTORS ASS'N	-\$1,500
ENG, MIKE Total						
FLETCHER, NATHAN	A	R	75	2007	PHILIP MORRIS RJ REYNOLDS	\$3,600 \$1,000
				2008	CA DISTRIBUTORS ASS'N PHILIP MORRIS RJ REYNOLDS	\$1,600 \$3,600 \$3,600
				2009	PHILIP MORRIS RJ REYNOLDS	\$3,900 \$2,000
				2010	PHILIP MORRIS RJ REYNOLDS	\$3,900 \$1,900
				2011	PHILIP MORRIS RJ REYNOLDS	\$3,900 \$2,500
FLETCHER, NATHAN Total						
FLOREZ, DEAN	S	D	16	2008	CA DISTRIBUTORS ASS'N	\$1,500
FLOREZ, DEAN Total						
FUENTES, FELIPE	A	D	39	2010	CA DISTRIBUTORS ASS'N PHILIP MORRIS	\$1,500 \$3,900
FUENTES, FELIPE Total						
FULLER, JEAN	A	R	32	2007	RJ REYNOLDS	\$5,400 \$1,000
				2008	PHILIP MORRIS RJ REYNOLDS	\$7,200 \$1,000
				2009	PHILIP MORRIS RJ REYNOLDS	\$3,900 \$1,500
				2010	RJ REYNOLDS	\$1,500
	S	R	18	2011	PHILIP MORRIS RJ REYNOLDS	\$1,500 \$7,800 \$3,000
FULLER, JEAN Total						
GAINES, BETH	A	R	4	2011	PHILIP MORRIS	\$26,900 \$7,800
			6	2012	PHILIP MORRIS RJ REYNOLDS	\$3,900 \$3,000

GAINES, BETH	A	R	6	2013	PHILIP MORRIS RJ REYNOLDS	\$4,100 \$1,500 \$20,300
GAINES, BETH Total						
GAINES, TED	A	R	4	2007	PHILIP MORRIS RJ REYNOLDS UST	\$7,200 \$1,000 \$500
				2008	RJ REYNOLDS UST	\$1,000 \$1,800
				2009	PHILIP MORRIS RJ REYNOLDS	\$7,800 \$1,500
				2010	RJ REYNOLDS	\$1,500
	S	R	1	2010	PHILIP MORRIS	\$3,900
				2011	CA DISTRIBUTORS ASS'N PHILIP MORRIS RJ REYNOLDS	\$1,500 \$7,800 \$2,000
				2012	RJ REYNOLDS	\$1,500
				2013	PHILIP MORRIS RJ REYNOLDS	\$4,100 \$1,500
GAINES, TED Total						
GALGANI, CATHLEEN	A	D	17	2007	RJ REYNOLDS	\$1,000
				2008	PHILIP MORRIS	\$3,600
				2009	PHILIP MORRIS RJ REYNOLDS	\$3,900 \$1,500
				2010	PHILIP MORRIS	\$3,900
				2012	RJ REYNOLDS	\$1,500
	S	D	5	2013	PHILIP MORRIS RJ REYNOLDS	\$8,000 \$1,500
	SOS 2014	D	SW	2011	RJ REYNOLDS	\$2,500
GALGANI, CATHLEEN Total						
GARCIA, BONNIE	A	R	80	2007	PHILIP MORRIS RJ REYNOLDS UST	\$1,600 \$1,500 \$2,000
				2008	PHILIP MORRIS RJ REYNOLDS	\$1,000 \$1,000
	S	R	28	2013	PHILIP MORRIS	\$4,100

GARCIA, BONNIE Total							\$11,200
GARCIA, CRISTINA	A	D	58	2013	PHILIP MORRIS		\$3,900
GARCIA, CRISTINA Total							\$3,900
GARRICK, MARTIN	A	R	74	2007	PHILIP MORRIS		\$3,600
					RJ REYNOLDS		\$1,000
				2008	PHILIP MORRIS		\$3,600
					RJ REYNOLDS		\$1,000
					UST		\$1,000
				2009	PHILIP MORRIS		\$3,900
					RJ REYNOLDS		\$2,000
				2010	PHILIP MORRIS		\$3,900
					RJ REYNOLDS		\$5,800
					RJ REYNOLDS		\$3,900
	PHILIP MORRIS		\$3,900				
GARRICK, MARTIN Total							\$33,600
GATTO, MIKE	A	D	43	2013	CA DISTRIBUTORS ASS'N		\$1,500
GATTO, MIKE Total							\$1,500
GILMORE, DANNY	A	R	30	2008	CA DISTRIBUTORS ASS'N		\$1,500
					PHILIP MORRIS		\$7,200
				2009	PHILIP MORRIS		\$3,900
	RJ REYNOLDS		\$1,500				
GILMORE, DANNY Total							\$14,100
GORDON, RICH	A	D	21	2010	CA DISTRIBUTORS ASS'N		\$2,250
GORDON, RICH Total							\$2,250
GORELL, JEFF	A	R	37	2009	PHILIP MORRIS		\$7,800
					CA DISTRIBUTORS ASS'N		\$1,000
				2011	PHILIP MORRIS		\$7,800
					RJ REYNOLDS		\$1,500
				2012	RJ REYNOLDS		\$3,000
	PHILIP MORRIS		\$4,100				
	RJ REYNOLDS		\$1,500				
GORELL, JEFF Total							\$26,700
GRANLUND, LONNI	S	R	23	2013	CA DISTRIBUTORS ASS'N		\$1,500
GRANLUND, LONNI Total							\$1,500
GRAY, ADAM	A	D	4	2012	PHILIP MORRIS		\$3,900



GRAY, ADAM	A	D	4	2012	RJ REYNOLDS	\$3,000
				2009	CA DISTRIBUTORS ASS'N	\$1,500
				2011	PHILIP MORRIS	\$3,900
				2013	PHILIP MORRIS	\$4,100
GRAY, ADAM Total						\$19,400
GROVE, SHANNON	A	R	32	2010	PHILIP MORRIS	\$3,900
				2011	PHILIP MORRIS	\$7,800
					RJ REYNOLDS	\$1,500
				2012	RJ REYNOLDS	\$3,000
				2013	PHILIP MORRIS	\$4,100
GROVE, SHANNON Total						\$1,500
HAGMAN, CURT	A	R	55	2011	PHILIP MORRIS	\$7,800
					RJ REYNOLDS	\$1,500
				2012	RJ REYNOLDS	\$3,000
				2008	PHILIP MORRIS	\$3,600
				2009	PHILIP MORRIS	\$3,900
					RJ REYNOLDS	\$2,000
				2010	PHILIP MORRIS	\$3,900
HAGMAN, CURT Total	S	R	29	2013	PHILIP MORRIS	\$4,100
					RJ REYNOLDS	\$1,500
				HAGMAN, CURT Total		
HALL, ISADORE	A	D	52	2009	RJ REYNOLDS	\$2,000
				2010	PHILIP MORRIS	\$3,900
					RJ REYNOLDS	\$1,900
				2011	CA DISTRIBUTORS ASS'N	\$2,500
					PHILIP MORRIS	\$7,800
					RJ REYNOLDS	\$3,900
HALL, ISADORE Total	S	D	35	2012	RJ REYNOLDS	\$3,900
				2013	CA DISTRIBUTORS ASS'N	\$1,500
					PHILIP MORRIS	\$8,200
HALL, ISADORE Total						\$4,100
						\$39,700

HARKEY, DIANE	A	R	73	2008	PHILIP MORRIS RJ REYNOLDS	\$7,200 \$1,000	
				2009	PHILIP MORRIS RJ REYNOLDS	\$7,800 \$1,500	
				2010	RJ REYNOLDS	\$1,500	
				2011	PHILIP MORRIS RJ REYNOLDS	\$7,800 \$1,500	
				2012	PHILIP MORRIS RJ REYNOLDS	\$6,500 \$1,500	
	BOE	R	3	2013	RJ REYNOLDS	\$1,500	
	S	R	36	2013	PHILIP MORRIS	\$4,100	
	HARKEY, DIANE Total						\$41,900
	HARMAN, TOM	AG	R	SW	2009	RJ REYNOLDS	\$3,000
					2010	RJ REYNOLDS	\$1,500
				2011	PHILIP MORRIS	\$2,900	
AG		R	SW	2011	RJ REYNOLDS	\$2,000	
BOE 2014		R	3	2012	RJ REYNOLDS	\$1,500	
BOE 2014		R	3	2012	CA DISTRIBUTORS ASS'N	\$1,500	
S		R	35	2007	PHILIP MORRIS RJ REYNOLDS	\$3,600 \$1,500	
				2008	PHILIP MORRIS RJ REYNOLDS	\$3,600 \$1,500	
HARMAN, TOM Total						\$22,600	
HEGYI, PAUL		A	R	10	2008	RJ REYNOLDS UST	\$1,000 \$3,600
				2009	PHILIP MORRIS RJ REYNOLDS	\$2,000 \$2,000	
	HEGYI, PAUL Total						\$8,600
HERNANDEZ, ED	A	D	57	2008	CA DISTRIBUTORS ASS'N	\$1,000	
	HERNANDEZ, ED Total						\$1,000
HERNANDEZ, ROGER	A	D	48	2012	RJ REYNOLDS	\$3,000	
				2013	RJ REYNOLDS	\$1,500	
HERNANDEZ, ROGER Total						\$4,500	
HODGES, SHERRY	A	R	76	2012	RJ REYNOLDS	\$3,500	
	HODGES, SHERRY Total						\$3,500

HOLDEN, CHRIS	A	D	41	2013	PHILIP MORRIS	\$4,100
HOLDEN, CHRIS Total						
HOLLINGSWORTH, DENNIS	A	R	66	2010	PHILIP MORRIS	\$5,000
	S	R	36	2007	UST	\$3,600
				2008	RJ REYNOLDS	\$1,500
				2009	PHILIP MORRIS	\$3,900
					RJ REYNOLDS	\$2,000
HOLLINGSWORTH, DENNIS Total						
HORTON, JEROME	BOE	D	4	2010	PHILIP MORRIS	\$0
				2013	CA DISTRIBUTORS ASS'N	\$3,000
HORTON, JEROME Total						
HUEY, CRAIG	A	R	66	2012	RJ REYNOLDS	\$2,500
HUEY, CRAIG Total						
HUFF, BOB	A	R	55	2013	PHILIP MORRIS	\$4,100
			60	2007	PHILIP MORRIS	\$3,600
				2008	RJ REYNOLDS	\$1,000
					PHILIP MORRIS	\$3,600
					RJ REYNOLDS	\$3,300
			29	2009	PHILIP MORRIS	\$3,900
HUFF, BOB Total					RJ REYNOLDS	\$2,000
				2010	PHILIP MORRIS	\$3,900
					RJ REYNOLDS	\$1,600
				2011	RJ REYNOLDS	\$2,000
				2012	CA DISTRIBUTORS ASS'N	\$1,500
				RJ REYNOLDS	\$1,900	
HUFF, BOB Total						
JEFFERIES, KEVIN	A	R	66	2007	PHILIP MORRIS	\$3,600
					RJ REYNOLDS	\$1,000
				2008	PHILIP MORRIS	\$3,600
					RJ REYNOLDS	\$1,000
				2009	PHILIP MORRIS	\$3,900
					RJ REYNOLDS	\$2,000
				2010	RJ REYNOLDS	\$1,900
			2011	RJ REYNOLDS	\$1,500	
JEFFERIES, KEVIN Total						
						\$18,500

JONES, BRIAN	A	R	71	2011	RJ REYNOLDS	\$1,500
				2012	PHILIP MORRIS	\$3,900
				2013	PHILIP MORRIS	\$4,100
				2010	PHILIP MORRIS	\$3,900
JONES, BRIAN Total						
JONES-SAWYER, REGINALD	A	D	59	2013	CA DISTRIBUTORS ASS'N	\$1,000
					PHILIP MORRIS	\$8,000
					RJ REYNOLDS	\$1,500
JONES-SAWYER, REGINALD Total						
KEENE, RICK	A	R	3	2007	PHILIP MORRIS	\$3,600
				2008	UST	\$3,600
KEENE, RICK Total						
KNIGHT, STEVE	A	R	36	2008	PHILIP MORRIS	\$7,200
				2009	PHILIP MORRIS	\$7,800
				2010	RJ REYNOLDS	\$1,500
				2011	RJ REYNOLDS	\$1,500
				2011	PHILIP MORRIS	\$3,900
				2011	PHILIP MORRIS	\$0
KNIGHT, STEVE Total	S	R	21		RJ REYNOLDS	\$2,500
				2013	PHILIP MORRIS	\$4,100
					RJ REYNOLDS	\$1,500
KNIGHT, STEVE Total						
LA MALFA, DOUG	A	R	2	2007	RJ REYNOLDS	\$2,000
				2008	RJ REYNOLDS	\$1,000
				2010	PHILIP MORRIS	\$3,900
				2011	PHILIP MORRIS	\$2,500
LA MALFA, DOUG Total						
LANCASTER, CHRISTOPHER	A	R	59	2010	PHILIP MORRIS	\$3,900
				LANCASTER, CHRISTOPHER Total		
LINDER, ERIC	A	R	60	2013	PHILIP MORRIS	\$8,000
				LINDER, ERIC Total		

