

## **Proposition 172**

### **First Final Report January 1996**

#### REASON FOR INVESTIGATION

The Ventura County Grand Jury investigated the present use of Proposition 172 tax funds to determine how they were limited under the law.

#### BACKGROUND

The Local Public Safety Protection and Improvement Act of 1993 (Proposition 172) which was an initiative submitted by Governor Pete Wilson and approved as a legislative constitutional amendment by the voters.

The ballot summary on Proposition 172 included the following statement:

"To assist local governments in maintaining a sufficient level of public safety services, the proceeds of the tax enacted pursuant to this section shall be designated exclusively for public safety".

#### PROCEDURES FOLLOWED

- Researched the law as presented to the people of the state in the election of 1993 by using the County Law Library.
- Reviewed the Board of Supervisors resolution of August 17, 1993.
- Reviewed the County Board of Supervisor's minutes to determine how the Board reached its decision to limit the county's definition of "public Safety" to five county agencies.
- Interviewed two supervisors who voted against County Ordinance No. 4088, which defined public safety for Ventura County, and one supervisor who voted in favor of the ordinance, to discuss their understanding of proposition 172 tax funds and the Board's authority to change or alter the ordinance.
- Held meetings with the Chief Administrative Officer, Budget Director, Auditor-Controller and the County Counsel to determine if proposition 172 tax funds are held in a separate trust account as required by the initiative.
- Discussed with County Counsel and the Assistant District Attorney whether Ordinance #4088 could be changed by the Board of Supervisors.
- Studied "Legislation by Initiative - The Case of Proposition 172", a project presented to the faculty of the Public Administration Program of California Lutheran University by former Ventura County Supervisor Maria Vanderkolk.

#### FINDINGS

- Local Public Safety Protection and Improvement Act (Proposition 172) was designed to provide counties with funds replacing those taken from them by the state. By passing the

amendment the voters extended and made permanent a half cent sales tax initiated after the Loma Prieta Earthquake which was due to expire December 31, 1993. This initiative passed by the voters with 57% yes vote allowed individual counties to define public safety.

- The Ventura County Board of Supervisors passed a resolution August 17, 1993, agreeing to use all of proposition 172 tax funds for public safety.
- Fearful that the Board of Supervisors would not deliver on its resolution, a citizens group called "Citizens for a Safe County" circulated an initiative petition requiring the County to establish budgets for Sheriff, District Attorney, Corrections Services, Public Defender and Fire District. There were 44, 428 valid signatures secured. This made it necessary for the initiative to be submitted to county voters or be adopted by the Board of Supervisors as a County Ordinance. The other option was to complete a report within 30 days on the initiative's impacts on the County, bring the report to the Board of Supervisors, and either adopt the initiative as an ordinance within 10 days or call a special election.
- The Board of Supervisors passed the initiative as County Ordinance #4088, 3 to 2, May 16, 1995, defining public safety as the five agencies listed above. The initiative provided that the level of spending from the General Fund for public safety may not be reduced below the base year of the 1992-93 budget.
- Proposition 172 tax funds are not supplemental funds but are included in the budget as an augmentation trust fund to be released for county public safety services only.
- The Grand Jury was advised by the Assistant District Attorney that Election Code section 3719, governing initiative petitions dictates that initiatives adopted by County Boards of Supervisors as county ordinances cannot be changed except by the voters.
- According to the study made by former Supervisor Vanderkolk, Ventura County is the 11th largest and the safest county in California.
- Property tax cities receive a portion of proposition 172 tax funds from the state. Those cities in Ventura County include Oxnard, Ventura, Santa Paula, Fillmore, Port Hueneme and Ojai.
- At present some questions remain about Proposition 172. Among them are:
  - a. What is the constitutionality of the Public Safety Initiative Ordinance?
  - b. Can such an initiative remove from the Board of Supervisors its mandated responsibility for the county budget?

## RECOMMENDATIONS

1. County Counsel and the Board of Supervisors take steps to determine the constitutionality of the initiative/ordinance as it relates to the State Budgetary Law.
2. Determine if the power of the Board of Supervisors has been removed by the initiative/ordinance.
3. Review the definition of Public Safety for Ventura County which may include other county agencies responsible for Public Safety in critical areas.

**RESPONSE REQUIRED**

The Grand Jury strongly recommends that the County Counsel, Board of Supervisors and the Auditor-Controller respond to recommendations 1, 2 and 3.