

1999 - 2000
Ventura County Grand Jury Report
Tobacco Moneys

Tobacco Moneys

Background

California leads the nation in efforts to curb the use of tobacco. The State was the first to ban smoking in public places. Its citizens passed two initiatives increasing the tax on tobacco products, Propositions 99 (1988) and 10 (1998.) Also, California joined 45 other states in the lawsuit against the tobacco manufacturers, which resulted in the National Tobacco Settlement. In January 2000, states began receiving their share of the settlement. One of the most hotly contested issues on the November 7, 2000 Ballot was Measure O, which concerned the distribution and use of Ventura County's share of the Tobacco Settlement money. Measure O proposed to allocate the money solely to private health care providers. Prior to the election, on October 24, 2000 the Ventura County Board of Supervisors approved and adopted Ordinance No. 4218, establishing the County's Rolling 5-Year Strategic Tobacco Settlement Allocation. Measure O went down to defeat, with almost 68 percent of the County voting no.

Methodology

The Grand Jury, as part of its oversight responsibilities, elected to review the sources of tobacco money for the County and the status of programs established with these funds. Pursuant to this, the Jury interviewed and heard presentations by the following:

Harry Hufford, Ventura County Interim Chief Administrative Officer

Bert Bigler, Chief Deputy Administrative Officer

Barry Zimmerman, Program Management Analyst

Claudia Harrison, Executive Director

Ventura County Children and Families First Commission

David Maron, Chairperson

Ventura County Finance Oversight/Advisory Committee (Tobacco Settlement Commission)

Ventura County Supervisors

Jurors also reviewed:

Proposition 99

Proposition 10

The Implementation of Proposition 10: The California Children and Families First Act of 1998, California Budget Project, Budget Brief, March 1999

The National Tobacco Settlement

Measure O

Ventura County Ordinance 4218 and subsequent amendments

In addition, the jurors tracked actions by the Board of Supervisors concerning the various tobacco moneys and their uses.

Findings

As noted above, the Grand Jury during the course of its study of the tobacco moneys established that Ventura County receives tobacco moneys from these three sources:

1. The Tobacco Tax and Health Promotion Act, Proposition 99, passed in 1988.
2. The California Children and Families First Act, Proposition 10, passed in 1998.
3. The National Tobacco Settlement, the agreement negotiated by the Attorneys General of 46 states, including California, with seven tobacco companies to settle lawsuits seeking reimbursement for the cost of tobacco-related damages. Settlement payments to the states began in January 2000.

The Jury during its study of The Tobacco Tax and Health Promotion Act, California Proposition 99, established the following:

- F-1. The Act increased the tax on a pack of cigarettes by 25 cents.
- F-2. The Act increased the tax on other tobacco products by 42 cents.
- F-3. The Act created the largest, most aggressive tobacco control program in the world at the time it was established.
- F-4. The Act provided a combination of paid anti-tobacco media campaigns, community-based interventions, and development of local tobacco control policies. Also, Proposition 99 funded research into the effects of involuntary smoking, the effectiveness of cigarette advertising, and the political activity of the tobacco industry.
- F-5. California experienced a decline in the prevalence of smoking greater than the rest of the country after passage. According to the University of San Francisco Medical School, from January 1, 1989 through June 30, 1994, California experienced a decline that was approximately three times as fast as the rest of the country for the same time period. [www.ucsf.edu/campus/schmed/ihps/Proposition99.htm]
- F-6. Ventura County receives approximately \$5-million annually from Proposition 99 for children's health care and education, but it is a declining amount.
- F-7. It is anticipated that money received from the tobacco surtax created under Proposition 10 will replace the dwindling Proposition 99 money.

The Jury during its study of The California Children and Families First Act, Proposition 10, established the following:

- F-1. The Act increased state excise taxes on cigarettes by 50 cents per pack.
- F-2. The Act increased tax on other tobacco products such as cigars, chewing tobacco and pipe tobacco by the equivalent of a dollar a pack.

