FCLCA’s Recommendations for the November 2014 General Election

Following several suspenseful weeks, six propositions will be on the ballot in the November 4th General Election. Originally there were seven measures slated for a vote, but the California Supreme Court removed an advisory measure from the ballot concerning the U.S. Supreme Court’s ruling in Citizens United v. Federal Elections Commission (2010) (see sidebar on page 5). In the closing weeks of the legislative session, the Legislature and the governor enacted a scaled-down water bond and a new proposal to create a rainy day fund.

There is much at stake in this election. Voters have a historical opportunity to reform criminal sentences for nonviolent drug offenses and property crimes and will decide whether the Insurance Commissioner should regulate health care costs in the wake of the Affordable Care Act. There is also a proposal to increase the cap on medical malpractice awards for noneconomic damages and to subject doctors to drug testing. At the behest of competing gambling interests, the electorate is being asked to decide whether two gaming compacts should remain in effect or be scrapped.

FCLCA’s Board of Directors makes the following recommendations for the November 2014 General Election.

Proposition 1: Water Bond. Funding For Water Quality, Supply, Treatment, And Storage Projects. Oppose.

- Authorizes $7.12 billion in general obligation bonds for state water supply infrastructure projects, such as public water system improvements, surface and groundwater storage, drinking water protection, water recycling and advanced water treatment technology, water supply management and conveyance, wastewater treatment, drought relief, emergency water supplies, and ecosystem and watershed protection and restoration.
- Specific spending proposals in the proposition include:
  - $2.7 billion for water storage projects, dams and reservoirs.
Dear Readers,

Once again, the General Committee and Board of FCLCA are pleased to present our ballot recommendations. Discussing the initiatives and then making our recommendations is one of the most interesting and challenging tasks the FCLCA board takes on, and the background that Jim Lindburg, our legislative director, supplies in the written recommendations reflects our sometimes very lengthy discussions.

I hear from our supporters that this background information, which recognizes the salient points in the argument against our position, is what makes our recommendations most helpful. I always hope that voters will read it carefully and then make up their own minds, and this is especially true this year, when some of the issues feel almost impossibly complex and rife with the possibility of unintended consequences.

We start our process by assigning each of the propositions to a board member to study and analyze. This year I worked on Proposition 48, a referendum to ratify two gaming compacts between California and, respectively, the North Fork Rancheria of Mono Indians, and the Wiyot Tribe. The background was fascinating. I didn’t know, for instance, that the North Fork Rancheria of Mono Indians had been given 80 acres of federal land in 1916, which was taken away from them in 1966 when their federal status was terminated under the California Rancheria Act. Their status was reinstated in 1987, but the original parcel of land is no longer available for tribal purposes because it is being held in trust for individual families. It seems that every aspect of our government’s history with the tribal peoples of the country has been heartbreaking.

When I consulted our policy statement, I found that it abhorred gambling, but recognized that, legal or not, it will happen, and therefore stresses the importance of regulating it. The compacts put into place various regulations, so this, along with Proposition 47 to reclassify seven categories of nonviolent felonies as misdemeanors, was one of the easiest recommendations we made. I recognize, though, that a person whose life was touched by compulsive gambling might weigh up the pros and cons differently.

I was grateful for the skills that our board members brought to the task of analyzing the initiatives. The insight of Elizabeth Ralston, president of the Los Angeles chapter of the League of Women Voters, was invaluable in sorting out Proposition 2, the budget stabilization amendment, and I was glad we had a physician, retired pediatrician Jim Eusebio, on our board. He helped us wade through the complexities of Proposition 46, which addresses medical malpractice by requiring drug and alcohol testing for doctors, among many other things. We recommend a yes vote, even though, as reflected in Jim’s report, we never fully resolved our extreme discomfort with the overuse of drug testing.

After careful consideration of each proposition, we present our recommendations with the hope that they will prove useful, and the added hope that each voter will read Jim’s analysis along with their voter guide carefully, and ultimately make an informed decision for themselves.
$1.495 billion for competitive grants for multibenefit ecosystem and watershed protection and restoration projects.

$900 million for competitive grants, and loans for, projects to prevent or clean up the contamination of groundwater that serves as a source of drinking water.