LINDER, ERIC	A	R	60	2013	RJ REYNOLDS	\$1,500
LINDER, ERIC Total						\$9,500
LOGUE, DAN	A	R	3	2008	PHILIP MORRIS	\$3,600
				2009	PHILIP MORRIS	\$7,800
				2010	RJ REYNOLDS	\$1,500
				2010	RJ REYNOLDS	\$2,500
				2011	PHILIP MORRIS	\$7,800
				2012	RJ REYNOLDS	\$1,500
2012	RJ REYNOLDS	\$3,000				
2013	RJ REYNOLDS	\$1,500				
LOGUE, DAN Total						\$29,200
MA, FIONA	A	D	12	2007	CA DISTRIBUTORS ASS'N	\$1,000
	BOE 2014	D	1	2013	CA DISTRIBUTORS ASS'N	\$1,000
MA, FIONA Total						\$2,000
MA, FIONA	BOE 2014	D	1	2012	CA DISTRIBUTORS ASS'N	\$1,000
MA, FIONA Total						\$1,000
MAIENSCHHEIN, BRIAN	A	R	77	2012	RJ REYNOLDS	\$2,500
				2013	PHILIP MORRIS	\$4,100
					RJ REYNOLDS	\$1,500
MAIENSCHHEIN, BRIAN Total						\$8,100
MALDONADO, ABEL	S	R	15	2009	CA DISTRIBUTORS ASS'N	\$1,500
MALDONADO, ABEL Total						\$1,500
MANSOOR, ALLAN	A	R	68	2010	PHILIP MORRIS	\$3,900
				2011	PHILIP MORRIS	\$11,700
					RJ REYNOLDS	\$1,500
				2012	RJ REYNOLDS	\$3,000
				2013	PHILIP MORRIS	\$4,100
MANSOOR, ALLAN Total						\$3,000
MANSOOR, ALLAN Total						\$27,200
MAZE, BILL	A	R	34	2008	RJ REYNOLDS	\$1,000
	S	R	34	2007	RJ REYNOLDS	\$1,000
MAZE, BILL Total						\$2,000
MCCLINTOCK, TOM	BOE	R	2	2007	CA DISTRIBUTORS ASS'N	\$1,500
	S	R	19	2008	RJ REYNOLDS	\$0
MCCLINTOCK, TOM Total						\$1,500

MEDINA, JOSE	A	D	61	2013	PHILIP MORRIS RJ REYNOLDS	\$4,100 \$1,500
MEDINA, JOSE Total						\$5,600
MELLENDEZ, MELISSA	A	R	67	2012	RJ REYNOLDS	\$3,500
				2013	PHILIP MORRIS RJ REYNOLDS	\$8,000 \$1,500
MELLENDEZ, MELISSA Total						\$13,000
MENDOZA, TONY	A	D	56	2008	CA DISTRIBUTORS ASS'N	\$1,200
MENDOZA, TONY Total						\$1,200
MILLER, JEFF	A	R	71	2008	PHILIP MORRIS	\$3,600
				2009	PHILIP MORRIS RJ REYNOLDS	\$3,900 \$1,500
				2010	RJ REYNOLDS	\$2,500
				2011	PHILIP MORRIS RJ REYNOLDS	\$7,800 \$1,500
	S	R	31	2012	PHILIP MORRIS RJ REYNOLDS	\$3,900 \$5,400
MILLER, JEFF Total						\$30,100
MORRELL, MIKE	A	R	63	2010	PHILIP MORRIS	\$3,900
				2011	PHILIP MORRIS RJ REYNOLDS	\$11,700 \$1,500
				2012	RJ REYNOLDS	\$1,500
			40	2013	PHILIP MORRIS RJ REYNOLDS	\$4,100 \$1,500
MORRELL, MIKE Total						\$24,200
MOUNTJOY, DENNIS	S	R	29	2008	RJ REYNOLDS	\$1,500
MOUNTJOY, DENNIS Total						\$1,500
NAKANISHI, ALAN	BOE	R	2	2008	CA DISTRIBUTORS ASS'N	\$1,000
NAKANISHI, ALAN Total						\$1,000
NEGRETE MCLEOD, GLORIA	S	D	32	2007	PHILIP MORRIS	\$3,600
				2008	PHILIP MORRIS RJ REYNOLDS	\$3,600 \$2,000
NEGRETE MCLEOD, GLORIA Total						\$9,200
NESTANDE, BRIAN	A	R	42	2011	PHILIP MORRIS RJ REYNOLDS	\$7,800 \$3,900

NESTANDE, BRIAN	A	R	42	2012	RJ REYNOLDS	\$1,500
				2013	RJ REYNOLDS	\$2,500
				2008	PHILIP MORRIS	\$3,600
				2009	PHILIP MORRIS	\$3,900
					RJ REYNOLDS	\$2,000
				2010	CA DISTRIBUTORS ASS'N	\$1,000
	RJ REYNOLDS	\$1,900				
			2011	CA DISTRIBUTORS ASS'N	\$1,500	
NESTANDE, BRIAN Total						
NIELLO, ROGER	A	R	5	2007	RJ REYNOLDS	\$1,000
				2008	PHILIP MORRIS	\$7,200
					RJ REYNOLDS	\$1,500
NIELLO, ROGER Total						
NIELSEN, JIM	A	R	2	2008	PHILIP MORRIS	\$7,200
					RJ REYNOLDS	\$1,500
				2009	PHILIP MORRIS	\$7,800
					RJ REYNOLDS	\$1,500
				2010	RJ REYNOLDS	\$1,500
				2011	PHILIP MORRIS	\$3,900
			2011	RJ REYNOLDS	\$2,000	
			2012	RJ REYNOLDS	\$4,000	
			2013	PHILIP MORRIS	\$8,000	
				RJ REYNOLDS	\$3,000	
NIELSEN, JIM Total						
NORBY, CHRIS	A	R	65	2011	PHILIP MORRIS	\$7,800
					RJ REYNOLDS	\$1,500
				2012	RJ REYNOLDS	\$3,000
				2010	CA DISTRIBUTORS ASS'N	\$1,500
					PHILIP MORRIS	\$3,900
					RJ REYNOLDS	\$1,500
NORBY, CHRIS Total						
OLLER, RICO	A	R	5	2012	RJ REYNOLDS	\$3,000
OLLER, RICO Total						
OLSEN, KRISTEN	A	R	12	2011	PHILIP MORRIS	\$7,800
					RJ REYNOLDS	\$1,500

OLSEN, KRISTEN	A	R	12	2012	RJ REYNOLDS	\$1,500
				2013	PHILIP MORRIS	\$4,100
				2010	PHILIP MORRIS	\$3,900
OLSEN, KRISTEN Total						
ORTEGA, BARBARA	A	R	8	2012	RJ REYNOLDS	\$1,500
ORTEGA, BARBARA Total						
PATTERSON, JIM	A	R	23	2013	PHILIP MORRIS	\$8,000
PATTERSON, JIM Total						
PEREA, HENRY	A	D	31	2011	CA DISTRIBUTORS ASS'N	\$1,000
					PHILIP MORRIS	\$3,900
				2012	RJ REYNOLDS	\$2,000
				2012	PHILIP MORRIS	\$3,900
PEREA, HENRY Total	A	D	31	2013	RJ REYNOLDS	\$1,500
						\$13,800
PEREZ, JOHN	A	D	46	2008	PHILIP MORRIS	\$3,600
				2009	PHILIP MORRIS	\$3,900
				2010	PHILIP MORRIS	\$3,900
				2011	RJ REYNOLDS	\$3,900
				2012	PHILIP MORRIS	\$7,800
PEREZ, JOHN Total	A	D	46	2013	PHILIP MORRIS	\$6,800
					RJ REYNOLDS	\$2,500
PEREZ, JOHN Total						
PEREZ, V. MANUEL	A	D	80	2010	CA DISTRIBUTORS ASS'N	\$1,000
				2011	CA DISTRIBUTORS ASS'N	\$1,000
PEREZ, V. MANUEL Total						
PLESCIA, GEORGE	A	R	75	2007	CA DISTRIBUTORS ASS'N	\$1,500
					PHILIP MORRIS	\$2,000
					RJ REYNOLDS	\$1,500
					UST	\$3,000
PLESCIA, GEORGE Total	A	R	75	2008	RJ REYNOLDS	\$2,500
					UST	\$3,000
PEREZ, V. MANUEL Total	S	R	39	2012	PHILIP MORRIS	\$3,900



PLESCIA, GEORGE	S	R	39	2012	RJ REYNOLDS	\$5,500
PLESCIA, GEORGE Total						\$22,900
PRICE, JR., CURREN	A	D	51	2007	PHILIP MORRIS UST	\$3,600
				2008	CA DISTRIBUTORS ASS'N PHILIP MORRIS	\$2,400
	S	D	26	2009	PHILIP MORRIS	\$3,000
				2010	RJ REYNOLDS	\$3,600
				2011	PHILIP MORRIS	\$7,800
					RJ REYNOLDS	\$2,000
PRICE, JR., CURREN Total						\$34,200
PUGNO, ANDY	A	R	5	2010	RJ REYNOLDS	\$3,900
PUGNO, ANDY Total						\$3,900
RICHARDSON, LAURA	A	D	55	2007	PHILIP MORRIS	\$3,600
RICHARDSON, LAURA Total						\$3,600
RIOS, PEDRO	A	R	32	2012	RJ REYNOLDS	\$2,000
RIOS, PEDRO Total						\$2,000
RUNNER, GEORGE	BOE	R	2	2013	CA DISTRIBUTORS ASS'N PHILIP MORRIS	\$500
	S	R	17	2007	RJ REYNOLDS UST	\$6,800
				2008	RJ REYNOLDS	\$2,000
				2009	CA DISTRIBUTORS ASS'N RJ REYNOLDS	\$3,600
				2010	PHILIP MORRIS	\$1,500
				2011	PHILIP MORRIS	\$1,000
RUNNER, GEORGE Total						\$4,000
RUNNER, SHARON	A	R	36	2007	UST	\$9,700
				2008	PHILIP MORRIS RJ REYNOLDS UST	\$6,500
	S	R	17	2011	PHILIP MORRIS RJ REYNOLDS	\$35,600
RUNNER, SHARON Total						\$3,000
RUNNER, SHARON Total				2007	UST	\$3,000
				2008	PHILIP MORRIS RJ REYNOLDS UST	\$3,600
				2011	PHILIP MORRIS RJ REYNOLDS	\$1,000
RUNNER, SHARON Total						\$3,600
RUNNER, SHARON Total						\$7,800
RUNNER, SHARON Total						\$2,000
RUNNER, SHARON Total						\$21,000

SALAS, RUDY	A	D	32	2013	PHILIP MORRIS RJ REYNOLDS	\$4,100 \$1,500
SALAS, RUDY Total						
SIEGLOCK, JACK	A	R	10	2008	RJ REYNOLDS	\$5,600
				2010	RJ REYNOLDS	\$1,500
SIEGLOCK, JACK Total						
SILVA, JIM	A	R	67	2007	PHILIP MORRIS RJ REYNOLDS	\$3,600 \$1,000
				2008	PHILIP MORRIS	\$3,600
				2009	PHILIP MORRIS	\$3,900
					RJ REYNOLDS	\$1,500
				2010	PHILIP MORRIS RJ REYNOLDS	\$3,900 \$1,500
				2011	PHILIP MORRIS	\$7,800
					RJ REYNOLDS	\$2,500
				2012	RJ REYNOLDS	\$1,400
SILVA, JIM Total						
SMYTH, CAMERON	A	R	38	2007	PHILIP MORRIS RJ REYNOLDS UST	\$30,700 \$3,600 \$2,000 \$1,500
				2008	PHILIP MORRIS	\$3,600
					RJ REYNOLDS	\$3,600
				2009	PHILIP MORRIS	\$7,800
					RJ REYNOLDS	\$2,000
				2010	RJ REYNOLDS	\$1,900
				2011	PHILIP MORRIS	\$7,800
					RJ REYNOLDS	\$2,500
SMYTH, CAMERON Total						
SOLORIO, JOSE	A	D	69	2008	PHILIP MORRIS	\$36,300
				2009	PHILIP MORRIS	\$7,200
				2010	PHILIP MORRIS	\$3,900
				2011	PHILIP MORRIS	\$3,900
SOLORIO, JOSE Total						
STEEL, MICHELLE	BOE	R	3	2007	UST	\$22,800
				2008	UST	\$3,000
STEEL, MICHELLE Total						
						\$3,000