- F-3. The Act directed tax moneys into the new California Children and Families First Trust Fund to improve early childhood development from the prenatal stage to age five.
- F-4. The Act created a new state commission and authorized the creation of individual county commissions to oversee the expenditure of these moneys. The state commission receives 20 percent of the money and the county commissions receive the remaining 80 percent.
- F-5. The major question for state and county commissions to address in determining how to spend the funds are:
1. What are the most effective programs for enhancing early childhood developmental goals?
 2. Where are the current holes in services for young children? (California Budget Project, *Budget Brief*, March 1999)
- F-6. Funds may be spent on a broad range of programs that emphasize community awareness, education, nurturing, childcare, social services, health care, and research. The State Commission sets clear guidelines for the organization and expenditures of County Commissions.
- F-7. Moneys can only be spent to *supplement* existing levels of service. Proposition 10 prohibits any money from being utilized to fund levels of service already in existence.
- F-8. In order to receive Proposition 10 funds, the Board of Supervisors must adopt an ordinance creating a children and families first commission, appoint a majority of the commission's members, establish a county Children and Families First Trust Fund, and complete a strategic plan to be approved by the Board and sent to the state commission.
- F-9. The nine-member Children and Families First Commission of Ventura County was established by the Board of Supervisors on June 28, 1999. It is comprised of one member of the Board of Supervisors, one member appointed by each of the five Board members, one member representative from the Child Care Planning Council, and two representatives from County organizations providing services (Directors of Human Services Agency and the County Public Health Officer.)
- F-10. Allocation to individual counties will be based on the number of births in the county as a percentage of the statewide total.
- F-11. Ventura County will receive approximately \$11.7 million per year from Proposition 10 to serve the needs of 63,000 children, aged 0-5, and their families.
- F-12. The three principle goals and allocation of funds adopted by the County Commission in April 2000 are:
1. School readiness – emotionally, socially and academically - \$6,475,000 (55%)

- 2. Children’s mental and physical health - \$1,619,000 (14%)
- 3. Family strengthening to provide for needs of children - \$1,619,000 (14%)

- F-13 The final area of funding is for “other,” which includes training, oversight and evaluation, community education, capacity development, special studies, and administration - \$1,987,000 (17%.) (See figure 1. *First Year Annual Operating Plan*)
- F-14. The Commission is looking for college and university personnel to conduct the evaluation and training component of the program, which will be called the Center for Excellence. The group selected for this will be announced in July 2001.
- F-15. The Commission also provides funding for these areas:
- Neighborhoods for Learning Initiative – targeted to provide school readiness for children through integrated services for child and family, e.g., language assistance.
 - Health Initiative – funds for programs that provide access to comprehensive health care services.
 - Family Strengthening Initiative – programs to improve parenting.
 - Community Investment Fund – low interest loans and/ or “seed” money to help creation and funding of programs for children and their families.
 - Center for Excellence – funds set aside to provide for training and ongoing evaluation of results of programs.

| GOAL/AREA | \$ | % |
|---|-------------------|------------|
| Children will be emotionally, socially and academically ready for school | 6,475,000 | 55 |
| Children will be physically & mentally healthy | 1,619,000 | 14 |
| Families will provide an environment that supports the physical, mental, emotional, social, intellectual and linguistic development of their children | 1,619,000 | 14 |
| Other • Training • Evaluation • Community Education • Capacity Development • Special Studies • Administration | 1,987,000 | 17 |
| Total | 11,700,000 | 100 |

Figure 1. First Year Annual Operating Plan of the Ventura County Children and Families First Commission

