FCLCA’s Recommendations for the November 2012 General Election

With 11 ballot propositions on the November ballot, the stakes are enormous. In June, the Legislature passed a budget that depends on the new revenues raised by Proposition 30 in order to avoid $6 billion in budget cuts to public education and state universities. There is also a competing measure on the ballot in Proposition 38. Since both propositions make changes to the state’s personal income tax rates, should they both pass only the one with the most votes will prevail.

Voters have a historical opportunity to replace California’s death penalty with a sentence of life without the possibility of parole and to modify California’s excessively harsh “Three Strikes” law. Passage of these measures could shape the debate on mass incarceration in Sacramento in ways that are consistent with Friends’ values for years to come.

The following are FCLCA’s positions on all 11 propositions on the November ballot.

Proposition 30: Temporary Taxes to Fund Education. Guaranteed Local Public Safety Funding. Support.
• Increases personal income tax on annual earnings over $250,000 for seven years.
• Increases sales and use tax by ¼ cent for four years.
• Allocates temporary tax revenues 89% to K–12 schools and 11% to community colleges.

• Bars use of funds for administrative costs, but provides local school governing boards discretion to decide, in open meetings and subject to annual audit, how funds are to be spent.
• Guarantees funding for public safety services realigned from state to local governments.

Dubbed the “Schools and Local Public Safety Protection Act of 2012,” Proposition 30 temporarily increases the top income tax brackets for seven years and the state sales tax by one-quarter cent for four years. The new revenues would be deposited into a new Education Protection Account and would count towards fulfilling the California Constitution’s Proposition 98 guarantee. (In 1988 California voters ratified Proposition 98, which amended the state constitut-

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Dear Readers,

The Board and General Committee of the Friends Committee on Legislation of California are pleased to present our recommendations on the 11 ballot propositions facing citizens of our state this November.

While serving as clerk (a Quaker term for chair) of FCLCA’s Board, I’ve often heard people say how much they value and trust our recommendations and analysis. Even for those of us who closely follow politics, ballot propositions can often be complex and confusing!

So how does FCLCA arrive at agreement on our recommendations on these sometimes controversial issues?

The answer is Quaker process in action.

The concept of “coming to unity” is central to Quaker process. When seeking unity, those present try to reach beyond an ego-driven sense of defending their position, and through careful listening – both to the others who are present and to the “still, small” voice within – come together to a more inspired position. You can imagine that this can be a lengthy process.

Luckily for us, in arriving at our positions we have the guidance of our policy statements.

Over the years, FCLCA has developed a set of policy statements that guide our approach to legislation and issues that go before the voters. (You can find them on our website in the Legislative Issues section.)

The policy statements are broad statements of our thinking regarding 17 areas of social policy and state government, and in turn, refer back to the Quaker “testimonies” (values and principles) of peace, equality, integrity, community and simplicity.

At the beginning of each year, FCLCA’s General Committee, made up of representatives of the Quaker Meetings and two of California’s Quaker churches, as well as non-Quaker at-large members, appoints a Policy Committee, usually four or five people, and a Policy Committee clerk is named.

As soon as the propositions are validated by the Secretary of State to appear on the ballot and their wording becomes available, our Policy Committee clerk finds volunteers from the Policy Committee and from the FCLCA Board to write up analyses for the rest of the committee to read. The authors include pro and con arguments that analyze each proposition on the basis of our policy statements.

After reviewing the analyses, the members of the Policy Committee meet and make recommendations to the full FCLCA Board. The Board then meets and comes to unity on FCLCA’s positions on the various ballot propositions.

This year there was a bumper crop of propositions to consider! Some of them, such as Proposition 34, the SAFE California Act to replace the death penalty, were clearly in line with our policy statements. In fact, FCLCA serves on the steering committee of the “Yes on 34” campaign! Proposition 36, which amends the three strikes law, was also clearly in line with our policies.

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tion to guarantee public schools and community colleges approximately 40 percent of all General Fund revenues.)

State revenue collections have taken a huge hit as a result of the Great Recession. Without the additional revenues generated by Proposition 30, midyear cuts of $6 billion to schools, community colleges and the state universities would take effect January 1, 2013. Students at California’s public universities have seen substantial fee increases in recent years due to budget cuts resulting in a 30 percent decline in state support since the 2007/2008 fiscal year. By counting the new revenues towards the Proposition 98 guarantee, Proposition 30 also frees up General Fund dollars to help the state balance its budget and avoid further cuts to the safety net.