STEEL, MICHELLE	BOE	R	3	2009	CA DISTRIBUTORS ASS'N	\$1,500
STEEL, MICHELLE Total				2010	PHILIP MORRIS	\$6,500
STRICKLAND, AUDRA	A	R	37	2007	PHILIP MORRIS	\$3,600
STRICKLAND, AUDRA Total				2008	PHILIP MORRIS	\$3,600
STRICKLAND, TONY	S	R	19	2008	RJ REYNOLDS	\$1,250
STRICKLAND, TONY Total				2008	PHILIP MORRIS	\$3,600
STRICKLAND, TONY Total				2008	RJ REYNOLDS	\$3,000
STRICKLAND, TONY Total				2008	UST	\$3,600
STRICKLAND, TONY Total				2009	PHILIP MORRIS	\$3,900
STRICKLAND, TONY Total				2009	RJ REYNOLDS	\$2,500
STRICKLAND, TONY Total				2010	RJ REYNOLDS	\$3,000
STRICKLAND, TONY Total				2011	PHILIP MORRIS	\$0
STRICKLAND, TONY Total				2011	RJ REYNOLDS	\$2,000
STRICKLAND, TONY Total				2012	PHILIP MORRIS	\$28,450
SWANSON, SANDRE	A	D	16	2009	RJ REYNOLDS	\$1,500
SWANSON, SANDRE Total				2010	CA DISTRIBUTORS ASS'N	\$2,000
SWANSON, SANDRE Total				2010	RJ REYNOLDS	\$1,500
SWANSON, SANDRE Total				2011	CA DISTRIBUTORS ASS'N	\$1,300
SWANSON, SANDRE Total				2011	RJ REYNOLDS	\$2,000
SWANSON, SANDRE Total				2012	CA DISTRIBUTORS ASS'N	\$1,000
SWANSON, SANDRE Total				2012	RJ REYNOLDS	\$1,000
SWANSON, SANDRE Total				2012	RJ REYNOLDS	\$10,300
TATEISHI, PETER	A	R	8	2012	RJ REYNOLDS	\$2,500
TATEISHI, PETER Total				2012	RJ REYNOLDS	\$2,500
THIESEN, TIM	S	R	16	2010	RJ REYNOLDS	\$3,900
THIESEN, TIM Total				2010	RJ REYNOLDS	\$3,900
TORRICO, ALBERTO	A	D	20	2008	CA DISTRIBUTORS ASS'N	\$2,000
TORRICO, ALBERTO Total				2008	CA DISTRIBUTORS ASS'N	\$2,000
TRAN, VAN	A	R	68	2007	PHILIP MORRIS	\$3,600

TRAN, VAN	A	R	68	2007	RJ REYNOLDS	\$1,000
				2008	PHILIP MORRIS	\$3,600
				2009	RJ REYNOLDS	\$2,000
TRAN, VAN Total						
VALADAO, DAVID	A	R	30	2010	PHILIP MORRIS	\$3,900
					RJ REYNOLDS	\$3,900
				2011	PHILIP MORRIS	\$7,800
					RJ REYNOLDS	\$1,500
VALADAO, DAVID Total						
VIDAK, JAMES	S	R	16	2013	PHILIP MORRIS	\$8,200
VIDAK, JAMES Total						
VILLINES, MICHAEL	A	R	29	2007	PHILIP MORRIS	\$3,600
					RJ REYNOLDS	\$1,500
					UST	\$3,600
				2008	PHILIP MORRIS	\$3,600
					RJ REYNOLDS	\$1,650
					UST	\$3,600
				2009	PHILIP MORRIS	\$3,900
INS COMM 20	R	SW		2009	PHILIP MORRIS	\$2,600
					RJ REYNOLDS	\$2,000
				VILLINES, MICHAEL Total		
WAGNER, DONALD	A	R	68	2011	PHILIP MORRIS	\$11,700
					RJ REYNOLDS	\$1,500
				2012	RJ REYNOLDS	\$3,000
				2013	PHILIP MORRIS	\$4,100
					RJ REYNOLDS	\$1,500
				2010	PHILIP MORRIS	\$3,900
WAGNER, DONALD Total						
WALDRON, MARIE	A	R	75	2013	PHILIP MORRIS	\$4,100
					RJ REYNOLDS	\$1,500
WALDRON, MARIE Total						
WALTERS, MIMI	A	R	73	2007	PHILIP MORRIS	\$3,600
				2008	PHILIP MORRIS	\$3,600
				2008	RJ REYNOLDS	\$2,000

WALTERS, MIMI	S	R	33	2009	PHILIP MORRIS	\$3,900
					RJ REYNOLDS	\$1,500
				2010	PHILIP MORRIS	\$3,900
					RJ REYNOLDS	\$2,500
				2011	RJ REYNOLDS	\$2,000
				2012	RJ REYNOLDS	\$1,500
				2011	PHILIP MORRIS	\$6,500
				2012	RJ REYNOLDS	\$300
				2013	RJ REYNOLDS	\$1,000
						\$32,300
WALTERS, MIMI Total						
WHITMAN, MEG	G	R	SW	2010	PHILIP MORRIS	\$25,900
WHITMAN, MEG Total						
WILK, SCOTT	A	R	38	2012	RJ REYNOLDS	\$1,500
				2013	PHILIP MORRIS	\$8,000
					RJ REYNOLDS	\$1,500
						\$11,000
WILK, SCOTT Total						
WILSON, ABRAM	A	R	15	2010	RJ REYNOLDS	\$5,400
WILSON, ABRAM Total						
WOLK, LOIS	S	D	5	2010	CA DISTRIBUTORS ASS'N	\$2,000
WOLK, LOIS Total						
WRIGHT, ROD	BOE	D	4	2013	PHILIP MORRIS	\$6,800
					RJ REYNOLDS	\$3,000
				2007	RJ REYNOLDS	\$3,500
				2009	PHILIP MORRIS	\$3,900
					RJ REYNOLDS	\$2,000
WRIGHT, ROD Total	S	D	25	2010	PHILIP MORRIS	\$3,900
					RJ REYNOLDS	\$6,900
				2011	PHILIP MORRIS	\$10,000
					RJ REYNOLDS	\$3,000
				2012	RJ REYNOLDS	\$900
						\$43,900
WRIGHT, ROD Total						
WYLAND, MARK	BOE	R	3	2013	PHILIP MORRIS	\$5,800
					RJ REYNOLDS	\$2,500
				2011	RJ REYNOLDS	\$3,000
				2012	PHILIP MORRIS	\$7,800

WYLAND, MARK	BOE 2014	R	3	2012	RJ REYNOLDS	\$1,500	
	S	R	38	2007	UST	\$3,543	
				2008	PHILIP MORRIS	\$3,600	
					RJ REYNOLDS	\$2,000	
				UST	\$2,000		
WYLAND, MARK Total				2010	PHILIP MORRIS	\$3,900	
					RJ REYNOLDS	\$1,900	
WYLAND, MARK Total							\$37,543
ZINK, TODD		R	27	2012	CA DISTRIBUTORS ASS'N	\$1,000	
	S				PHILIP MORRIS	\$3,900	
					RJ REYNOLDS	\$2,500	
ZINK, TODD Total							\$7,400
Grand Total							\$2,237,369

Appendix 3 - Tobacco Industry Contributions to Consitutional Office Candidates, 2007-2013

Recipient	Office	Party	District	Contributor	Year	Amount
ALBY, BARBARA	BOE	R	2	CA DISTRIBUTORS ASS'N	2010	\$1,000
ASHBURN, ROY	BOE	R	2	RJ REYNOLDS	2007	\$2,000
					2008	\$1,500
					2009	\$2,000
BATTIN, JIM	LG	R	SW	RJ REYNOLDS	2007	\$2,000
BROWN, JERRY	AG	D	SW	PHILIP MORRIS	2009	\$2,500
	G	D	SW	PHILIP MORRIS	2013	\$25,800
	G	D	SW	PHILIP MORRIS	2013	\$1,200
	G-2014	D	SW	PHILIP MORRIS	2012	\$26,000
CALDERON, CHARLES	BOE 2014	D	4	RJ REYNOLDS	2011	\$2,000
CALDERON, TOM	SOS	D	58	RJ REYNOLDS	2012	\$2,500
CORREA, LOU	BOE	D	3	PHILIP MORRIS	2013	\$6,800
				RJ REYNOLDS	2013	\$1,500
GALGANI, CATHLEEN	SOS 2014	D	SW	RJ REYNOLDS	2011	\$2,500
HARKEY, DIANE	BOE	R	3	RJ REYNOLDS	2013	\$1,500
HARMAN, TOM	AG	R	SW	PHILIP MORRIS	2011	\$2,900
				RJ REYNOLDS	2009	\$3,000
					2010	\$1,500
					2011	\$2,000
					2012	\$1,500
					2012	\$1,500
HORTON, JEROME	BOE	D	4	CA DISTRIBUTORS ASS'N	2013	\$1,500
MA, FIONA	BOE 2014	D	1	CA DISTRIBUTORS ASS'N	2013	\$1,000
MA, FIONA	BOE 2014	D	1	CA DISTRIBUTORS ASS'N	2012	\$1,000
MCCLINTOCK, TOM	BOE	R	2	CA DISTRIBUTORS ASS'N	2007	\$1,500
NAKANISHI, ALAN	BOE	R	2	CA DISTRIBUTORS ASS'N	2008	\$1,000
PEREZ, JOHN	LG	D	SW	PHILIP MORRIS	2013	\$6,800
				RJ REYNOLDS	2013	\$2,500
RUNNER, GEORGE	BOE	R	2	CA DISTRIBUTORS ASS'N	2013	\$500
				PHILIP MORRIS	2013	\$6,800
STEELE, MICHELLE	BOE	R	3	CA DISTRIBUTORS ASS'N	2009	\$1,500
				PHILIP MORRIS	2010	\$6,500

VILLINES, MICHAEL					UST			2007	\$1,500
								2008	\$1,500
WHITMAN, MEG								2009	\$2,600
								2009	\$2,000
WRIGHT, ROD								2010	\$25,900
								2013	\$6,800
WYLAND, MARK								2013	\$3,000
								2013	\$2,900
								2013	\$200
									\$2,300
								2012	\$3,900
								2011	\$3,000
								2012	\$1,500



Appendix 4 - Local Clean Air Ordinance Activity, 2007-2013 Source: Americans for Nonsmokers' Rights			
Community Name	County	Multi-Unit Dwellings (MUD)	Other Clean Air Ordinances
Alameda	Alameda	<p>4/08: Smoking prohibited at Housing Authority owned and managed apartment complexes, including inside apartments, on balconies, and in common areas, including grounds. Effective dates for various complexes range from 8/1/08 to 11/1/09</p> <p>11/11: Hotel/motel rooms must be at least 90% nonsmoking. Smoking, including use of hookahs, prohibited in all units of multi-unit residential rental complexes, common interest complexes, and single room occupancy hotel units receiving certificate of occupancy after 1/2/12 and in all existing units as of 1/1/13.</p> <p>Smoking prohibited in all outdoor private spaces associated with units and in all common areas, except in designated outdoor smoking areas that comply with specified conditions. Landlords must disclose smoking restrictions to prospective tenants.</p>	<p>4/08: Other enforcement agency = Housing Authority. Other penalty = termination of lease.</p> <p>11/11: Smoking, including use of hookahs, prohibited in warehouses, small businesses with fewer than 5 employees; owner-occupied businesses not open to public, and outdoor workplaces. Smoking prohibited in taxis, truck cabs, child care facilities, retail tobacco stores and hookah bars, and other miscellaneous places. (Indoor smoking regulations evidently intended to supplement State law.)</p> <p>Smoking prohibited within 20 feet of entrances, etc. to enclosed areas where smoking is prohibited; in outdoor stadiums; in outdoor dining areas of restaurants; in recreation areas, including parks, playgrounds, and beaches; at public events; in outdoor service lines; at transit shelters; in shopping malls; and on commercial area sidewalks.</p>
Alameda County	Alameda		<p>3/09: Ordinance enacted by Hayward Area Recreation and Park District and is applicable to County and City of Hayward. Smoking prohibited on all District property, including playgrounds, and in all District vehicles. Other enforcement agency = District employees. Other penalty = fine pursuant to State law.</p>
Albany	Alameda	<p>5/08: Smoking permitted in units of MUD if occupant has ownership interest in property. Smoking prohibited in outdoor common areas of multi-unit dwellings, except in designated smoking areas.</p>	<p>5/08: Smoking prohibited in all workplaces, defined to include restaurants, bars, gaming facilities, private clubs, and public places generally. Smoking prohibited within 25 feet of entrances, etc. to enclosed places and unenclosed places where smoking is prohibited. Smoking prohibited in outdoor stadiums, outdoor dining areas of restaurants, and in outdoor areas of bars, except in designated smoking areas, provided smoke does not infiltrate into areas where smoking is prohibited. Smoking prohibited in parks, beaches, playgrounds, service lines, bus shelters, and semi-enclosed areas, at public events, and on specified sidewalks. Retail tobacco stores are exempt.</p>
Alhambra	Los Angeles		<p>7/08: Smoking prohibited in public parks, including farmers market, but excluding municipal golf course.</p>
Anderson	Shasta		<p>3/02: Smoking prohibited at Anderson River Park in KC Grove and Amphitheatre during concerts, except in designated smoking areas.</p> <p>10/11: Repeals 3/02 ord. and provides that City Council may designate nonsmoking areas within parks by resolution.</p>
Arbuckle	Colusa		<p>10/11: Tobacco use prohibited within 50 feet of City parks, including bleacher areas.</p>
Arcadia	Los Angeles		<p>6/12: Tobacco use, including use of e-cigarettes, prohibited in parks and recreation areas, except that designated tobacco use areas may be established at City-sponsored events, such as concerts, sports, plays, carnivals, and fairs. Arcadia Par 3 Golf Course is exempt.</p>
Arroyo Grande	San Luis Obispo		<p>1/09: Smoking prohibited in parks.</p>
Atascadero	San Luis Obispo		<p>8/09: Smoking prohibited at zoo and outdoor recreation areas, except in parking lots. Religious ceremonies are exempt. Smoking is defined to include hookahs</p>