$810 million for expenditures on, and competitive grants and loans to, integrated regional water management plan projects.

$725 million for water recycling and advanced water treatment technology projects.

$520 million to improve water quality for “beneficial use,” for reducing and preventing drinking water contaminants, disadvantaged communities, and the State Water Pollution Control Revolving Fund Small Community Grant Fund.

$395 million for statewide flood management projects and activities.

- Appropriates money from the General Fund to pay off bonds.
- Requires certain projects to provide matching funds from non-state sources in order to receive bond funds.

In the midst of the state’s severe drought and amid fears that voters would reject it if it included funding to build two large Delta tunnels to ship more water to southern California, the Legislature and Gov. Brown enacted a compromise that replaced an $11 billion water bond with Proposition 1. Legislation to place the previous water bond before voters was enacted in 2009, but the vote has been delayed twice over fears that voters would reject it as being too big.

The current measure before voters provides $7.5 billion in funding through the sale of general obligation bonds for various and largely unspecified water projects, including $2.7 billion for surface storage projects. The Legislative Analyst’s Office estimates that debt service on the bonds will cost the state’s General Fund $360 million annually for the next 40 years.

While there is much to like in Proposition 1 – the funding provided for watershed protection and restoration, improvements to groundwater and surface water quality and funding to provide drinking water projects for low-income communities – on balance this measure tilts too heavily in favor of surface water storage. Two often discussed projects are the proposed Sites Reservoir in Colusa County and the enlargement of Shasta Dam, both of which have not been built because the costs will exceed the benefits.

While Proposition 1 does not earmark funding specifically for the proposed tunnels, building more upstream dams and reservoirs will increase pressure for more diversions from North Coast rivers and further harm endangered salmon fisheries and the local economies they support. There is much more that should be done to conserve water at a much lower cost without further damage to the environment. **FCLCA OPPOSES PROPOSITION 1.**

**Proposition 2: State Budget. Budget Stabilization Account. Legislative Constitutional Amendment. Support.**

- Requires annual transfer of 1.5 percent of general fund revenues to state budget stabilization account.
FCLCA supports progressive taxation and the creation of a modest rainy day fund. The Legislature crafted Proposition 2 with bipartisan support to create a rainy day fund in a special legislative session this year to replace a previous constitutional amendment slated for the November ballot. That proposal would have required 3 percent of annual General Fund revenues be transferred into a reserve with half of the funds allocated for infrastructure or to pay debt service on bonds. It also included a spending cap that would have made it more difficult to restore funding to programs which have endured deep spending cuts since the Great Recession.

California’s tax collections are volatile because we rely heavily on our progressive income tax, which includes income from capital gains for the wealthiest Californians. When the economy is strong, income tax collections soar, but they decline rapidly when the economy is weak. This makes budgeting difficult. In order to mitigate spending cuts to important programs, it makes sense to save some revenues in good budget years in order to use them in bad budget years. In 2004, California voters passed Proposition 58 to create a budget reserve known as the Budget Stabilization Account (BSA). However, Proposition 58 enables the governor to unilaterally cancel or reduce transfers into the BSA, and until this year there were no transfers into the reserve since the Great Recession.

Proposition 2 will require that the State transfer 1.5 percent of annual General Fund revenues into the BSA and will require additional transfers of capital gains revenues into the reserve when they exceed 8 percent of General Fund revenues. The reserve would be allowed to grow up to 10 percent of the annual General Fund revenues (currently $11 billion) after which the transfers would end. Funds could be taken out of the BSA by a majority vote of the Legislature in the event that the governor calls a budget emergency. For the first 15 years half of funds in the account must be used to pay down debts (monies owed to local governments for loans, state mandates, unfunded pension liabilities, etc.) after which they could be used to fund infrastructure.

Make no mistake, Proposition 2 is also a political document, and we’re troubled by the late hour insertion of language into a budget trailer bill that limits the size of local school district reserves. This was apparently at the behest of the California Teachers Association and would make more funds available for contract negotiations. Given that the Legislature has routinely deferred payments to school districts in bad budget years, local school districts should not be punished for maintaining healthy budget reserves. However, it appears that district reserves would not be limited until funds are first transferred into the new Public School System Stabilization Account (PSSA). According to Ed Source, a foundation-backed organization dedicated to helping people understand complex education issues, it will be at least seven years before any funds are transferred into the PSSA.