- F-16. By January 2001, the Commission had approved just under \$1.3-million in funding for 36 projects that addressed a wide array of needs including dental health, child safety, domestic violence, special needs playgrounds and increased access to child care services.
- F-17. In March, 2001 the Commission in a collaborative partnership with the Ventura County Child Care Planning Council announced a \$750,000 program to provide training stipends to early child care providers in an effort to improve their education and retention.
- F-18. The Commission is leveraging funds by working with other organizations and by establishing an endowment fund to keep revenue flow more constant should tobacco sales decrease as directed by Proposition 10.
- F-19. Paid staff includes a maximum of six, including two contract managers to do monitoring of programs. Several staff members are bilingual.
- F-20. For funding, organizations must submit applications for grants. Plans include offering training in grant writing.
- F-21. Funding currently approved is dominated by established Ventura County organizations. The Commission is working to develop outreach programs to include the underserved population not located in urban centers into its sphere of support.
- F-22. The Commission is searching for ways to address the problem of convenient public transportation within the County for its clients.
- F-23. The Commission's Strategic Plan is available at its website: www.vcchildren.org.
- F-24. The Commission has an office and staff, but still is in its formative stages.
- F-25. Among organizations receiving grants are Easter Seals Tri-Counties, California, Ojai Unified School District, Ventura County Public Health, Interface Children Family Services, Ventura County Superintendent of Schools, Ventura United School District, Santa Paula Elementary School District, Clinicas del Camino Real, Inc. {Oxnard}, and Simi Valley Hospital and Health Care Services.

The Jury during its study of The National Tobacco Settlement and the Rolling 5-Year Strategic Tobacco Settlement Allocation Plan established the following:

- F-1. According to the California Legislative Analyst's Office, it is estimated that Ventura County will receive approximately \$10-million per year or more than \$250-million over the next 25 years as its share of the Tobacco Settlement.
- F-2. The base payments set forth in the Master Settlement Agreement are subject to downward or upward adjustment depending upon economic factors affecting the cigarette industry.
- F-3. Approximately \$10.4-million was received by Ventura County in FY 1999-2000 and it is estimated that \$8-million will be received in FY 2000-01.

- F-4. The only actual use of Tobacco Settlement funds to date is \$3.1-million for the County's first Medicare Settlement payment to the federal government.
- F-5. On July 25, 2000, The Board Of Supervisors unanimously approved the Adoption of County Tobacco Settlement Allocation Plan, which stated that Ventura County's plan is "to enhance the quality, quantity, and availability of all forms of health care" to County residents.
- F-6. On October 24, 2000, the Ventura County Board of Supervisors approved and adopted Ordinance No. 4218, The Rolling 5-Year Strategic Tobacco Settlement Allocation Plan. The Ordinance stipulates the following:
- All revenues received from the proceeds of the Tobacco Settlement be used exclusively for direct health care services.
 - A three member Finance Oversight/Advisory Committee and an eleven member Allocation Oversight/Advisory Committee be formed.
 - The Rolling 5-Year Strategic Tobacco Settlement Allocation Funding Plan be reviewed and updated annually by the CAO in conjunction with the Oversight and Advisory Committee with findings submitted to the Board of Supervisors.
 - Distribution of the Tobacco Settlement funds is proposed in the following areas of service:
 - Community health care programs, e.g., tobacco education and prevention, health education and chronic disease prevention and treatment, communicable disease prevention and treatment, dental prevention and treatment, mental health services, elder care services, medical inpatient and outpatient services.
 - Non-profit, e.g., community based health care related organizations.
 - Private hospitals and private medical providers, including physicians (compensation for Charity Care.)
 - New emerging health care needs.
- F-7. On November 21, 2000, the Board adopted bylaws establishing the structure and function of both the Finance Oversight/Advisory Committee and the Allocation and Evaluation Oversight/Advisory Committee and directed the CAO to solicit nominees of diverse disciplines, interests and backgrounds.
- F-8. On February 13, 2001, the Board approved the eleven members appointed to the Allocation and Evaluation Oversight/Advisory Committee, plus one ex-officio position filled by the Executive Director of the Children and Families First Commission.
- F-9. On April 24, 2001, the Board adopted an amendment to Ordinance No. 4218 to delineate the composition, duties, and responsibilities, and volunteer status without compensation for the Allocation and Evaluation Oversight/Advisory Committee. The Committee is to include the following members appointed by the Board:

- One member appointed by each Supervisor to represent his/her district.
- Six members submitted by the CAO selected from a list of nominees from the health care industry.
- The Executive Director of the Ventura County Children and Family First Commission, who shall serve as an ex-officio and non-voting member of the committee.