According to the California Budget Project, 78.8 percent of the temporary tax increases would fall on the wealthiest one percent of Californians, who have enjoyed huge increases in wealth over the last two decades. Proposition 30 also amends the state constitution to guarantee counties funding for programs that the Legislature re-aligned to local governments in 2011, namely the responsibility for managing persons convicted of low-level felonies.

**FCLCA SUPPORTS PROPOSITION 30.**

- Requires performance reviews of all state programs.
- Requires performance goals in state and local budgets.
- Requires publication of bills at least three days prior to legislative vote.
- Allows local governments to alter how laws governing state-funded programs apply to them, unless Legislature or state agency vetoes change within 60 days.

Advanced by the California Forward Action Fund, the 8,000-word Government Performance and Accountability Act contains a hodgepodge of well-intentioned proposals – some good, but others that give us pause.

The act requires that bills be in print for three days and available to the public before they are acted on and requires two-year budgets along with performance-based budgeting and more legislative oversight. It also requires the implementation of pay-as-you-go budgeting (PAYGO) meaning that the Legislature, even in years when state tax coffers are flush, must identify a funding source for any new program costing $25 million or more. The Legislature would also have to determine how to pay for any proposed reduction in taxes of $25 million or more, either through spending cuts or by new revenues to make up for the loss. PAYGO could be beneficial were it not for California’s unusual two-thirds, super-majority requirement to raise revenues.

Proposition 31 has a glaring omission. It does nothing to amend the state’s initiative process, which has had a huge role in tying the state’s budget process in knots by requiring spending for new programs without providing sources of revenue. It also expands the governor’s authority to unilaterally cut spending in a fiscal emergency.

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Even more problematic, the measure authorizes the creation of Community Strategic Action Plans to coordinate the delivery of public services. Should state law impede the implementation of the strategic action plan, the local plan would override state law unless the Legislature rejects the local rules within 60 days. While this seems like a reasonable safeguard, what happens if a Community Strategic Action Plan is adopted in September when the Legislature is no longer in session? Would the governor call the Legislature into a Special Session? Taken as a whole, the problems with Proposition 31 outweigh the potential benefits. FCLCA OPPOSES PROPOSITION 31.


- Prohibits unions from using payroll-deducted funds for political purposes. Applies same use prohibition to payroll deductions, if any, by corporations or government contractors.
- Permits voluntary employee contributions to employer-sponsored committee or union if authorized yearly, in writing.
- Prohibits unions and corporations from contributing directly or indirectly to candidates and candidate-controlled committees.
- Other political expenditures remain unrestricted, including corporate expenditures from available resources not limited by payroll deduction prohibition.
- Prohibits government contractor contributions to elected officers or officer-controlled committees.

Under Proposition 32, both labor unions and corporations would be prohibited from deducting fees for political activities from employee paychecks. But here is the catch – corporations’ political activities would not be impacted because this is not how they raise money. Proposition 32 is being deceptively marketed as a campaign finance reform to take special interest money out of politics. In fact it is a cynical, partisan ploy to severely weaken the influence of labor unions, witness the recent $4 million donation to the Yes on 32 campaign by an organization linked to the Koch brothers. Real campaign finance reform requires the public financing of election campaigns. FCLCA OPPOSES PROPOSITION 32.

Proposition 33: Auto Insurance Companies. Prices Based on Driver’s History of Insurance Coverage. Oppose.

- Changes current law to allow insurance companies to set prices based on whether the driver previously carried auto insurance with any insurance company.
- Allows insurance companies to give proportional discounts to drivers with some history of prior insurance coverage.
- Will allow insurance companies to increase cost of insurance to drivers who have not maintained continuous coverage.
- Treats drivers with lapse as continuously covered if lapse is due to military service or loss of employment, or if lapse is less than 90 days.

If Proposition 33 sounds familiar, that is because it is a slightly modified version of Proposition 17, which voters rejected in June 2010 by a margin of 52 percent to 48 percent. Proposition 33, also bankrolled by Mercury Insurance Company to the tune of millions, would enable insurance companies to offer discounts to customers for continuous coverage. This may sound innocuous at first, except that under Proposition 103, passed by voters in 1988, insurance companies are prohibited from charging customers higher premiums because of a lapse in coverage. People have lapses in coverage for various reasons. A person may lose his or her job and not require a vehicle. Upon returning to work, s/he could be charged higher premiums due to the break in coverage. Under Proposition 33, insurance companies could charge customers without continuous coverage, largely lower-income California residents, higher premiums to make up for discounts offered to continuous customers. FCLCA OPPOSES PROPOSITION 33.