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Baldwin Park	Los Angeles	11/11: Smoking, including use of e-cigarettes, hookahs, and marijuana, prohibited in common areas of market rate MUD, except in designated outdoor smoking areas not to exceed 10% of total area and located at least 25 feet from enclosed areas and children's play areas. Smoking prohibited in all units of MUD, including balconies and patios, that receive certificate of occupancy after 6/21/12. Smoking prohibited in at least 80% of existing units as of 12/2/14. Landlords of residences with less than 100% nonsmoking units must disclose locations of smoking and nonsmoking units and areas to prospective tenants.	11/11: Owners of family day care homes must disclose to parents and guardians of persons using homes if smoking is permitted in homes during hours of non-operation. Other enforcement agency = City Attorney. Other penalty = breach of lease.
Banning	Riverside		2/09: Smoking prohibited in all enclosed City facilities and in all public parks. Other penalty = pursuant to City Code.
Belmont	San Mateo	10/07: Smoking prohibited in individual units of MUD, provided they share at least one common floor or ceiling with another unit. Lease renewals for existing occupants must prohibit smoking within 14 months after effective date of ord. unless landlord specifies earlier date.	10/07: Smoking prohibited generally in all indoor and outdoor areas of City, with exceptions for detached single family homes, automobiles, City designated outdoor smoking areas, and streets and sidewalks when not used for City-sponsored events. Other penalty = pursuant to City Code.
Berkeley	Alameda		12/07: Smoking prohibited within 50 feet of entrances, etc. to health care facilities, child and adult care facilities, and Senior Center, and within 25 feet of entrances, etc. to public places. Smoking prohibited in parks and recreation areas, outdoor service lines, specified commercial sidewalks, and Senior Center. 4/08: Amended definition of "commercial area sidewalks" to include specified commercial districts, rather than specified streets.
Beverly Hills	Los Angeles		6/07: Smoking prohibited in all outdoor dining areas of restaurants and bars and within 5 feet thereof, except in 25% of contiguous deck space surrounding hotel swimming pools, and except areas immediately adjacent to private smokers' lounge as defined under State law. Other enforcement agency = City Prosecutor; Code Enforcement Officer. Contains sunset provision (which did not take effect). Prior ords. Relating to smoking in public meetings, restaurants, and retail stores are repealed.
Blue Lake	Humboldt		6/07: Smoking prohibited in all workplaces, including vehicles; restaurants; bars; and public places generally. Smoking prohibited within 20 feet of entrances, etc. to enclosed areas where smoking is prohibited; in outdoor workplaces; in recreational areas, including parking lots; in outdoor service areas, including bus stops; in outdoor dining areas, except unenclosed areas of bars that do not serve food; in outdoor common areas of multi-unit dwellings; and at outdoor public events, including sports events, except in designated smoking areas. Other enforcement agency = Code Enforcement Official. Other penalty = injunction; trespass.
Buellton	Santa Barbara		6/12: Smoking, including use of e-cigarettes, hookahs, and marijuana, prohibited within 20 feet of entrances to buildings where smoking is prohibited. Smoking permitted in outdoor seating areas of bars. Tobacco use prohibited in City parks. Other penalty = pursuant to City Code.
Burbank	Los Angeles	10/10: Smoking prohibited in specified outdoor areas of MUD and nursing homes when children are using areas and on balconies and patios of units in MUD. Smoking prohibited in all MUD and nursing homes where units share heating or cooling systems.	

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Calabasas	Los Angeles	1/08: Smoking prohibited in at least 80% of all MUD as of 1/1/12. Residents as of 2/1/08 may obtain exemption for duration of tenancy. Outdoor common areas may have designated smoking areas not to exceed 25% of total outdoor area.	1/08: Smoking is defined to include hookahs. Other enforcement agency = Landlord. Other penalty = eviction.
California		9/11: Authorizes landlords of residential dwelling units to prohibit smoking anywhere on property, including dwelling units, subject to notice requirements for rental agreements entered into prior to 1/1/12. Also requires that rental agreements entered into on or after 1/1/12 disclose areas on property where smoking is prohibited.	10/07: Smoking prohibited in vehicles with minor present. 12/11: Per opinion of Attorney General, private smokers' lounge located in or attached to retail or wholesale tobacco shop, which serves alcoholic beverages, is not exempt from requirements of Labor Code Sec. 6404.5 to maintain smokefree workplace.
Camarillo	Ventura	4/10: Smoking prohibited in outdoor common areas of MUD, except in parking lots.	4/10: Smoking prohibited in all indoor and outdoor workplaces, including vehicles, except where state or federal law already prohibits smoking. Exception for owner-occupied business applies only if workplace is located in separate building with no other uses and whose walls are at least 10 feet from any other building. Smoking prohibited in public places generally and in specified residential and outdoor places, except where state or federal law already prohibits smoking. The following places are covered by the ord.: private workplaces, including vehicles; private clubs that have employees or are open to public; outdoor stadiums; outdoor dining areas of restaurants and bars; parks; outdoor service lines; transit stops; and outdoor recreation areas. Smoking prohibited within 25 feet of entrances, etc. to enclosed areas where smoking is prohibited and within 25 feet of unenclosed areas where smoking is prohibited. Retail tobacco stores and tobacco bars are exempt. 4/11: Tobacco use prohibited in all lands and facilities of Pleasant Valley Recreation and Park District, within 50 feet of front of playgrounds, and within 20 feet of entrances to buildings. Other enforcement agency = District General Manager and Park Rangers. Other penalty = ejection from park.
Campbell	Santa Clara		10/11: Smoking, including use of e-cigarettes and hookahs, prohibited in workplaces, except private workplaces with 5 or fewer employees. Private workplaces may also have separately ventilated smoking rooms. Smoking prohibited in restaurants, bars, gaming facilities, and public places generally. Smoking prohibited within 20 feet of entrances, etc. to enclosed areas where smoking is prohibited; in outdoor dining areas of restaurants and bars; in public recreational areas, including parks, playgrounds swimming pools, skating rinks, and skateboard parks; in outdoor service lines; at bus stops; and at public events. Exemption for retail tobacco stores deleted. Other enforcement agency = City Attorney.
Capitola	Santa Cruz		12/09: Smoking prohibited in City Hall and Library property, in specified parks, at wharf, and on specified streets and rights-of-way.
Carlsbad	San Diego		7/08: Smoking prohibited in parks and beaches, except in designated smoking areas. 10/12: Smoking prohibited in and within 20 feet of outdoor dining areas of restaurants and bars.
Carpinteria	Santa Barbara		2/11: Smoking, including use of hookahs, prohibited everywhere in City, including indoor and outdoor workplaces and public places, defined to include restaurants, bars, gaming facilities, private clubs, streets, sidewalks, parking lots, and plazas. Smoking prohibited in vehicles with minors and in foster care homes. Under specified conditions, smokers' outposts may be established in outdoor areas at least 5 feet, but generally 20 feet, from entrances to enclosed places
Chico	Butte		10/09: Smoking prohibited in Plaza Park.
Chula Vista	San Diego		1/07: Smoking prohibited within 50 feet of entrances to restaurants.

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Claremont	Los Angeles		10/08: Smoking prohibited in all public parks. Other penalty = pursuant to City Code. 12/10: Smoking prohibited in public plazas.
Clearlake	Lake		7/12: Smoking prohibited in all City parks, including playgrounds, buildings, piers, docks, and sidewalks and in recreation center.
Clovis	Fresno		7/07: Smoking prohibited in City parks, including playgrounds, amusement parks, and parking lots.
Compton	Los Angeles	10/11: Smoking prohibited in all new units of MUD immediately and in all existing units as of 1/1/13. Smoking prohibited in outdoor common areas of all multi-unit dwellings.	10/11: Repeals prior law. Smoking, including use of e-cigarettes and marijuana, prohibited within 25 feet of entrances, etc. to enclosed areas where smoking is prohibited; in outdoor dining areas of restaurants and bars; in parks and recreation areas; in outdoor service lines; at bus shelters; at amusement parks; and at public events. Other enforcement agency = City Attorney
Concord	Contra Costa		9/09: Smoking prohibited in all parks, on trails, and in open space areas. 10/11: Smoking, including use of e-cigarettes and hookahs, prohibited in Downtown Concord, as bounded by specified streets, including all sidewalks and pedestrian ways within area. Smoking prohibited in all transit vehicles and stations. Owners of private property may establish designated smoking areas, including in outdoor dining areas, under specified conditions. Such smoking areas must be at least 5 feet from entrances, etc. to buildings open to public. Other penalty = pursuant to City Code.
Contra Costa County	Contra Costa	10/10: Smoking prohibited on balconies, porches, decks, patios, and carports of MUD. Smoking prohibited in all dwelling units of MUD, including nursing homes, built on or after 1/1/11. All rental agreements for multi-unit residences signed on or after 1/1/11 must contain provisions explaining smoking policy.	10/10: Amends definition of smoking to include use of marijuana for medical purposes. Other penalty = 1st violation -- warning; 2d violation -- eviction.
Corona	Riverside		4/07: Smoking prohibited in all public parks and recreation areas, including sidewalks and parking areas adjacent to or within parks and recreation areas. Other penalty = citation or other enforcement action by City.
Corte Madera	Marin		5/12: Smoking prohibited in Town parks.
Crescent City	Del Norte		5/10: Smoking prohibited in all City parks and at public events. Smoking is defined to include hookahs and use of e-cigarettes.
Cupertino	Santa Clara		5/11: Smoking, including use of marijuana or hookahs, prohibited within 25 feet of all recreational areas, including parks, playgrounds, swimming pools, skating rinks, and skateboard parks, and including associated parking lots. Other penalty = pursuant to City Code
Dana Point	Orange		3/10: Smoking prohibited in City parks, unless permitted by prior written approval by City.
Danville	Contra Costa		9/11: Smoking prohibited in all parks and recreational facilities.

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Dublin	Alameda	<p>12/08: At least 50% of units in MUD with 16 or more units, including senior citizen housing and single room occupancy hotels, must be nonsmoking by 1/1/11. Smoking prohibited in common areas, except for designated outdoor smoking areas not exceeding 25% of total area and located at reasonable distance from areas where smoking is prohibited. Landlords must disclose list of nonsmoking units to tenants.</p> <p>7/11: Amends 12/08 ord. by requiring that at least 75% of units must be nonsmoking by 1/1/13.</p>	<p>4/08: Includes residences licensed as day care providers in definitions of "business" and "place of employment."</p> <p>6/08: Increased from 15 to 20 feet distance of no smoking from entrances and windows of enclosed area in which smoking is prohibited.</p> <p>10/08: Smoking prohibited in City parks, except for specified community parks; in and within 100 feet of recreation areas within City and community parks; and at City sponsored events, except in designated smoking areas. Smoking prohibited in retail and wholesale tobacco shops and private smokers' lounges, as defined under State law.</p> <p>12/08: Deleted prohibition on smoking within 100 feet of recreation areas. Other penalty = breach of lease.</p> <p>10/09: Reinstates prohibition on smoking within 100 feet of recreation areas. Limits number of designated smoking areas at City sponsored events. Prohibits smoking in outdoor areas of single family residences licensed for day care.</p> <p>12/12: Smoking prohibited in all City parks and in outdoor areas of private residences licensed as family day care home.</p>
Eastvale	Riverside		<p>10/10: Adopts all Riverside County ordinances and resolutions for period of 120 days. Smoking prohibited on all City property, enclosed or unenclosed, except in designated outdoor smoking areas.</p> <p>1/11: Makes adoption of County ordinances and resolutions permanent.</p>
El Cajon	San Diego		<p>8/07: Smoking prohibited in all workplaces with 5 or more employees, restaurants, bars, gaming facilities, and public places generally; within 20 feet of entrances, etc. to enclosed areas where smoking is prohibited; and in outdoor places generally, except for smokers' outposts in shopping malls and on public property as designated by City Manager. Other penalty = fine pursuant to City Code.</p>
El Segundo	Los Angeles	<p>10/08: Smoking prohibited in common areas of Park Vista Senior Housing facility and throughout facility as of 1/1/10.</p> <p>9/11: Hotels/motels must have indeterminate number of nonsmoking rooms.</p>	
Elk Grove	Sacramento		<p>4/09: Smoking prohibited in all workplaces and public places generally. Restaurants and bingo facilities may have smoking sections. All bars, private clubs when not open to public, and retail tobacco stores are exempt. Other penalty = fine pursuant to State law.</p> <p>9/11: Repeals prior law. Smoking prohibited in City buildings and public places generally. Restaurants and bingo facilities may have smoking sections. Smoking prohibited within 300 feet of schools, day care centers, playgrounds, parks, amusement centers, and youth sports facilities. Unless smoking is prohibited by State law, bars, private clubs when not open to public, retail tobacco stores that do not admit minors, and designated areas of parks that are not within 300 feet of playgrounds and other youth activity areas are exempt.</p>
Encinitas	San Diego		<p>3/08: Smoking prohibited at City beaches, parks, and trails and in outdoor dining areas. Other penalty = pursuant to City Code.</p>
Eureka	Humboldt	<p>7/10: Smoking prohibited in outdoor common areas of nursing homes and MUD, except in designated smoking areas meeting specified conditions. Smoking prohibited in unenclosed areas associated with units, including balconies, porches, decks, and patios.</p>	<p>6/08: Smoking prohibited within 100 feet of Eureka Boardwalk.</p> <p>7/10: Smoking, defined to include e-cigarettes and hookahs, prohibited in all workplaces, including vehicles; all public places, defined broadly to include restaurants, bars, and gaming facilities; and private clubs that have employees or that are open to public. Smoking prohibited within 30 feet of entrances, etc. to enclosed areas where smoking is prohibited; in outdoor dining areas of restaurants and bars, parks, playgrounds, and outdoor services lines; at transit shelters; and in various specified public outdoor areas.</p> <p>12/10: Smoking permitted in outdoor bar patios, provided minors are not allowed. Percentage of required nonsmoking guest rooms in hotels/motels reduced from 75 to 50.</p>

