

FCL NEWSLETTER




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One more primary, two important propositions

With few contested races or a presidential primary to buoy voter turnout, many political insiders are predicting abysmally low voter turnout for the June 3rd primary. In addition to primaries for California’s Senate, Assembly and congressional seats, local races and measures will be decided on the June 3rd ballot. Voters will also decide two ballot propositions. California’s new dual primary scheme is the result of legislation signed by Governor Schwarzenegger which moved the state’s presidential primary forward to February in order to give voters a greater voice in the selection of presidential candidates.

Earlier this month the FCL Board of Directors reached consensus on two important propositions concerning government regulation of private property. What follows are FCL’s recommendations. Individual participation is fundamental to assuring government that is responsive and accountable. Lower voter turnout typically favors less egalitarian outcomes as affluent voters are more likely to vote. Therefore, it is imperative that people exercise their responsibility to vote on June 3rd, and we encourage you to discuss our recommendations with family and friends. Please contact the FCL office if you would like more information. FCL does not endorse or oppose candidates for elective office.

Proposition 98: *Government Acquisition, Regulation of Private Property. Constitutional Amendment.* Proposition 98 is specifically concerned with the U.S. Supreme



**FCL’s
Recommendations
At-A-Glance**

Proposition 98: No.
Government Acquisition. Regulation of Private Property.

Proposition 99: Yes.
Eminent Domain. Acquisition of Owner-Occupied Residence.

Illustration by Lee Storey

Court’s 2005 decision in *Kelo v. City of New London*, in which the Court affirmed that the city’s use of eminent domain to take a private home for the purpose of urban redevelopment constituted a “public use,” permissible under the Fifth Amendment to the U.S. Constitution. Kelo and appellants maintained that economic development projects did not qualify as “public use” under the Fifth Amendment because it confers economic benefits on pri-

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One more primary (Continued from page 1)

vate entities—in this case, the businesses that would locate in the new urban redevelopment zone.

The unfortunate, emotional and highly publicized plight of the homeowner drew opposition to the Court's ruling from interests as diverse as the Libertarian Party, the National Association for the Advancement of Colored People and the American Association of Retired Persons.

In response to *Kelo*, the well-organized property rights movement began sponsoring amendments to several state constitutions to restrict government's use of eminent domain and to require government agencies to compensate private property owners when regulatory actions decrease the value of the property. While this sounds non-controversial at first glance, local governments would be dissuaded from enacting zoning laws that, for example, restrict the development of polluting industries, set aside land for urban habitat or promote smart growth as they could be sued for compensation by private property owners.

In 2006, several wealthy financial backers with ties to the commercial real estate industry, put Proposition 90 on the California ballot to restrict the use of eminent domain and require financial compensation for property owners when their property is zoned for non-commercial purposes (see "FCL's Recommendations for the November 2006 Ballot Propositions," *FCL Newsletter*, Sept./Oct. 2006). FCL opposed and voters narrowly rejected Proposition 90 by a margin of 52.4 percent to 47.6 percent. In response to the failure of Proposition 90, apartment owners, including the Howard Jarvis Association and mobile home park owners, financed the signature-gathering drive for Proposition 98.

Proposition 98 amends the California Constitution to narrow the definition of "public use." State and local governments would be prohibited from using eminent domain to acquire property in order to transfer it to another private owner or developer. The "taking" of property to be

used "for the consumption of natural resources" would be prohibited and could preclude the use of eminent domain to construct public water projects. According to the California League of Conservation Voters, Proposition 98 invalidates many state programs that protect the environment and conserve natural resources.

In addition, Proposition 98 includes the phased elimination of rent control. According to the Legislative Analyst's Office, over a dozen California cities, including San Francisco and Los Angeles, limit rent increases, and 100 cities and counties have laws that limit the amount

that mobile home park owners can charge to lease space in their parks. According to a recent report by the California Budget Project (CBP), "Locked Out in 2008: The Housing Boom and Beyond," in addition to having the second highest share of renter households in the nation (41.6 percent), California has the highest rents in the nation, second only to Hawaii. CBP also reports that California has lost 17,000 federally subsidized rental units since 1996 and that 93,000 more units could be lost by 2017. Depending on how it is interpreted by the courts, Proposition 98 could significantly curtail government's ability to require

developers to include affordable housing units in residential developments.