Proposition 34: Death Penalty. Support.

- Repeals death penalty as maximum punishment for persons found guilty of murder and replaces it with life imprisonment without possibility of parole.
Known as the SAFE California Act, Proposition 34 will end California’s death penalty and replace the penalty for first degree murder with one or more special circumstances to life without the possibility of parole. Under current law, when a person is convicted of first degree murder with a special circumstance(s) and the state is seeking a death sentence, a separate trial is held to determine whether the guilty party shall be sentenced to death or life without the possibility of parole.

FCLCA has opposed the death penalty on moral grounds since 1952. When the state takes a human life, it dehumanizes all of us by legitimizing violence as an acceptable means for solving problems. In recent years both opponents and proponents of capital punishment have raised doubts about whether the death penalty could ever be administered fairly or without risking the irreversible execution of an innocent person. FCLCA closely followed the work of the California Commission on the Fair Administration of Justice (CCFAJ), which was created by the State Senate to examine the administration of criminal justice in California.

CCFAJ’s final report estimates that the death penalty is costing taxpayers $125 million per year above and beyond the cost of keeping people in prison for life without the possibility of parole. The additional costs are attributed to the special housing on death row, the second trial phase to determine the penalty, and the cost of appeals (California law requires a higher level of certainty before the state puts someone to death). There is a shortage of appellate attorneys who are qualified and/or willing to handle appeals for the 727 condemned prisoners. In California, it takes over two decades from the imposition of a death sentence until an execution is carried out. In order to bring California in line with the national average of 12 years, we would have to spend double what we are spending now. These findings were echoed in a recent study published by the Loyola University Law School, which estimates that California has spent an astounding $4 billion on the death penalty since 1978 while carrying out 13 executions.

The Commission also found that wrongful convictions are structural rather than isolated incidents, resulting from notoriously inaccurate eyewitness identifications, faulty and coerced confessions, and the use of jailhouse snitch testimony. The Commission recommended legislation to address these issues but so far only legislation to prohibit the use of testimony by jailhouse informants unless corroborated by other evidence has been enacted.

The long delays in carrying out sentences are unfair both to victims and to defendants. Victims are required to relive the tragic losses through a lengthy appeals process and with the passage of time, memories of witnesses fade and some witnesses disappear. While there is no political will for weakening protections for defendants in order to make California’s death penalty more like Texas or Oklahoma, neither is there any political will for spending hundreds of millions dollars more to speed up the process by training more qualified attorneys, or for taking further steps to reduce the likelihood of wrongful convictions.

Given the lack of political will to fix the broken system, it is time for California to join with recent states – Illinois, New Mexico and New Jersey – in replacing death sentences with life without parole. Clearly there are better ways to reduce crime, and Proposition 34 directs $100 million over four years to local law enforcement agencies to help solve unsolved homicide and rape cases. FCLCA SUPPORTS PROPOSITION 34.

- Increases criminal penalties for human trafficking, including prison sentences up to 15-years-to-life and fines up to $1,500,000.
- Fines collected to be used for victim services and law enforcement.
- Requires person convicted of trafficking to register as sex offender.
- Requires sex offenders to provide information regarding Internet access and identities they use in online activities.
- Prohibits evidence that victim engaged in sexual conduct from being used against victim in court proceedings.
- Requires human trafficking training for police officers.

Perhaps no issue in recent times elicits such strong emotional reactions, and with good reason, for human trafficking involves numerous serious offenses perpetrated on vulnerable victims often by organized crime syndicates. Human trafficking is defined as depriving or violating the personal liberty of another person, with the intent to effect or maintain a felony violation related to pimping, pandering, manufacturing pornography and extortion, or to obtain forced labor or services.

According to the United Nation’s Global Initiative to Fight Human Trafficking, an estimated 2.5 million people are in forced labor, of which 270,000 are in industrialized nations. The majority of trafficking victims are between the ages of 18 and 24, but an estimated 1.2 million children are trafficked each year. In 2006, there were only 5,808 prosecutions and 3,160 convictions worldwide, meaning only one in every 800 people trafficked resulted in a criminal conviction.