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Fairfax	Marin	6/11: Private rooms in nursing homes and MUD must be 75% nonsmoking. Smoking prohibited in all common areas, except in designated outdoor areas, not to exceed 25% of total area.	6/11: Smoking, including use of e-cigarettes, prohibited in all indoor and outdoor workplaces, restaurants, bars, gaming facilities, private clubs, and public places generally. Smoking prohibited within 20 feet of entrances, etc. to enclosed areas where smoking is prohibited; in all parks and specified playground; in outdoor dining areas of restaurants; and at outdoor public events. Retail tobacco stores are exempt, provided smoke does not infiltrate into nonsmoking areas. Other enforcement agency = Town Staff. Other penalty = 1st violation - warning. 2d violation - fine pursuant to Town Code.
Foster City	San Mateo		3/09: Smoking prohibited at special events in parks.
Fountain Valley	Orange		6/07: Tobacco use prohibited in City parks and recreation facilities.
Fremont	Alameda		11/09: Smoking prohibited in outdoor dining areas of restaurants.
Gilroy	Santa Clara		6/12: Smoking prohibited in parks, including playgrounds and swimming pools, but excluding Municipal Golf Course, Gilroy Gardens, and Christmas Hill Park during Gilroy Garlic Festival, and except for designated smoking areas.
Glendale	Los Angeles	10/08: Smoking prohibited in all common areas of MUD, except in designated outdoor areas at least 20 feet from building. Landlords of multi-unit dwellings must make specified disclosures about smoking to prospective tenants. 3/10: Extends regulations in 10/08 ord. to condominium complexes, prohibits smoking on outdoor balconies and patios, and adds further disclosure requirements for landlords.	10/08: Smoking prohibited in all workplaces, restaurants, bars, and public places generally; within 20 feet of entrances, etc. to enclosed places of employment and public places; in outdoor stadiums, except in designated smoking areas in nonsmoking areas; in outdoor dining areas of restaurants and bars, except in designated smoking areas; at outdoor service lines and transit stops; and in semi-enclosed areas. Smoking prohibited in City buildings, transit vehicles, and recreation areas, except in designated outdoor smoking areas. Smoking is defined to include hookahs. Other enforcement agency = Neighborhood Services Administrator; City Clerk License Investigator. Other penalty = costs; eviction of tenant for violation of smoking rules. Deleted nonretaliation provision. 3/10: Smoking prohibited within 20 feet of entrances to City buildings and parking lots or structures. Exempts smoking at religious ceremonies.
Glendora	Los Angeles		12/07: Smoking prohibited in all City parks and facilities, except in parking lots and golf course.
Hayward	Alameda		5/08: Private workplace provisions repealed. Smoking prohibited in all public places, inside and outside, including outdoor stadiums and outdoor dining areas of restaurants and bars. Smoking prohibited within 20 feet of enclosed areas where smoking is prohibited. Designated smoking areas may be established at outdoor public events. Other penalty = fine established by resolution of City Council; trespass.
Hermosa Beach	Los Angeles		11/11: Smoking prohibited within 5 feet of outdoor dining areas of restaurants and bars; in public parks and Greenbelt; at Strand, Pier, and Pier Plaza; and in public parking lots. Other enforcement agency = City Attorney. Other penalty = costs; attorney's fees.
Huntington Park	Los Angeles	3/12: Smoking, including use of e-cigarettes, hookahs, and marijuana, prohibited in outdoor workplaces, prohibited in MUD whose certificate of occupancy is issued after 1/27/13 and in existing MUD as of 7/1/13. MUD include nursing homes, condominiums, and single room occupancies and include balconies, decks, and porches. Existing condominiums may vote by 12/31/12 to allow smoking in up to 20% of units. New condominiums must be at least 80% nonsmoking. Smoking prohibited in common areas of MUD, except in designated smoking areas in outside common areas that comprise no more than 10% of area and are at least 25 feet from children's play areas, physical activity areas, and buildings.	8/11: Smoking, including use of e-cigarettes, hookahs, and marijuana, prohibited in outdoor workplaces; within 20 feet of entrances, etc. to enclosed areas where smoking is prohibited; in outdoor dining areas of restaurants and bars; on City property, including vehicles; in parks and recreation areas including associated parking lots; in outdoor service lines; at bus shelters; and at public events. Other enforcement agency = Business License Officer; City Attorney. 11/11: Smoking prohibited in retail tobacco stores.

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Inglewood	Los Angeles		10/10: Smoking, including use of hookahs, prohibited in City parks, including playgrounds and skateboard parks, but not including parking lots.
Irvine	Orange		3/07: Smoking prohibited in parks and recreation facilities, except in designated smoking areas. Other penalty = pursuant to City Code.
Jurupa Valley	Riverside		7/11: Adopts all Riverside County laws as applicable to City. Smoking prohibited on all City property, enclosed or unenclosed, except in designated outdoor smoking areas. Other enforcement agency = Dept. heads and Dept. supervisors. Other penalty = disciplinary proceedings.
Kern County	Kern	4/12: Smoking prohibited in County Housing Authority units and within 15 feet thereof.	
La Palma	Orange		11/10: Smoking prohibited in Central Park, including buildings and parking lots, except in designated smoking areas. Other penalty = pursuant to City Code.
La Verne	Los Angeles		10/10: Smoking prohibited in City parks. Other enforcement agency = Parks and Community Services Dept. personnel.
Laguna Beach	Orange		9/09: Smoking prohibited in public parks. 9/11: Smoking prohibited on 100 foot stretch of Forest Lane, including sidewalks.
Laguna Woods	Orange	3/11: Smoking prohibited on balconies and patios of residential facilities, including ones that are enclosed, unless windows and doors are closed.	11/06: Smoking prohibited in parks and preserves.
Larkspur	Marin	4/11: Smoking prohibited in all units of MUD and nursing homes rented on or after 11/17/11. Under specified conditions, smoking may be permitted in some existing units of Common Interest and Rental Complexes. Smoking prohibited in common areas of MUD and nursing homes, except in designated outdoor smoking areas, not to exceed 10% of total area.	4/11: Smoking, including use of marijuana, prohibited in all workplaces and public places, defined broadly to include restaurants, bars, and private clubs. Smoking prohibited in outdoor dining areas of restaurants and bars; within 20 feet of entrances, etc. to enclosed areas where smoking is prohibited; in recreational areas, including parks, beaches, playgrounds, golf courses, swimming pools, skating rinks, skateboard parks; and amusement parks; in outdoor service lines and bus shelters; and at public events. Retail tobacco stores are exempt, provided they are in stand-alone buildings and do not admit minors. Other penalty = pursuant to City Code
Loma Linda	San Bernardino	6/08: At least 70% of units in MUD, other than condominiums, must be nonsmoking by 1/1/12, but current residents of existing dwellings may continue to smoke in own units during tenancy. Smoking prohibited in outdoor common areas, except in designated smoking areas.	6/08: Smoking prohibited in City, both indoors and outdoors. Smoking permitted in designated outdoor areas in shopping centers (smokers' outposts), in private outdoor areas when no nonsmokers are present or expected to arrive, and inside private automobiles when no minor is present. Other enforcement agency = City Prosecutor; City Attorney; landlord. Other penalty = 1st violation - warning to tenant; 2d violation - eviction of tenant.
Long Beach	Los Angeles		2/09: Cigar lounges and hookah lounges are exempt, provided they sell no food or beverage, do not admit minors, and are separately ventilated. 11/10: Smoking prohibited in City parks and playgrounds, except for golf courses and special activities. 12/09: Provides for additional requirements for operation of cigar and hookah lounges, including necessity for license. 4/11: Exemption for cigar and hookah lounges is applicable only to businesses operating under applications deemed complete on or before 4/12/11.

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Los Angeles	Los Angeles		8/07: Smoking prohibited in all City parks, including playgrounds, beaches, structures, etc. Smoking permitted on golf courses, except specified ones where smoking is permitted only in designated areas. Autry National Center, Greek Theater, and Los Angeles Zoo may have designated smoking areas. 9/08: Smoking prohibited at farmer's markets. 1/10: Smoking prohibited in outdoor dining areas of restaurants and within 10 feet thereof. Grace period extends effective date of prohibition for one year beyond effective date of ord. Outdoor dining areas of bars that do not admit minors are exempt. 9/09: Smoking prohibited in contract operated parks, except in designated smoking areas.
Los Angeles County	Los Angeles		9/11: Smoking prohibited on Strand along beach and on Valley Ardmore Greenbelt.
Manhattan Beach	Los Angeles		
Marin County	Marin	5/12: Existing units in MUD, including private nursing home rooms, must be at least 80% nonsmoking by 8/20/13. All new units receiving certificate of occupancy after 2/16/13 must be 100% nonsmoking. Smoking prohibited in all common areas of MUD, except in designated outdoor smoking areas not to exceed 25% of total area. Landlords of MUD must disclose location of nonsmoking units to tenants. Use of e-cigarettes and medical marijuana is permitted in individual units.	1/12: Smoking prohibited in all enclosed and outdoor areas of County Dept. of Health and Human Services. 5/12: "Smoking" defined to include use of e-cigarettes and hookahs. Smoking prohibited in outdoor workplaces. Fines amended. Other penalty = lease violation; trespass.
Martinez	Contra Costa	5/09: Smoking prohibited in indoor common areas of MUD residences, including nursing homes, and in outdoor common areas and private spaces of such residences, except in specified designated outdoor smoking areas. Specified lease terms are required as of 6/1/10.	5/09: Smoking prohibited in all workplaces, including vehicles, bars, gaming facilities, and private clubs with employees or volunteers. Smoking prohibited within 20 feet of openings to areas where smoking is prohibited, in stadiums and amphitheaters, in outdoor dining areas of restaurants and bars, at public events, in outdoor service lines, at transit shelters, in courtyards, in outdoor workplaces, and in outdoor public places generally, including parks and playgrounds, but excluding streets and sidewalks. Smoking is defined to include hookahs. Other enforcement agency = landlord or tenant in enforcement of smoking prohibitions in multi-unit residences. Other penalty = community service; termination of lease.
Menlo Park	San Mateo	9/10: Smoking prohibited in outdoor common areas of nursing homes and MUD, except in designated smoking areas, not to exceed 25% of total area.	9/10: Smoking, defined to include hookahs, prohibited in all workplaces and public places, including restaurants, bars, and gaming facilities, except as exempt under State law. Pursuant to State law, smoking prohibited in workplaces with 6 or more employees, except in separately ventilated smoking room. Workplaces with 5 or fewer employees are exempt under specified conditions and specified warehouses and other workplaces are exempt, as are retail tobacco stores. Pursuant to ordinance, smoking prohibited in outdoor workplaces; within 25 feet of entrances, etc. to enclosed areas where smoking is prohibited; in outdoor dining areas of restaurants, except in designated smoking areas; in parks and playgrounds; in outdoor service lines; and at other specified outdoor areas. Other penalty = pursuant to City Code.
Mill Valley	Marin	9/12: Hotel/motel rooms must be at least 80% nonsmoking.	9/09: Smoking prohibited on City golf course. 9/12: Smoking, including use of e-cigarettes and hookahs, prohibited in all indoor and outdoor workplaces, restaurants, bars, and public places generally. Smoking prohibited within 20 feet of both enclosed and unenclosed areas where smoking is prohibited; in outdoor dining areas of restaurants and bars; in outdoor stadiums, parks, beaches, playgrounds, service lines, and transit stops; at golf courses, swimming pools, skating rinks, skateboard parks, farmer's markets, parades, and festivals; and on all City property. Retail tobacco stores are exempt, provided they are in freestanding buildings and do not admit minors.