We are wary of cluttering the State Constitution with complex budget formulas that few people fully understand, and Proposition 2 is no exception. This measure could also be likened to ballot box budgeting, but the earmarking of 1.5 percent of state revenues is not overly restrictive. By reducing the size of transfers to the BSA from 3 percent to 1.5 percent, and by making it less likely that transfers will be suspended, Proposition 2 is a more realistic and more certain approach to creating a rainy day fund. FCLCA SUPPORTS PROPOSITION 2.
**Proposition 45: Healthcare Insurance. Rate Changes. Initiative Statute. No Recommendation.**

- Requires changes to health insurance rates, or anything else affecting the charges associated with health insurance, to be approved by Insurance Commissioner before taking effect.
- Provides for public notice, disclosure, and hearing on health insurance rate changes, and subsequent judicial review.
- Requires sworn statement by health insurer as to accuracy of information submitted to Insurance Commissioner to justify rate changes.
- Does not apply to employer large group health plans.
- Prohibits health, auto, and homeowners insurers from determining policy eligibility or rates based on lack of prior coverage or credit history.

This proposal would require the elected Insurance Commissioner to approve increases in the costs of health insurance for the 6 million Californians who are covered by small group health insurance (coverage provided by employers with 50 or fewer employees) and those who purchase health insurance on the individual market.

The Affordable Care Act created exchanges to negotiate rates and coverage with health insurance companies. The California exchange is known as Covered California. While several commissioners have publicly voiced concerns that Proposition 45 would undermine the exchange’s ability to negotiate favorable rates for consumers, Covered California announced that it would not take a position on Proposition 45. However, opponents of Proposition 45 are stretching the truth when spending lavishly to convince voters that under Proposition 45 the Insurance Commissioner’s new authority to approve increases would usurp Covered California’s authority to negotiate.

The FCLCA Board of Directors did not come to unity on Proposition 45. There was sentiment that the new Covered California exchange should be given a greater opportunity to work and that granting this authority in the office of the Insurance Commissioner is, at least for the time being, unjustified. In July, Covered California announced that rates for most consumers would rise by an average of 4.2 percent, which is welcome news given the typical double-digit annual increases that have far outpaced the rate of inflation. On the other hand, regulating auto insurance and homeowners insurance has worked reasonably well, and the lack of price regulation is seen as a key missing ingredient to the Affordable Care Act. FCLCA makes NO RECOMMENDATION on PROPOSITION 45.

**A Shameless Attempt to Lure Voters? California Supreme Court removes Proposition 49 from ballot**

Proposition 49 was an advisory measure that would have asked the California electorate whether Congress should propose and whether the California State Legislature should ratify amendments to the U.S. Constitution to overturn the U.S. Supreme Court’s ruling in the *Citizens United v. Federal Elections Commission* (2010). The Supreme Court ruled that corporations have the same rights to political speech as people and removed virtually all limits on the flow of corporate money in political campaigns.

The measure was placed on the ballot as a result of Senate Bill 1272, by Ted Lieu (D-Torrance), which passed both the State Senate and State Assembly on a party line vote. Gov. Brown allowed the bill to become law without his signature and issued a statement saying that he had done this in order to signal his inclination not to repeat the practice of allowing advisory measures to appear on the ballot.

California Supreme Court Justice Goodwin Liu opined that California’s Constitution “makes no provision for advisory questions, because such polling of the electorate by the Legislature is in tension with the basic purpose of representative as opposed to direct democracy.” In doing so, the Court sided with the plaintiff, the Howard Jarvis Taxpayers Association, which in a press release described Proposition 49 as a shameless attempt to lure Democratic voters to the polls in November.

Legislation in the U.S. Senate to reverse *Citizens United* and *McClutcheon v. Federal Elections Commission* (2014) failed earlier this month on a party line vote with Democrats supporting and Republicans opposing.