In sum, Proposition 98 would undo many of the positive steps California has taken in regard to environmental, conservation and land use planning. Over one million Californians living in rent-controlled units could be forced out of their homes without the assurance of being able to find alternative affordable housing. **FCL OPPOSES PROPOSITION 98.**

Proposition 99: Eminent Domain. Acquisition of Owner-Occupied Residence. Constitutional Amendment. Proposition 99 is a straight-forward, narrowly focused eminent domain reform sponsored by the League of California

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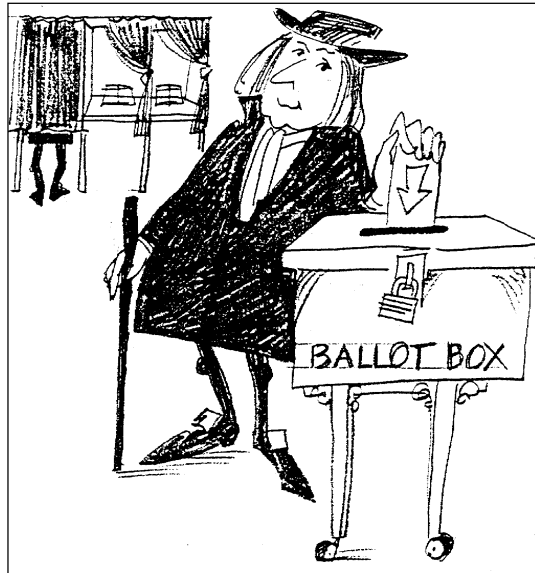


Illustration by Lee Storey

Oppose slashing CalWORKs: 200,000 children to lose benefits

For the second time in two consecutive years, Governor Schwarzenegger has proposed to punish children for their parents' shortcomings. Under Governor Schwarzenegger's proposed 2008-2009 budget, 200,000 of the 900,000 children currently enrolled in California's welfare program, CalWORKs, will lose their benefits.

Background

In 1996, Congress passed welfare reform legislation. In response, California established CalWORKs in 1997, which reflected the change in federal and state welfare policy away from cash assistance toward a welfare-to-work model. Under CalWORKs, California parents must work at least 32 hours per week to receive assistance. Qualified children currently receive cash assistance regardless of parental eligibility.

In 2006, the US Department of Health and Human Services changed the work participation requirements attached to federal welfare funding. California responded by implementing policy that has boosted California's work participation rate. Despite this progress, the Legislative Analysts Office predicts that California did not meet the federal work requirements in 2007 and will continue to

come up short in the next couple of years. As a result, California faces the possibility of losing federal welfare funding and could face substantial fines until the state attains work participation requirements.

The governor's budget

Governor Schwarzenegger has proposed terminating the CalWORKs benefits of children whose parents don't meet the federal work requirement or who have not complied with CalWORKs' rules so that they don't continue to drag down CalWORKs' work participation rate. The governor claims his cuts to CalWORKs are necessary to ensure that California meets the work requirements attached to federal welfare funding and to save the state \$514.5 million.

Analysis

California may need to increase CalWORKs' work participation rate in order to avoid losing federal funds, but the governor's plan is simply irresponsible. In order to protect California's most vulnerable kids, the Legislature has always maintained CalWORKs benefits to children, even when their parents are ineligible. According to the

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Cities. It amends the California Constitution to prohibit state and local government from using eminent domain to acquire an owner occupied dwelling in order to convey it to another private owner or developer. The proposed constitutional amendment does allow for the transfer of property to a private person if it is for a "public work or improvement, to protect public health and safety, to prevent serious, repeated criminal activity or to respond to an emergency or remedy environmental contamination."

Although the FCL Board has seen little evidence of local or state government abuse of eminent domain in California, Proposition 99 would provide homeowners with protection against the most egregious abuses. Moreover, it is important that Propositions 98 and 99 be voted on as a package. This is because Proposition 99 contains a provision which ensures that it will supersede any rival emi-

nent domain measure on the ballot if it receives more votes. This means that if both propositions pass and Proposition 99 receives more votes, Proposition 99 will become law and Proposition 98 doesn't. Thus, the surest way to ensure that Proposition 98 is defeated is to pass Proposition 99. **FCL SUPPORTS PROPOSITION 99.**

FCL's recommendations in opposition to Proposition 98 and in support of Proposition 99 are echoed by California Church Impact, the League of Women Voters of California, Housing California, the California Rural Legal Assistance Foundation, the Western Center on Law and Poverty, the California League of Conservation Voters, Sierra Club California and numerous other organizations. ☺

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Giving Online: For your convenience, donations to FCL may be made online. Please complete our **secure online donation form** located on our website, www.fclca.org. You can mail your donation to 717 K Street, Suite 500B, Sacramento, CA 95814-3408.