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Monrovia	Los Angeles		12/10: Smoking prohibited in Canyon Park, one of several enumerated parks in City. Other enforcement agency = Community Services Dept. Other penalty = fine pursuant to City Code.
Montebello	Los Angeles		9/09: Smoking prohibited in retail tobacco stores and in adjacent outdoor areas under control of stores. Other penalty = pursuant to City Code; seizure of tobacco products.
Monterey	Monterey	2/10: Smoking permitted in patient smoking areas of nursing homes.	2/10: Smoking prohibited in all workplaces, restaurants, bars, and public places generally. Smoking prohibited at transit stops and outdoor service lines. Deleted provisions of prior law relating to private clubs. Other penalty = pursuant to City Code and State law.
Monterey County	Monterey		8/11: Repeals exemption for freestanding bars and provision for exemption by application.
Monterey Park	Los Angeles		6/12: Smoking prohibited in specified indoor and outdoor common areas, including shopping malls, courtyards, plazas, and parking lots; and in outdoor dining areas of restaurants and bars. Smoking prohibited within 20 feet of City buildings, parks, common areas, and outdoor dining areas, and within 25 feet of playgrounds. Other penalty = unfair business practices.
Moorpark	Ventura		9/09: Smoking prohibited in restaurants and bars. Smoking prohibited within 20 feet of entrances, etc. to buildings open to public; in outdoor dining areas of restaurants and bars, playgrounds, and outdoor service lines; at outdoor transit stops; and in outdoor places of employment. Smoking prohibited in parks, athletic fields, including spectator areas, publicly owned open space, City owned parking lots, and shopping centers; on sidewalks and bikeways; and at public events. Designated outdoor smoking areas permitted under specified conditions in shopping centers, public places, and parking lots.
Morgan Hill	Santa Clara		5/12: Smoking, including use of e-cigarettes, hookahs, and marijuana, prohibited in all workplaces, restaurants, bars, and public places generally. Smoking prohibited within 25 feet of entrances, etc. to public places; in outdoor dining areas of restaurants and bars; in parks and recreational areas, except in designated smoking areas of Community and Cultural Center and Outdoor Sports Complex; in playgrounds, transit stops, service lines, golf courses, swimming pools, skating rinks, dog parks, and skateboard parks; and at public events, including farmers' market, parades, fairs, and festivals, except in designated smoking areas not to exceed 5% of total outdoor area. Fines deleted
Morro Bay	San Luis Obispo	4/12: Smoking prohibited in all hotel/motel rooms, private nursing home rooms, and common areas of nursing homes and MUD.	4/12: Smoking prohibited in all enclosed and unenclosed workplaces, except outdoor construction sites. Smoking prohibited in public places generally, including restaurants, bars, and gaming facilities, and in private clubs that have no employees or that are open to public. Smoking prohibited within 20 feet of entrances, etc. to enclosed areas where smoking is prohibited; in stadiums, outdoor dining areas of restaurants and bars, parks, playgrounds, and service lines; at transit stops; in streets, sidewalks, and parking lots; and at public events, except in designated smoking areas. Smoking permitted outdoors in designated areas -- smokers' outposts -- under specified conditions, and when nonsmokers are not present.
Mountain View	Santa Clara		2/12, Ord. 3-12: Smoking defined to include e-cigarettes and hookahs. Exemption for freestanding bars deleted. Smoking prohibited in picnic areas of parks. Penalties amended.
Napa	Napa		2/12, Ord. 4-12: Smoking prohibited within 25 feet of entrances, etc. to enclosed areas where smoking is prohibited and in and within 25 feet of outdoor dining areas of restaurants and bars.
National City	San Diego		5/09: Smoking prohibited in all City parks.
Nevada City	Nevada		5/09: Smoking prohibited in outdoor dining areas of restaurants and bars and within 20 feet thereof.
			8/07: Smoking prohibited in Calanan Park and Robinson Plaza. Smoking prohibited in Pioneer Park, including tot lots, band shell, and sports areas, except in designated smoking areas.

Community Name	County	Multi-Unit Dwellings (MUD)	Other Clean Air Ordinances
Newark	Alameda		7/07: Smoking prohibited in tobacco shops, private smokers' lounges, and hookah lounges. Smoking prohibited within 20 feet of areas where smoking is prohibited, within 25 feet of playgrounds and tot lots, and at bus stops.
Newport Beach	Orange		2/12: Smoking prohibited in parks, beaches, and Oceanfront Boardwalk, and within 100 feet of those places while on public property. Parking lots are exempt. Other enforcement agency = Director of Recreation and Senior Services Dept.; Park Patrol Officers; Lifeguards. Other penalty = ejection from park; pursuant to City Code.
Norco	Riverside		4/10: Smoking prohibited in parks, including parking lots, and bleachers at Equestrian Center. Other penalty = pursuant to City Code.
Novato	Marin	4/08: Existing MUD with 10 or more units (market rate apts., senior citizen housing, and single-room occupancy hotels) and those constructed within six months of effective date of ord. must be 50% nonsmoking, but current tenants are exempt as long as they remain in unit. Residences substantially completed more than six months after effective date must be 75% nonsmoking. Uninvited presence of secondhand smoke within 20 feet of entrances, etc. to enclosed places of human habitation is nuisance and trespass.	4/08: Smoking prohibited in all workplaces, restaurants, bars; gaming facilities, private clubs, and public places generally. Smoking prohibited within 20 feet of entrances, etc. to enclosed areas where smoking is prohibited, in stadiums and outdoor dining areas, outdoor workplaces, outdoor service areas, bus stops, courtyards, and outdoor public places generally. Smoking prohibited in outdoor bar areas and outdoor common areas of nursing homes and multi-unit residences, except in designated smoking areas. Other penalty = lease violation.
Oak Park	Ventura		1/08: Smoking prohibited in all parks, except in patio area of Community Center when being rented. Other enforcement agency = Park District Rangers.
Oakland	Alameda	12/07: Landlords in MUD and sellers of condominium units must disclose to prospective tenants or buyers whether smoking is permitted in the unit or other units and the smoking policy of the complex.	12/07: Smoking prohibited in all workplaces; outdoor dining areas; outdoor areas of multi-unit housing, with specified exceptions; parks and recreation areas; playgrounds; outdoor service lines and bus stops; and amusement parks. Golf courses are exempt and bars are exempt from prohibition against smoking within 25 feet of building entrances. Prior provisions relating to restaurants and public places are repealed.
Oceanside	San Diego		5/07: Smoking prohibited in all parks; beaches, and wooden portions of Oceanside Pier. Smoking permitted in parking lots and golf courses. Other penalty = pursuant to City Code.
Orland	Glenn		2/12: Smoking prohibited within 20 feet of entrances to buildings and in and within 20 feet of outdoor stadiums; parks and recreation areas, including plazas, golf courses, swimming pools, skating rinks, and skate parks; playgrounds; service lines; transit stops; and shopping malls. Designated smoking areas may be established on outdoor property under control of City.
Pacific Grove	Monterey		12/10: Smoking prohibited in all parks, picnic areas, playgrounds, sports fields, and beaches, including cemetery, specified open space, and farmers' markets, and within 20 feet of entrances to farmers' markets. Smoking prohibited in any outdoor area zoned as open space, but not including golf course.
Pacifica	San Mateo		2/08: Smoking prohibited in retail tobacco stores and with 20 feet of entrances, etc. thereof.

Community Name	County	Multi-Unit Dwellings (MUD)	Other Clean Air Ordinances
Palm Desert	Riverside		6/08: Requires all smoking areas to be separately ventilated and prohibits smoking within 20 feet of building entrances. Provides that private citizens may bring action to abate secondhand smoke as nuisance. 12/09: Deleted all prior provisions with respect to smoking indoors. Smoking prohibited in unenclosed areas of public places, places of employment, and common areas of multi-family dwellings. Designated smoking areas permitted on City-owned areas, including parks and playgrounds, but not at public events, including sports events. Shopping malls may have limited smoking areas and smoking permitted in areas where no nonsmokers are present and none are reasonably expected to arrive. Bar areas are exempt. 5/11: Smoking prohibited in all City parks.
Palm Springs	Riverside		10/08: Smoking prohibited within 20 feet of entrances, etc. to enclosed areas where smoking is prohibited, in outdoor areas of shopping malls, in outdoor dining areas of restaurants and bars, in outdoor service lines, including transit stops, and at outdoor public gathering events. 7/11: Other penalty = fine pursuant to City Code.
Pasadena	Los Angeles	7/11: Smoking prohibited in private rooms of nursing homes and multi-unit dwellings constructed or leased on or after 7/1/11 and in all private rooms of nursing homes and multi-unit dwellings as of 1/1/13. Smoking prohibited in all indoor and outdoor common areas of nursing homes and multi-unit dwellings.	7/09: Smoking prohibited in parks, except for parking areas. Other penalty = pursuant to City Code or State or federal law.
Petaluma	Sonoma		6/09: Smoking prohibited within 20 feet of entrances, etc. to public buildings, in parks and open space, and during public events on public property. 4/10: Smoking prohibited in public places generally, including restaurants and bars. Smoking prohibited within 20 feet of entrances, etc. to enclosed areas where smoking is prohibited, in outdoor dining areas of restaurants and bars, on all City property, in outdoor service lines, and at transit stops. Provisions in prior law prohibiting smoking in outdoor sports and entertainment facilities, allowing smoking areas in bowling alleys and bingo parlors, and exempting licensed card rooms and retail tobacco stores deleted.
Pinole	Contra Costa	4/10: All MUD, including apartments, condominiums, senior citizen housing, nursing homes, and single room occupancy hotels, constructed after 4/20/10 must be 100% smokefree. Smoking prohibited in outdoor common areas of all multi-unit dwellings, except in designated smoking areas at least 25 feet from buildings and not to exceed 25% of total area.	3/07: Smoking prohibited in parks and beaches; within 25 feet of playgrounds and tot lots; and at City Pier and Pier Promenade.
Pismo Beach	San Luis Obispo		4/10: Outdoor bar areas must be at least 75% nonsmoking. Smoking prohibited in outdoor service lines, at transit stops, and at outdoor events on City property.
Pleasant Hill	Contra Costa	4/10: MUD with 4 or more units (not including condominiums) existing as of January 2010 must have 50% of units as nonsmoking by January 2016. 100% of units constructed after effective date of ordinance must be nonsmoking. Smoking prohibited in indoor and outdoor common areas, except for designated smoking areas outdoors.	
Port Hueneme	Ventura	4/08: Smoking prohibited in units on floors 1-3 at Mar Vista elderly/disabled housing, but permitted in units on floors 4 and 5. Current smokers on floors 1-3 are encouraged to move to smoking floors, but are not required to do so. In Hueneme Village family units, smoking prohibited in newly leased units starting 7/1/08.	
Poway	San Diego		3/07: Smoking prohibited in public parks and trails, except in designated smoking areas. Other penalty = pursuant to City Code. Prior smoking restrictions repealed, as superseded by State law.