The members of the Committee approved by the Board on February 13, 2001 fulfill these requirements.

F-10. The duties and responsibilities of the Allocation Oversight/Advisory Committee as specified in Ordinance No. 4128, Section 1: Section 3B as adopted on April 24, 2001, include the following:

- On an annual basis, determine and recommend to the Finance Oversight/Advisory Committee, service and funding priorities and allocations in accordance with the objectives and goals of the Strategic Plan.
- Perform an annual review of the performance of the Strategic Plan to the planned budget and achievement of the performance criteria by program area. This annual review shall be completed in sufficient time to allow the preparation of the annual plan update and funding recommendations by April 1 of each year.
- Work with staff in making recommendations for updating the Rolling 5-Year Strategic Plan.

F-11. During the spring 2001, the Committee is holding meetings to review health care proposals and needs that exist in both the public and private sectors. Following this hearing period, allocations will be made.

F-12. At a later date, a three member Finance Oversight/Advisory Committee will be established to review the allocations from a finance and not a health-care perspective.

Conclusions

- C-1. If, as hoped, tobacco use decreases with the increases in taxes on tobacco products, revenues received from such programs will decrease. The effects of Proposition 99, The Tobacco Tax and Health Promotion Act, support the theory of decreased usage. Thus, programs targeted at non-smoking related issues such as early childhood education need to be especially mindful to leverage funds to allow for declining revenue. The Director of the Children and Families First Commission is establishing a trust fund and working with other agencies to leverage funds.
- C-2. The Children and Families First Commission lists many of the County's established agencies as the recipients of grant money. The Commission needs to conduct active outreach programs to incorporate residents of outlying communities such as Santa Paula, Fillmore and Piru into its services.

- C-3. Although the Children and Families First Commission is targeted at children 0 to 5 years of age and the Rolling 5-Year Strategic Tobacco Settlement Allocation Plan is aimed at public and private health care needs within the County, both programs involve large sums of money and are in their formative stages. Each program is attempting to build effective oversight into its structure in order to monitor the allocation of money and the effectiveness of the programs supported. When such large sums of money are involved, careful monitoring of the programs is critical.
- C-4. Transportation to services offered by the tobacco money programs is a problem for those in the County without access to their own vehicle, especially away from the urban centers. Both the Children and Families First Commission and the County’s rolling 5-Year Strategic Tobacco Settlement Allocation committees must address this issue.
- C-5. Ventura County has health care needs in both the public and private sectors and the electorate wants them both served by the Tobacco Settlement money.

Recommendations

- R-1. Active and ongoing monitoring of the allocation and effectiveness of the County’s Proposition 10 and Tobacco Settlement moneys should be conducted both internally by the various committees and commissions and externally by the CAO and Board of Supervisors and the Ventura County Grand Jury.
- R-2. The directors of each program should leverage tobacco money received in order to ensure a relatively consistent financial base.
- R-3. The Tobacco Settlement money should be used for both public and private sector health care in an effort to bring the greatest benefits to the County’s populace.
- R-4. Work with the Ventura County Transportation Commission to improve client access to services.

Commendations

The Children and Families First Director and Commission of Proposition 10 and the newly appointed Allocation and Evaluation Oversight/Advisory Committee of the Tobacco Settlement money are to be congratulated for their respective efforts to reach out to all aspects of the County and to make sound decisions on the expenditure of their moneys.

Responses Required

- Executive Director, Children and Families First Commission R-1 and 2
- Chairman Allocation & Evaluation Oversight/Advisory Committee R-1, 2 and 3

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|---|--------------|
| Ventura County Chief Administrative Officer | R-1, 2 and 3 |
| Ventura County Health Care Agency Director | R-1 and 3 |
| Ventura County Auditor-Controller | R-1 and 2 |
| Ventura County Transportation Commission | R-4 |