- Requires drug and alcohol testing of doctors and reporting of positive test to the California Medical Board.
- Requires Board to suspend doctor pending investigation of positive test and take disciplinary action if doctor was impaired while on duty.
- Requires doctors to report any other doctor suspected of drug or alcohol impairment or medical negligence.
- Requires health care practitioners to consult state prescription drug history database before prescribing certain controlled substances.
- Increases $250,000 cap on pain and suffering damages in medical negligence lawsuits to account for inflation.

As a result of the drug war, drug testing in the workplace has reached absurd proportions. Even employees who perform duties that have no impact on workplace safety or public safety may be routinely tested and terminated for having trace amounts of drugs in their bodies. On the other hand, there are crucial positions such as airplane pilots, train engineers and bus drivers where impairment can have serious consequences and testing for alcohol and drug use is justified. Because they also hold the lives of others in their hands we include doctors in this category. Requiring doctors to check the statewide database before prescribing certain drugs will reduce “doctor shopping,” where individuals obtain multiple prescriptions from various doctors without the doctor’s knowledge of the other prescriptions for the purpose of abusing or reselling the drugs.

While the proposed increase in the cap for noneconomic damages will have some bearing on overall health care costs, the Legislative Analyst’s Office notes that based on studies from other states, the increase in medical malpractice costs could range from 5 percent to 25 percent and would likely increase total health care spending by 0.1 percent to 0.5 percent. Given that the cap for noneconomic damages has never been adjusted, this is a fair trade off. FCLCA SUPPORTS PROPOSITION 46.

FCLCA recognizes that medical malpractice claims are a significant cause of increased insurance costs that should be brought down by greater policing of practitioners and the reduction of claims through the reduction of malpractice. FCLCA opposes tort “reform” that makes the pursuit of legitimate claims more difficult.

Proposition 46 requires that doctors be tested for drug and alcohol use and subjects those who test positive to disciplinary action by the California Medical Board, which may include suspension of the doctor’s license to practice. It will require doctors to check a statewide database before prescribing certain drugs, including OxyContin, Vicodin and Adderall, which are commonly abused. In 1975, Gov. Brown signed legislation to cap noneconomic (most commonly pain and suffering) awards resulting from medical malpractice at $250,000 where it remains today. Proposition 46 adjusts the cap for inflation to $1.1 million, and the cap would increase in subsequent years with the rate of inflation.


- Requires misdemeanor sentence instead of felony for certain drug possession offenses.
- Requires misdemeanor sentence instead of felony for the following crimes when amount involved is $950 or less: petty theft, receiving stolen property, and forging/writing bad checks.
- Allows felony sentence for these offenses if person has previous conviction for crimes such as rape, murder, or child molestation or is registered sex offender.
• Requires resentencing for persons serving felony sentences for these offenses unless court finds unreasonable public safety risk.
• Applies savings to mental health and drug treatment programs, K-12 schools, and crime victims.

Known as “The Safe Neighborhoods and Schools Act,” Proposition 47 reclassifies seven categories of nonviolent felonies as misdemeanors: drug possession offenses and property offenses where the value of the property is $950 or less and which are currently classified as wobblers, meaning they can prosecuted as either felonies or misdemeanors. Individuals required to register as a sex offender and persons with a prior conviction for rape, murder or child molestation are ineligible for relief under Proposition 47 and would continue to face felony prosecutions. Eligible persons currently serving felony sentences for these crimes could apply to have their sentences reduced to a misdemeanor.

Most misdemeanor offenses carry a maximum sentence of up to one year either in county jail, or a combination of jail time and community supervision. The Legislative Analyst’s Office estimates that 40,000 people are currently convicted of these felony offenses per year who would instead be given misdemeanor sentences. The Department of Finance would be required to calculate the annual savings, which would be used to fund mental and drug treatment programs, services to victims of crimes and programs to reduce truancy.

FCLCA has long advocated for an end to California’s overreliance on incarceration as the default response to deviant behavior. The drug war, along with some highly visible horrific crimes, fueled the punitive tough on crime mentality of the 1980s and 1990s. It was followed by huge expansion of the prison system and the construction of new jails and has undermined investment in marginalized communities and programs that could create thriving communities. Simply put, there are better ways to fight crime than mass incarceration, which author Michelle Alexander (“The New Jim Crow: Mass Incarceration in the Age of Colorblindness”) convincingly demonstrated has created a permanent underclass in American society. We also need to do more to support victims of crime.