Community Name	County	Multi-Unit Dwellings (MUD)	Other Clean Air Ordinances
Rancho Cucamonga	San Bernardino		2/08: Smoking prohibited in both indoor and outdoor stadiums, except for current designated smoking areas for tenants under long-term lease. Smoking prohibited in parks, grounds of public buildings, playgrounds, and public plazas. 3/10: Smoking prohibited in outdoor service lines and at transit stops 4/08: Smoking prohibited within 60 feet of main entrance to Library. 5/09: Smoking prohibited on Library site, including building, patios, landscaped grounds, parking lots, and roof. 10/12: Smoking prohibited in all parks, including skate parks, buildings, and grounds of Civic Auditorium. Other enforcement agency = City Attorney. Other penalty = pursuant to City Code. 11/08: Smoking prohibited on beaches and in parks, including playgrounds, skateboard parks, amusement parks, and associated parking lots. Other penalty = pursuant to City Code. 2/09: Smoking prohibited within 20 feet of entrances, etc. to park facilities and in any City park.
Redding	Shasta		
Redondo Beach	Los Angeles		
Redwood City	San Mateo		
Richmond	Contra Costa	6/09: Smoking prohibited in outdoor common areas of MUD, except in designated areas that must be at least 25 feet from nonsmoking areas, must be reasonable distance from areas used by children, and may not comprise more than 25% of outdoor area. 7/09: Smoking prohibited in all existing multi-unit residences, including private outdoor spaces, by 1/1/11, and in all new multi-unit residences receiving certificate of occupancy after 8/20/09	6/09: Smoking prohibited in all workplaces, including employer vehicles; restaurants; bars; and gaming facilities. Smoking prohibited within 25 feet of entrances, etc. to enclosed areas where smoking is prohibited; in outdoor dining areas of restaurants and bars, public parks and recreation areas, beaches playgrounds, and outdoor service lines; and at bus stops and public events. Other penalty = pursuant to City Code; trespass. 7/09: Other penalty = lease violation.
Riverside County	Riverside		5/07: Smoking prohibited on all County property, enclosed or unenclosed, except in designated outdoor smoking areas.
Rohnert Park	Sonoma	4/09: Smoking prohibited in at least 75% of units in MUD residential developments constructed after 6/1/09 and in at least 50% of units constructed before 6/1/09. Existing developments have until 6/1/11 to comply and existing residents are exempt. Smoking prohibited in outdoor common areas of developments, with specified exceptions.	4/09: Smoking prohibited in all places of employment and businesses and in private vehicles when persons under 18 years of age are present. Smoking prohibited within 20 feet of entrances, etc. to City buildings and other buildings where smoking is prohibited; in outdoor areas where food is consumed, including dining areas, farmers markets, concerts, and fairs; within 25 feet of playgrounds; in outdoor service lines; and at bus stops. Private smokers' lounges in retail tobacco stores are exempt under specified conditions. Other penalty = fine pursuant to City Code; remedies provided by City Code or State or Federal statute.
Roseville	Placer		12/07: Smoking prohibited in City parks, not including golf courses.
Ross	Marin		12/07: Smoking prohibited in all workplaces, restaurants, bars, and public places generally. Smoking prohibited within 20 feet of entrances to enclosed areas where smoking is prohibited; in parks and playing fields; at Town owned sites of public events; at outdoor service areas, including bus stops; in outdoor dining areas of restaurants; and in courtyards, etc. where air circulation is impeded.
Sacramento	Sacramento		6/07: Smoking prohibited in parks, except in designated smoking areas. Other penalty = pursuant to City Code.
San Anselmo	Marin		7/07: Smoking prohibited in all restaurants and bars, including outdoor dining areas of restaurants. Smoking prohibited within 20 feet of entrances to buildings where smoking is prohibited; in parks, playgrounds, Town Hall Plaza, and outdoor common areas where air circulation is impeded.
San Bernardino	San Bernardino		11/09: Smoking prohibited in parks and playgrounds. Other penalty = pursuant to City Code.

Community Name	County	Multi-Unit Dwellings (MUD)	Other Clean Air Ordinances
San Bernardino County	San Bernardino	<p>5/09: Smoking prohibited in Vista Del Sol Senior Complex.</p> <p>8/09: Smoking prohibited in Waterman Gardens Complex by new residents as of 10/1/09 and current residents as of 10/1/10.</p> <p>1/10: Smoking prohibited on entire premises of Colton public housing and Mt. View Manor by new residents as of 3/1/10 and current residents as of 3/1/11.</p> <p>7/10: Smoking prohibited at Yucaipa Crest apartments and Brockton Complex by new residents as of 9/1/10 and by current residents as of 9/1/11.</p>	
San Bruno	San Mateo		4/10: Smoking prohibited in retail tobacco stores.
San Clemente	Orange		<p>8/08: Smoking prohibited on public trails.</p> <p>9/11: Smoking prohibited in parks, except for parking lots.</p>
San Diego	San Diego		5/07: Smoking prohibited in workplaces and public places, including restaurants and bars, except in designated outdoor smoking areas, but workplace exemptions under State law apply. Smoking prohibited on boardwalks, seawall, City owned fishing pier, and Cabrillo Bridge, except in designated smoking areas.
San Diego County	San Diego	3/11: Smoking prohibited in all indoor common areas and private rooms in buildings of Housing Authority of County of San Diego and in outdoor common areas, except in designated smoking areas at least 20 feet from buildings.	<p>10/08: Smoking prohibited in or within 25 feet of North County Transit District facilities, including transit stops, and in District vehicles.</p> <p>2/09: All provisions of Code relating to indoor smoking repealed.</p> <p>3/11: Other penalty = lease violation; removal from employment for contract employees.</p>
San Dimas	Los Angeles		8/07: Smoking prohibited in all public parks and facilities owned by City, including golf course clubhouse, but excluding golf course and parking lot. Smoking is defined to include hookahs.
San Francisco	San Francisco	3/10: Smoking prohibited in outdoor common areas of MUD within 10 feet of doors and windows.	<p>11/09: Smoking prohibited in workplaces and public areas of airport as well as in Secured Area/Air Operations Area of airport. Smoking prohibited in curbside areas outside airport, except in designated smoking areas at least 20 feet from building entrances.</p> <p>3/10: Smoking prohibited in restaurants, public places generally, City vehicles, and private clubs.</p> <p>Smoking prohibited outside entrances, etc. to buildings, except at curb or at distance of 15 feet; as of 10/24/10, in outdoor dining areas of restaurants; in outdoor service lines; and in farmers' markets.</p> <p>Freestanding bars with no employees as of 12/31/09 or with historically compliant semi-enclosed smoking rooms as of 12/31/09 are exempt. Exemption for retail tobacco stores limited to those in existence as of 12/31/09. Other penalty = costs; per State law.</p> <p>4/11: Smoking prohibitions at airport extended to include e-cigarettes. Smoking prohibited at designated ground transportation zones at airport terminals, Rental Car Center, Long Term Parking Garage, and ground transportation staging lots, except in specifically designated areas. \$500 fine added for violations.</p> <p>2/12: Applies prohibition of smoking in unenclosed areas of City property to Jane Warner Plaza and Harvey Milk Plaza.</p>
San Gabriel	Los Angeles		3/10: Smoking prohibited in City parks, sports fields, playgrounds, swimming pools, and recreation centers, including parking lots. Other enforcement agency = City Attorney. Other penalty = warning; civil action by City Attorney.

Community Name	County	Multi-Unit Dwellings (MUD)	Other Clean Air Ordinances
San Joaquin County	San Joaquin	11/10: Smoking prohibited in all County Housing Authority buildings, including common areas and private rooms, but current residents may continue smoking in own units until 9/30/11. Smoking prohibited within 20 feet of buildings and in outdoor common areas, with specified exceptions. 4/12: Smoking prohibited in outdoor common areas of MUD, except in designated smoking areas at least 30 feet from entrances, etc. to enclosed areas.	11/10: Other enforcement agency = Housing Authority. Other penalty = warning. 4/12: Smoking prohibited in outdoor dining areas of restaurants and bars and in outdoor service lines.
San Jose	Santa Clara	12/11: Smoking, including use of e-cigarettes, hookahs, and marijuana, prohibited in all public housing apartment complexes, including living units, decks and patios, and all common areas, both indoors and outdoors. Current residents may smoke in own units until 1/1/13. Other penalty = lease violation, including grounds for eviction; damages to property.	12/09: Smoking prohibited in all outdoor recreation areas, including parks, skate parks, sports facilities and dog parks, and at transit stops. 4/10: Smoking prohibited in all workplaces and gaming facilities. Smoking prohibited within 20 feet of entrances, etc. to enclosed areas where smoking is prohibited; in outdoor stadiums; in outdoor bar patios, except in designated smoking areas at least 5 feet from doorways; and in outdoor service lines. Smoking permitted in outdoor areas where no nonsmoker is present and it is not reasonable to expect another person to arrive. Retail tobacco stores in existence on effective date of ord. are exempt, provided they do not admit minors and are separately ventilated within 6 months. Other penalty = attorney's fees.
San Luis Obispo	San Luis Obispo		7/12: Smoking prohibited in County buildings and adjoining land, including parking lots; in Mini, Neighborhood, and Community Parks, Plazas, and Special Places listed in County General Plan; and in Regional Parks within 30 feet of buildings, playgrounds, and group picnic areas. Designated smoking areas may be established by County Public Health Officer. Other enforcement agency = fine pursuant to County Code.
San Luis Obispo County	San Luis Obispo		4/08: Smoking prohibited within 100 feet of park boundaries, except in designated smoking areas. Other enforcement agency = City Employees. Other penalty = warning; expulsion from park.
San Marcos	San Diego		2/07: Smoking prohibited in County beaches, parks, and trails, including parking areas.
San Mateo County	San Mateo	10/12: Hotel/motel rooms must be at least 80% nonsmoking. Smoking prohibited in all existing units of MUD, including apartments, condominiums, senior citizen residences, nursing homes, SRO's, and homeless shelters as of 11/14/13 and in all new units issued certificates of occupancy or rented for first time after 5/13/14. Smoking restrictions apply to balconies, decks, porches, and patios. Smoking prohibited in outdoor common areas of nursing homes and MUD, except in designated smoking areas not to exceed 10 % of total area and located at least 20 feet from enclosed areas.	10/12: Smoking, including use of hookahs, prohibited in all workplaces and public places generally. Exemption for bars deleted. Smoking prohibited within 20 feet of both enclosed and unenclosed areas where smoking is prohibited; in outdoor stadiums; in outdoor dining areas of restaurants and bars; in parks, beaches, playgrounds, service lines, and transit stops; and at golf courses, swimming pools, skating rinks, skateboard parks, amusement parks, public events, except in designated smoking areas, and specified sidewalks. Retail tobacco stores are exempt, provided they are in freestanding buildings and do not admit minors. Other penalty = pursuant to City Code.
San Rafael	Marin		
Santa Ana	Orange		2/12: Smoking prohibited in all City buildings; Eddie West Field - Santa Ana Stadium; parks, including playgrounds; and Santa Ana Zoo. Building areas occupied by lessees and parking structures are exempt.
Santa Barbara County	Santa Barbara		4/10: Smoking prohibited in all County outdoor recreational areas, including parks, beaches, playgrounds, skateboard parks, and amusement parks. Smoking permitted in campgrounds. Other enforcement agency = Park Rangers.

Community Name	County	Multi-Unit Dwellings (MUD)	Other Clean Air Ordinances
Santa Clara County	Santa Clara	<p>11/10: Smoking prohibited in new units of nursing homes and market rate housing (defined as units given certificate of occupancy more than 180 days after effective date of ord.) and in all existing units by 2/9/12. Smoking prohibited in outdoor common areas of nursing homes and market rate housing, except in designated smoking areas.</p>	<p>4/09: Smoking prohibited in all County vehicles, within 30 feet of County buildings, and on entire campus of Santa Clara Valley Medical Center and all County owned and operated health facilities.  11/10: Exemption for owner occupied workplaces applies only if workplace is "detached." Exemptions for hotel/motel rooms and retail tobacco stores deleted. Smoking is defined to include e-cigarettes and hookahs. Smoking prohibited within 30 feet of entrances, etc. to enclosed areas where smoking is prohibited; within 30 feet of outdoor dining areas of restaurants and bars, service lines, and transit stops; at County Fairgrounds; in all County parks; and in outdoor areas of hotels and shopping malls.  5/09: Permits maximum of two hookah bars in City, provided they are separately ventilated.  9/8/09: Permits maximum of two tobacco bars in City, provided they are separately ventilated.  9/22/09: Smoking prohibited within 25 feet of entrances, etc. to enclosed areas where smoking is prohibited, except for employee smoking areas outside closed service entrances. Smoking prohibited in outdoor dining areas of restaurants, except in smoking areas separated by 8-foot partitions; in outdoor common areas of multi-unit dwellings, except in smoking areas at least 25 feet from buildings; on City building grounds, including parking lots and sidewalks; on specified streets; and in Abbott Square. Smoking prohibited at Municipal Wharf and in parks and beaches, unless signs are posted allowing smoking.</p>
Santa Cruz	Santa Cruz		<p>3/07: Smoking prohibited in all parks.</p>
Santa Cruz County	Santa Cruz		
Santa Fe Springs	Los Angeles		<p>4/11: Smoking prohibited in parks, except in designated smoking areas.</p>
Santa Monica	Los Angeles	<p>1/09: Smoking prohibited in common areas of multi-unit dwellings, except in designated outdoor areas at least 20 feet from buildings and recreation areas and not to exceed 25% of total area.  8/10: Smokers prohibited within 25 feet of entrances etc. to multi-unit dwellings.</p>	<p>4/08: Smoking prohibited on Public Library property. Penalties amended.  9/10: Smoking prohibited altogether on Santa Monica Pier.</p>
Sausalito	Marin	<p>7/12: Smoking prohibited in at least 80% of hotel/motel rooms. Smoking prohibited in all new units of MUD, including apartments, condominiums, nursing homes, SRO's, and homeless shelters, issued certificate of occupancy or rented for first time after 2/27/14. Smoking may be allowed in up to 20% of existing units of common interest complexes and rental complexes, provided specified conditions are met. Smoking restrictions apply to balconies, decks, porches, and patios. Smoking prohibited in outdoor common areas of nursing homes and MUD, except in designated smoking areas not to exceed 10% of total area and located at least 20 feet from enclosed areas. Landlords must disclose location of nonsmoking units. Medical marijuana may be used in any unit of a MUD.</p>	<p>7/12: Smoking, including use of hookahs, prohibited in all workplaces, including vehicles and outdoor locations, and in public places generally. Exemption for bars deleted. Smoking prohibited within 20 feet of both enclosed and unenclosed areas where smoking is prohibited; in outdoor dining areas of restaurants and bars; in parks, beaches, playgrounds, service lines, and transit stops; and at golf courses, swimming pools, skating rinks, skateboard parks, amusement parks, farmer's markets, parades, and festivals. Retail tobacco stores are exempt, provided they are in freestanding buildings and do not admit minors. Other penalty = pursuant to City Code.</p>