Whatever Happened To...

This is a summary of some of the significant bills that FCL is following in the current legislative session. Bill status is shown as of April 21, 2008. The full list of bills, text and history of each bill may be found by consulting the FCL website or by contacting the author's staff. To express your views on legislation, please write to the governor, your state senator and your assembly member, with a copy to the bill's author at "State Capitol, Sacramento, CA 95814." You may find out who your legislators are by consulting the State Government pages of your local telephone directory.

Capital Punishment

AB 2228 (Paul Cook, R., Yucaipa) would allow videotaped testimony of witnesses in death penalty cases. FCL OPPOSES. Assembly Floor.

AB 2745 (Tom Berryhill, R., Modesto) creates new rights for survivors of homicide victims in appellate hearings. FCL OPPOSES. Assembly Public Safety Committee.

SB 1305 (Jim Battin, R., Palm Desert) creates a new death-eligible special circumstance when a homicide victim is under age 14. FCL OPPOSES. Senate Public Safety Committee.

SB 1320 (Bob Dutton, R., Inland Empire) requires trial attorneys to review and notify the court of errors in transcripts and requires the trial record to be certified within 90 days of the imposition of a death sentence. FCL OPPOSES. Senate Public Safety Committee.

Children and Youth

AB 2061 (Nicole Parra, D., Hanford) implements mandatory minimum fines for parents and guardians of truant children in order to fund School Attendance Review Boards. FCL OPPOSES. Assembly Public Safety Committee.

SB 1199 (Leland Yee, D., San Francisco) eliminates life-without-parole for persons under age 18 convicted of first degree murder with a special circumstance and replaces it with a 25-year-to-life sentence. FCL SUPPORTS. Senate Appropriations Committee.

SB 1350 (Leland Yee, D., San Francisco) removes bureaucratic and financial barriers to family communication for youth incarcerated in Division of Juvenile Justice facilities. FCL SUPPORTS. Senate Appropriations Committee.

Criminal Justice/ Imprisonment

AB 160 (Sally Lieber, D., Mountain View) and **SB 110** (Gloria Romero, D., Los Angeles) establishes the California Sentencing Commission to review and devise sentencing guidelines. FCL SUPPORTS. Senate Inactive File and Assembly Floor, respectively.

AB 1965 (Sandre Swanson, D., Oakland) requires the Department of Corrections and Rehabilitation to establish a program for prisoners age 55 and older who have been diagnosed with chronic illness and serving sentences for nonviolent offenses, to be released on summary parole. FCL SUPPORTS. Assembly Appropriations Committee.

AB 2099 (Loni Hancock, D., Berkeley) requires the Department of Corrections and Rehabilitation to take reasonable steps to ensure that prisoners released on parole have a valid California identification card. FCL SUPPORTS. Assembly Appropriations Committee.

AB 2108 (Todd Spitzer, R., Orange) prohibits persons on parole with outstanding restitution orders from being discharged from parole without approval from the Board of Parole Hearings. FCL OPPOSES. Assembly Public Safety Committee.

AB 2109 (Todd Spitzer, R., Orange) prohibits a district administrator from overturning a parole agent's decision to not discharge a person from parole without approval from the Board of Parole Hearings. FCL OPPOSES. Assembly Public Safety Committee.

AB2562 (Jean Fuller, R., Bakersfield) creates a new felony enhancement for parolees required to register with local law enforcement as a result of a conviction for a gang-related offense who fail to register. FCL Opposes. Assembly Public Safety Committee.

AB 2614 (Guy Houston, R., San Ramon and Darrell Steinberg, D., Sacramento) removes

financial liability for patients, their family or their estate if the person was committed to a state hospital for the mentally disordered as the result of a not guilty by reason of insanity verdict. FCL SUPPORTS. Assembly Appropriations Committee.

AB 2681 (Cameron Smyth, R., Santa Clarita) provides that a parolee who used a computer in the commission of a sex offense and who fails to notify their parole agent within five days of receiving a device with internet capability is subject to a parole violation or misdemeanor prosecution. FCL OPPOSES. Assembly Public Safety Committee.