While polling shows strong support for reducing penalties for lower-level offenses, an entrenched law enforcement lobby in Sacramento has steadfastly resisted virtually every sentencing reform even though prisons are severely overcrowded. Realignment was only made possible by the threat of the federal judiciary ordering early releases in order to reduce prison overcrowding.

Proposition 47 would help California comply with the federal court order to reduce its prison population to 137.5 percent of design capacity as fewer people would be eligible for state prison sentences. The state prison population would also be reduced as the result of people being resentenced. This measure would also reduce local jail populations which, under Realignment, are housing persons convicted of low-level felonies and who would serve shorter misdemeanor sentences. Fewer people would be subject to the legal discrimination that comes with having a felony conviction, which makes it more difficult to obtain employment, housing and government benefits.
While this change is long overdue, FCLCA is mindful that there are many people who have been convicted of serious crimes who have served lengthy prison sentences and whose release would pose virtually no threat to public safety. We will keep working towards the day when incarceration is used sparingly and only as a last resort. This measure marks an important step in the right direction, and FCLCA SUPPORTS PROPOSITION 47.

**Proposition 48: Indian Gaming Compacts. Referendum. Support.**

A “Yes” vote approves, and a “No” vote rejects, a statute that:

- Ratifies tribal gaming compacts between the state and the North Fork Rancheria of Mono Indians and the Wiyot Tribe.
- Omits certain projects related to executing the compacts or amendments to the compacts from scope of the California Environmental Quality Act.

Proposition 48 thrusts voters into the middle of a territorial dispute involving gaming tribes and a New York hedge fund, in which huge profits are at stake. The North Fork Rancheria band of Mono Indians owns land near the entrance to Yosemite National Park. The U.S. Department of the Interior – subject to the approval of a compact with the State of California – approved North Fork’s plan to build a casino on land it purchased adjacent to Highway 99 near the town of Madera, which is located in the San Joaquin Valley, 23 miles north of Fresno. The Brown administration negotiated compacts with the North Fork tribe and the Wiyot tribe which owns environmentally sensitive land in Humboldt County. The Wiyot Tribe agreed not to construct a casino on its land in Humboldt County in exchange for a percentage of the slot machine revenue from the proposed North Fork casino – a percentage that is estimated at $6 million per year. In 2013, the Legislature approved both of these compacts by passing Assembly Bill 277, which was signed into law by Gov. Brown.

The approval of the compact with the North Fork Rancheria drew the ire of Brigade Capital Management, which seeks to protect its investment in the Chuckchansi Gold Resort Casino, roughly 30 miles away from the site of North Fork’s planned casino. Both Brigade Capital and the Table Mountain Rancheria, which operates a casino in nearby Fresno County, are spending lavishly to overturn these compacts by placing Proposition 48 on the ballot.

FCLCA’s policy on gambling is complex. While we uphold Friends’ traditional opposition to gambling on moral grounds, we recognize that illegal gambling has provided much of the incentive and resources for organized crime. Therefore, the State should adequately regulate gambling. With regards to gambling on Indian reservations, we are uncomfortable with imposing our will on sovereign nations. FCLCA decries the economic and political inequity in which gambling is perceived as the most viable form of economic enterprise, and we support legislation that encourages alternative forms of development of sustainable benefit to Native Americans.

The compacts negotiated between the State and gambling tribes were negotiated in good faith and were approved by the Legislature. They will prevent the construction of two casinos in environmentally sensitive areas. A YES vote on Proposition 48 is a vote to uphold Assembly Bill 277 and to keep the compacts approved between the State of California, the North Fork Rancheria and the Wiyot Tribe. FCLCA SUPPORTS PROPOSITION 48.

– Jim Lindburg (JimL@fclca.org)
FCLCA’S PULL-OUT VOTER GUIDE
BALLOT PROPOSITIONS NOVEMBER 2014

Proposition 1: Water Bond. Funding For Water Quality, Supply, Treatment, And Storage Projects.