Community Name	County	Multi-Unit Dwellings (MUD)	Other Clean Air Ordinances
Sebastopol	Sonoma	8/10: Smoking prohibited in units of multi-unit residences, defined to include buildings or portions thereof that contain 2 or more units, except hotels/dorms. "Unit" includes, but is not limited to, apartments; condos; rooms in long term health care facilities, assisted living facilities, and hospitals; and Single Room Occupancy Facilities. Smoking prohibited in unenclosed exclusive use areas associated with Units, such as balconies and porches. Smoking prohibited in outdoor common areas of nursing homes and other multi-unit residences, except in designated smoking areas.	11/09: Smoking prohibited in all City parks and Downtown Plaza, except in designated smoking areas. 8/10: Smoking prohibited in all workplaces, bars, gaming facilities, and private clubs that have employees or are open to public. Smoking prohibited within 20 feet of entrances, etc. to enclosed areas where smoking is prohibited; in outdoor dining areas of restaurants and bars; all parks; playgrounds; service lines, including transit shelters; other specified outdoor areas; and in outdoor places of employment. Smoking is defined to include hookahs and e-cigarettes. Other enforcement agency = City Attorney.
Sierra Madre	Los Angeles		4/09: Smoking prohibited in all restaurants and bars and outdoor dining areas thereof.
Simi Valley	Ventura		5/07: Smoking prohibited in all parks, including bleachers at ball fields, and playgrounds/tot lots, but excluding golf course and permitted events.
Solana Beach	San Diego		7/09: Smoking prohibited in all restaurants and bars, including outdoor areas. Smoking prohibited within 20 feet of enclosed areas open to public and in outdoor stadiums, parks, beaches, playgrounds, farmer's markets, and street fairs, and on Coastal Rail Trail. Private workplace provisions repealed.
Sonoma County	Sonoma	9/11: Smoking, including use of hookahs, prohibited in units of MUD, including apartments, condominiums, and senior citizen housing, cleared for occupancy or newly rented on or after 5/10/12 and in all units as of 1/12/13. Smoking prohibited in all common areas, except in designated outdoor common areas at least 25 feet from doorways and children's activities. 10/11: Smoking prohibited in nursing homes and in 75% of hotel/motel rooms.	9/11: Other penalty = code enforcement proceedings; costs. Violation of nonretaliation provision is misdemeanor. 10/11: Smoking, including use of hookahs, prohibited in all workplaces, including owner-occupied entities, restaurants, bars, and gaming facilities. Smoking prohibited in outdoor dining areas of restaurants and bars, although owners may establish designated smoking areas on property, provided they are at least 25 feet from dining area. Smoking prohibited in recreation areas, including parks, beaches, and playgrounds, and at public events, except in designated smoking areas at least 25 feet from areas used by children and areas that have improvements for physical activities. Smoking prohibited in outdoor service lines and bus stops and within 25 feet of enclosed areas where smoking is prohibited. Exemption for retail tobacco stores deleted.
South Pasadena	Los Angeles	8/10: All MUD rental complexes and condominiums must be at least 80% nonsmoking as of 9/4/13. All new units built or rented for first time on or after 3/3/11 must be nonsmoking. Smoking prohibited in indoor and outdoor common areas of nursing homes and MUDs, except for designated outdoor smoking areas subject to specified restrictions. Smoking prohibited in unenclosed areas at MUDs, including balconies, porches, desks, and patios, and within 25 feet of entrances, etc. of enclosed areas.	8/10: Other enf. agency: Community Improvement Coordinator.
St. Helena	Napa		4/12: Smoking prohibited in outdoor stadiums, parks, and playgrounds.



Community Name	County	Multi-Unit Dwellings (MUD)	Other Clean Air Ordinances
Sunnyvale	Santa Clara		4/12: Adopts State law by reference. Smoking prohibited in workplaces with 6 or more employees, except in separately ventilated smoking room. Workplaces with 5 or fewer employees may allow smoking in separately ventilated work areas if all employees in area consent and no minors are allowed. Warehouses of specified size and other specified workplaces are exempt. Smoking prohibited in all restaurants, bars, gaming facilities, and public places generally. Smoking prohibited in government buildings and within 20 feet thereof. Smoking prohibited within 25 feet of playgrounds and in vehicles with minor present. Retail tobacco stores are exempt. Per City law, smoking prohibited in outdoor stadiums and in parks, except for golf courses. Owner-occupied bars and gaming clubs are exempt under specified conditions.
Susanville	Lassen		5/12: Smoking prohibited on specified part of Main Street during Safe and Sane Halloween Event.
Temecula	Riverside	5/07: Smoking prohibited in all common areas of MUD, except for designated outdoor smoking areas, which must be at least 25 feet from indoor areas where smoking is prohibited. Multi-unit residences with 10 or more units must have at least 25% of units as nonsmoking within 6 months if new and within 5 years if existing.	5/07: Contains nonretaliation provision. Other penalty = pursuant to City Code; injunction; abatement of nuisance. 5/07: Smoking prohibited in all workplaces and public places generally, including restaurants, bars, and private clubs. Smoking prohibited within 25 feet of entrances, etc. to enclosed areas where smoking is prohibited; in parks, playgrounds, and recreation areas; in outdoor service lines; in outdoor dining areas; in outdoor ticket, boarding, and waiting areas of transit depots; in outdoor places of employment; and at outdoor public events, except in designated smoking areas. Retail tobacco stores are exempt. Other penalty = pursuant to City Code; injunction; abatement of nuisance.
Temple City	Los Angeles		7/09: Smoking prohibited in parks and civic center, except upon written permission of Parks and Recreation Commission.
Thousand Oaks	Ventura	3/07: Requires contractual condition of funding for future publicly assisted housing that 66% of nonsupportive housing units and 50% of supportive units be nonsmoking. Supersedes 9/04 Resolution.	7/8/08: Repeals prior law on smoking in workplaces and public places. Smoking prohibited in public transit and in various specified outdoor places: playgrounds; public gardens; service areas; Civic Arts Plaza, except in designated smoking areas; outdoor dining areas in restaurants and bars, except ones exempted by Special Use Permit; library grounds; common areas in shopping centers; and outdoor gathering and event areas, including outdoor stadiums, except in designated smoking areas. Proximity to buildings provision amended to make distance 25 feet, except that it does not apply to free standing tobacco stores. Other penalty = pursuant to City Code.
Tiburon	Marin	7/11: Smoking prohibited in all hotel/motel rooms. Smoking prohibited in individual units of MUD, including balconies, patios, and decks, receiving certificate of occupancy after 8/19/11 and in all units of existing MUD by 7/1/14. Smoking prohibited in outdoor common areas of MUD, except in designated smoking areas not to exceed 25% of total area. Landlords must disclose location of smoking areas.	9/08, Ord.: Defines "playground" so as to exclude all areas of municipal golf course. Establishes permit system for allowing smoking in outdoor dining areas and conditions under which smoking is allowed. 9/08, Resol.: Establishes application fee for outdoor dining smoking permits 7/11: Smoking prohibited in all areas of restaurants; within 25 feet of entrances to public buildings; in all outdoor seating areas of restaurants and bars; in all Town parks and open spaces; and at public events. Per City Attorney, smoking prohibited in private clubs with employees or when open to public. Smoking is defined to include use of hookahs and e-cigarettes. Fine is \$100 or amount provided by State law, whichever is lower.
Torrance	Los Angeles		3/11: Tobacco use prohibited in all parks, playgrounds, and swimming pools, including parking lots.
Truckee	Nevada		12/08: Smoking prohibited in Community Center building. 2/09: Smoking prohibited in Meadow Park and River View Sports Park. 3/09: Smoking prohibited in Regional Park and in Golf Course clubhouse and within 150 feet thereof.

Community Name	County	Multi-Unit Dwellings (MUD)	Other Clean Air Ordinances
Ukiah	Mendocino		8/08, Ord.: Smoking prohibited in areas of City parks as designated by resolution. 8/08, Resol.: Smoking prohibited in Thomas Plaza, Carpenter Hudson Park, excluding parking lots, and Ukiah Sports Complex, excluding parking lot.
Union City	Alameda	11/10: Smoking prohibited in new units of MUD as of 12/23/10 and in existing units as of 2/23/12. Smoking prohibited in outdoor areas of multi-unit dwellings, except in designated smoking areas comprising no more than 10% of total area.	11/10: Smoking, defined to include e-cigarettes, hookahs, and marijuana, prohibited in all workplaces, but not including vehicles, and public places, broadly defined to include restaurants and bars. Exemptions for private clubs and retail tobacco stores deleted. Smoking prohibited within 20 feet of entrances, etc. to enclosed areas where smoking is prohibited; outdoor dining areas of restaurants and bars; recreation areas, including parking lots, except in designated smoking areas; outdoor service lines; and transit stops. Smoking prohibited in outdoor workplaces. Other penalty = lease violation
Vallejo	Solano		4/12: Smoking prohibited in recreational areas and parks, including waterfront promenade, malls, plazas, and parking lots, but not including golf courses and marinas.
Vista	San Diego		4/09: Smoking prohibited in retail tobacco stores. 9/09: Smoking prohibited in city parks, on city trails, and in adjacent parking lots, except in designated smoking areas.
Watsonville	Santa Cruz		9/09: Smoking prohibited on grounds of City Hall Complex and Public Library and in Wave Water Park. 9/07: Smoking prohibited in City parks, playgrounds, tot lots, and Watsonville Slough Trail System, and at City-sponsored community events.
West Hollywood	Los Angeles		6/10/10: Specified City parking lots designated as nonsmoking. 6/24/10: Smoking prohibited in City parking lots as designated by resolution. 2/11: Smoking prohibited in public places not otherwise governed or exempted by State law, in outdoor dining areas of restaurants, in outdoor service lines, and within 5 feet of those outdoor areas. Effective date for outdoor areas is 1/1/12. Private clubs and hookah bars in existence on or prior to 2/1/11 are exempt. Outdoor dining areas of bars are exempt. Other enforcement agency = City Attorney. Other penalty = pursuant to City Code; costs and attorney's fees for retaliation or discrimination.
Wildomar	Riverside		7/08: Adopts Riverside County ordinances for period of 120 days. Smoking prohibited on all City property, enclosed or unenclosed, except in designated outdoor smoking areas. 8/08: Makes adoption of County ordinances permanent.
Windsor	Sonoma		4/08: Smoking prohibited in outdoor dining areas of restaurants and bars; within 20 feet of entrances, etc. to businesses; in recreational areas, including bleachers and swimming pools; and in playgrounds. Other penalty = pursuant to Town Code or state or federal statute.
Woodland	Yolo		6/07: Smoking prohibited in all parks and recreation facilities, including playgrounds, parking lots, and buildings, except in designated smoking areas. Other penalty = pursuant to City Code.
Yuba City	Sutter		3/08: Smoking prohibited at Gauche Aquatic Park. Other enforcement agency = Director of Public Works.

Appendix 5 - Contributions to Yes on 29 Campaign

Contributor	Amount
YES ON 29, AMERICAN CANCER SOCIETY CANCER ACTION NETWORK INC., AND ACS BALLOT COMMITTEE	\$6,605,386.23
LANCE ARMSTRONG FOUNDATION	\$1,500,000.00
AMERICAN CANCER SOCIETY, CALIFORNIA DIVISION, INC.	\$960,757.52
AMERICAN HEART ASSOCIATION, INC.	\$515,989.09
MICHAEL R. BLOOMBERG	\$500,000.00
AMERICAN LUNG ASSOCIATION OF CALIFORNIA	\$384,925.00
HOPE 2012 -- YES ON PROP. 29 -- CALIFORNIANS FOR A CANCER CURE	\$183,500.00
UNIVERSITY OF CALIFORNIA, SAN FRANCISCO FOUNDATION	\$50,000.00
TOBACCO-FREE KIDS ACTION FUND	\$45,000.00
SMALL INDIVIDUAL CONTRIBUTORS	\$292,021.00
	<u>\$11,037,578.84</u>

Appendix 6 - Contributions to No on 29 Campaign

Contributor	Amount
PHILIP MORRIS USA INC.	\$28,307,295
R.J. REYNOLDS TOBACCO COMPANY (BY ITS SERVICE COMPANY, RAI SERVICES COMPANY)	\$11,169,995
UST LLC, AN AFFILIATE OF PHILIP MORRIS USA INC.	\$3,124,988
SANTA FE NATURAL TOBACCO COMPANY, AN AFFILIATE OF R.J. REYNOLDS TOBACCO CO.	\$1,148,000
CALIFORNIA REPUBLICAN PARTY	\$1,140,909
JOHN MIDDLETON CO., AN AFFILIATE OF PHILIP MORRIS USA INC.	\$757,856
SMALL CONTRIBUTIONS	\$2,074,436
	<u>\$47,723,479</u>