AB 2929 (Loni Hancock, D., Berkeley) requires the California Department of Corrections and Rehabilitation to develop a comprehensive re-entry program for parolees and to provide local law enforcement agencies with a copy of the parolee's re-entry plan. FCL SUPPORTS. Assembly Appropriations Committee.

AB 3032 (Sally Lieber, D., Mountain View) creates the Innocence Protection Grants Program to investigate claims of innocence and overturn wrongful convictions. FCL SUPPORTS. Assembly Floor.

SB 1342 (Dave Cogdill, R., Fresno) allows trial courts to impose the upper term for certain gang-related offenses without a finding of aggravating circumstances. FCL OPPOSES. Senate Public Safety Committee.

SB 1555 (Sheila Kuehl, D., Santa Monica) requires the Department of Corrections and Rehabilitation to implement an elder identification card program for prisoners 55 years of age and older and gives them priority for certain daily living activities. FCL SUPPORTS. Senate Appropriations Committee.

SB 1589 (Gloria Romero, D., Los Angeles) provides that a court may not convict a defendant, find a special circumstance or an aggravating circumstance on the basis of uncorroborated testimony from an in-custody

informant. FCL SUPPORTS. Senate Appropriations Committee.

SB 1590 (Elaine Alquist, D., Santa Clara) requires the electronic recording of the interrogation of suspects in homicide and violent felony cases. FCL SUPPORTS. Senate Appropriations Committee.

SB 1591 (Mark Ridley-Thomas, D., Los Angeles) requires the Department of Justice, in consultation with local law enforcement agencies, to develop procedures to reduce eyewitness misidentifications. FCL SUPPORTS. Senate Appropriations Committee.

SB 1651 (Darrell Steinberg, D., Sacramento) authorizes superior courts to implement mental health courts and develop standards for participation. FCL SUPPORTS. Senate Appropriations Committee.

SB 1730 (Alex Padilla, D., Los Angeles) *as introduced*, creates a new felony for the unauthorized possession of a cell phone on prison grounds. FCL OPPOSED. *As amended*, deletes the felony and instead requires all persons entering prisons to be screened by a metal detector. FCL SUPPORTS. Senate Appropriations Committee.

Equality/Nondiscrimination

AB 167 (Karen Bass, D., Los Angeles) prohibits eligibility for CalWORKS aide from being conditioned on the limitation of individual or family assets. FCL SUPPORTS. Senate Appropriations Committee.

AB 437 (Dave Jones, D., Sacramento) clarifies that the time period for alleging pay discrimination accrues from the date of each wage payment instead of when the discriminatory decision was made in order to give employees reasonable time to seek redress. FCL SUPPORTS. Senate Inactive File.

AB 1882 (Martin Garrick, R., Carlsbad) requires law enforcement agencies to notify U.S. Immigration and Customs Enforcement of persons arrested for driving while intoxicated who fail to produce documents demonstrating legal residency status. FCL OPPOSES. Assembly Public Safety Committee.

AB 2141 (Van Tran, R., Costa Mesa) requires correctional officers to verify the residency status of new prisoners and to cooperate with U.S. Immigration and Customs Enforcement in the verification and deportation process. FCL OPPOSES. Assembly Public Safety Committee.

AB 2420 (Bob Huff, R., Diamond Bar) prohibits local governments from adopting

ordinances that prohibit law enforcement agencies from initiating action to discover a person's residency status or that prohibits law enforcement from arresting a person for entering the U.S. illegally. FCL OPPOSES. Assembly Public Safety Committee.

Governance

AB 583 (Loni Hancock, D., Berkeley) creates a voluntary system of publicly financed campaigns for elective office. FCL SUPPORTS. Senate Elections, Reapportionment and Constitutional Amendments Committee.

Healthcare

AB X1 1 (Fabian Nuñez, D. Los Angeles) requires employers to offer health insurance to employees and dependents or pay fees to enroll them into a state health insurance pool and requires individuals to show proof of coverage. FCL OPPOSES. Senate Health Committee.

AB 1554 (Dave Jones, D., Sacramento) regulates increases in health insurance premiums, co-payments and deductibles. FCL SUPPORTS. Senate Health Committee.

AB 1984 (Sandre Swanson, D., Oakland) requires the Department of Health to offer prisoners voluntary, confidential HIV-AIDS testing and, with the written consent of the prisoner, make a prisoner's HIV-AIDS status available to public agencies for the purpose of determining eligibility for health and social service benefits. FCL SUPPORTS. Assembly Appropriations Committee.