FCLCA’s POSITION       MY VOTE

______ YES     ______ NO   ______ YES     ______ NO

Notes: _________________________________________________________________


FCLCA’s POSITION       MY VOTE

______ YES     ______ NO   ______ YES     ______ NO

Notes: _________________________________________________________________


FCLCA’s POSITION       MY VOTE

______ NO RECOMMENDATION  ______ YES     ______ NO

Notes: _________________________________________________________________


FCLCA’s POSITION       MY VOTE

______ YES     ______ NO   ______ YES     ______ NO

Notes: _________________________________________________________________


FCLCA’s POSITION       MY VOTE

______ YES     ______ NO   ______ YES     ______ NO

Notes: _________________________________________________________________

Proposition 48: Indian Gaming Compacts. Referendum.

FCLCA’s POSITION       MY VOTE

______ YES     ______ NO   ______ YES     ______ NO

Notes: _________________________________________________________________
A Circle of Giving: Past, Present and Future

We spoke recently with George Millikan, a longtime activist with the Friends Committee on Legislation of California and the newest member of our Legacy Circle, a community of supporters who have made a bequest or other type of planned gift benefiting FCLCA or the FCL Education Fund.

George’s interest in helping others began in youth, he told us:

After collecting clothes for the relief of Dutch flood victims when I was in junior high school, I found it easy in later life to become interested in legislative solutions to social problems. My interests expanded from flood relief to civil rights and peace when I attended George School, a Quaker school in Pennsylvania. Almost 20 years ago, Ernest Bicknell persuaded me to become a meeting representative to the FCL Northern Regional Committee. Since then, I have worked on Policy, Nominating and Finance Committees and filled various offices, including Northern Regional Clerk, Statewide Clerk, and Treasurer.

We asked George what he views as FCLCA’s key accomplishments and what he hopes for in the future.

To me the key accomplishment of FCLCA in recent years has been to educate the readers of the FCLCA Newsletter and of our online materials about governmental injustices in California.

From my work with FCLCA over the past couple of decades, I’ve come to believe that the explosive growth in the prison population of California would have been even more explosive without the steady, dedicated work of our organization over the years.

My vision of California’s future is a vibrant economy supported by an outstanding educational system. To achieve that vision, the State must spend more on education. To do so, it must spend less on prisons. FCLCA still has an important role to play in helping to correct the excesses of the War on Drugs and the lock-‘em-up-forever mentality.
So what prompted George to provide for the future of FCLCA through a planned gift?

I decided to make a legacy gift to FCLCA because I can think of no better use of the money that I accumulated for retirement than to give a good chunk of what is left over after I am gone to an organization that will continue to work on the goals that animated me in life.

With his characteristic good humor, George is sanguine about a reality many of us would prefer not to consider: what happens after our lifetime.

Although death becomes more probable with age, no one knows for sure when it will come. In making a legacy gift, I am happy that I am now prepared in one respect for the unexpected. Being fairly old, I am also unhappy when I consider how soon the legacy is likely to be realized, but the upside is that with few remaining years, my wife and I may now be able to afford to take a little more out of our nest egg for our annual contribution to FCLCA.

Now that’s positive thinking!

Thank you, George, and thanks to all of you who have joined the Legacy Circle. If you have planned a gift for FCLCA or the FCL Education Fund or are considering doing so, please contact Kevan Insko, kevan@fclca.org. There’s lots more information on our website here http://fclca.org/donate-now/planned-giving.html.
The “FCLCA, Ahead of Its Time” Challenge

Can you match the following events reported in the FCLCA Newsletter to their decade? (Extra points if you match the exact year!!)

1. In the face of rising concern about drugs, FCLCA declares “the strictly punitive approach to curb addiction has failed.”
2. FCLCA successfully sponsors a bill to give prisoners the right to receive mail and visitors, to correspond confidentially with an attorney and to purchase and receive reading material.
3. FCLCA drafts SB 1393, a bill to feed 500,000 low-income children through the school lunch program; and sends field workers throughout California to rally support to provide state matching funds for feeding hungry kids.
4. FCLCA’s proposal to require growers to provide toilets and drinking water in the field was rejected by the legislature.
5. FCLCA and AFSC help initiate the California Housing Coalition to address tenants’ rights and low income housing.
6. The point of most effective action comes when the bill is before committee. Much of the most important work of the Legislature is done in committee.

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

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.

PHOTO CREDITS:
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