SB 32 (Darrell Steinberg, D., Sacramento) expands eligibility for children in the Healthy Families Program to families with income up to 300 percent of the Federal Poverty Level. FCL SUPPORTS. Assembly Inactive File.

SB 840 (Sheila Kuehl, D., Santa Monica) creates the California Universal Healthcare System to provide affordable and comprehensive healthcare benefits to all California residents. FCL SUPPORTS. Assembly Appropriations Committee.

Housing

AB 239 (Mark DeSaulnier, D., Martinez) authorizes Contra Costa and San Mateo counties to charge \$25 document recording fees and use the proceeds for low-income housing. FCL SUPPORTS. Senate Local Government Committee.

AB 2019 (Felipe Fuentes, D., Los Angeles) gives local governments and tenants the right to enforce purchase offers when an owner who plans to convert affordable housing to the market rate fails to comply with the law. FCL SUPPORTS. Senate Rules Committee.

AB 2069 (Dave Jones, D., Sacramento) requires local governments to demonstrate that they have enough land to meet their affordable housing requirements when allowing commercial developments on double-zoned sites. FCL SUPPORTS. Assembly Housing and Community Development Committee.

AB 2586 (Alberto Torrico, D., Fremont) requires 60 days notice before a tenant may be evicted after a foreclosure sale and requires new owners to return security deposits. FCL SUPPORTS.

Peace/Nonviolence

AB 2062 (Kevin DeLeon, D., Los Angeles) requires licensing of handgun ammunition dealers and a permit to purchase handgun ammunition. FCL SUPPORTS. Assembly Appropriations Committee.

AB 2235 (Mark DeSaulnier, D., Martinez) requires all handguns to be equipped with "owner-authorized" technology that prevents anyone other than the owner from discharging the handgun. FCL SUPPORTS. Assembly Appropriations Committee.

AB 2994 (Sally Lieber, D., Mountain View) creates a process to allow parents and students to opt out from having students' contact information provided to military recruiters and prohibits the Armed Services Vocational Aptitude Battery test from being used for recruiting purposes without consent. FCL SUPPORTS. Assembly Veterans Affairs Committee.


SB 468 (Alex Padilla, D., Los Angeles) creates the Shaken Baby Syndrome Education Pilot Program modeled after programs in New York that have reduced deaths by half. FCL SUPPORTS. Assembly Appropriations Committee.

SJR 19 (Mark Ridley-Thomas, D., Los Angeles) requests licensing boards to notify health professionals of national and international law regarding torture and that the Department of Defense and Central Intelligence Agency remove all military health professionals licensed in California from prisoner and detainee interrogations. FCL SUPPORTS. Assembly Desk. ☺

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Oppose slashing CalWORKS (Continued from page 3)

California Budget Project, many of the adults who lost their CalWORKs benefits are in the most need of help as they often have limited work experience, lack transportation or care for an ill or disabled family member. The current economic downturn only increases the needs of those the governor proposes to cut from the program.

Cutting CalWORKs in a recession is bad logic – this is the time, when jobs are scarce, that more families require assistance. Many creative alternatives to the governor's plan have been proposed that would help the state meet the federal work requirements while maintaining CalWORKs' current benefits. Punishing our most vulnerable families and children is an unacceptable way to solve California's budget woes. The Legislature rejected a similar proposal from Governor Schwarzenegger last year. It should do so again.

WHAT YOU CAN DO: Please call, and/or fax letters and send e-mails in opposition to the Governor's proposed CalWORKs cuts to: Governor Arnold Schwarzenegger, Senate President pro Tem Don Perata, Assembly Speaker Fabian Nunez and to your local representatives. For contact information, please consult the FCL Legislative Roster, now available on line at www.fclca.org.

–Amanda Rogerson, FCL Intern, <amanda.rogerson@gmail.com>

The Friends Committee on Legislation of California (FCL) includes Friends and like-minded persons, a majority of whom are appointed by Monthly Meetings of the Religious Society of Friends in California.

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Expressions of views in this newsletter are guided by Statements of Policy prepared and approved by the FCL Committees. Seeking to follow the leadings of the Spirit, the FCL speaks for itself and for like-minded Friends. No organization can speak officially for the Religious Society of Friends.

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While we strive above all for correctness and probity, we are quick to recognize that to err is human. We therefore solicit and welcome comments and corrections from our readers.