Bankrolled by 2010 candidate for Attorney General and former Facebook Chief Privacy Officer, Chris Kelly, Proposition 35 expands the definition of human trafficking and redefines commercial sex acts and increases their penalties and imposes new fines to fund services for trafficking victims. The question before voters is whether Proposition 35 is a good public response to the problem in California. We think the answer is no.

The Legislative Analyst’s Office notes that only 18 people are serving state prison terms since California’s human trafficking law became effective in 2007. This is partly because human trafficking is usually prosecuted as a federal offense, but also because people who are being trafficked are often forced into criminal activities and are viewed by law enforcement as criminals rather than victims. Training police to recognize victims of human trafficking would improve enforcement and lead to increased criminal prosecutions of traffickers, but the two hours of training required in Proposition 35 is inadequate. Increased funding to provide services is a welcome development should the funds materialize, but the California Council of Churches, long involved with the federal government’s Rescue and Restore program, has expressed concerns that no standards for programs are in place.

Proponents contend that because human trafficking is a low-risk, high profit crime, current penalties do not provide enough of a deterrent. However, empirical evidence indicates that deterrence increases with the greater likelihood of being arrested and prosecuted rather than with increased penalties. Moreover, human trafficking rarely occurs in isolation. It virtually always includes other crimes which gives district attorneys wide latitude to charge multiple offenses and obtain lengthier sentences. Proposition 35’s changes to the rules of evidence which will make it harder to mount a defense are troubling. Expanding the definitions of human trafficking and commercial sex activity and lumping unsophisticated, street level criminals in with highly organized trafficking cartels could obscure the latter.

On balance Proposition 35 relies too heavily on a broken criminal justice system. Increased enforcement of existing law through increased training
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FCLCA OPPOSES PROPOSITION 35.


• Revises three strikes law to impose life sentence only when new felony conviction is serious or violent.
• Authorizes resentencing for offenders currently serving life sentences if third strike conviction was serious or violent and judge determines sentence was not serious or violent.
• Continues to impose life sentence penalty if third strike conviction was for certain non-serious, non-violent sex or drug offenses.

In the aftermath of the tragic kidnapping and murder of young Polly Klaas, California voters approved Proposing 184 to create California’s “Three Strikes” law. Unlike other three strikes laws passed in other states, California’s law is unique in that it allows any felony conviction to be prosecuted as a second or third strike conviction.

This measure requires the labeling of raw and processed food offered for sale to consumers, other than in restaurants, if made from plants or animals with genetic material that has been altered. Such food could not be labeled as “natural.” The label.(Continued)
ing requirements would begin in 2014 and would become fully operational in 2019.

Many countries, including Australia, China, New Zealand, and Saudi Arabia and the European Union require labeling of genetically modified foods. In Europe, which requires advance approval before genetically modified food can be introduced, only a few genetically modified foods are on the market. In the U.S., where the burden is on the government to halt the distribution of food if it is deemed injurious to health, genetic engineering has proceeded rapidly amid controversy over health risks and environmental impacts. A majority of processed foods in the U.S., particularly those containing soy and corn, contain genetically altered ingredients.

FCLCA supports the right of individuals and communities to strive for optimum physical health. Information is power, and by requiring labeling, Proposition 37 puts the power in the hands of consumers. Labeling will raise public consciousness on the impacts of genetic engineering on the food supply as well as on public health. FCLCA SUPPORTS PROPOSITION 37.

Proposition 38: Tax to Fund Education and Early Childhood Programs.

Oppose.

• Increases personal income tax rates on annual earnings over $7,316 using sliding scale from .4% for lowest individual earners to 2.2% for individuals earning over $2.5 million, for twelve years.
• During first four years, allocates 60% of revenues to K–12 schools, 30% to repaying state debt, and 10% to early childhood programs. Thereafter, allocates 85% of revenues to K–12 schools, 15% to early childhood programs.
• Provides K–12 funds on school-specific, per-pupil basis, subject to local control, audits, and public input.
• Prohibits state from directing new funds.

Proposition 38 raises all but the lowest personal income tax rates for 12 years in order to increase funding for public schools, early childhood education programs, child care and state bond debt repayment.

While it raises badly needed funds for important programs, Proposition 38 specifies that the new funds would be deposited into the newly created California Education Trust Fund. Because the new monies raised by Proposition 38 cannot supplant existing funds and would not count towards fulfilling the Proposition 98 guarantee (refer to the discussion of Proposition 30 above), the state will still be required to cut $6 billion from public education, community colleges and state universities should Proposition 38 receive more votes than Proposition 30.

FCLCA supports the programs included in Proposition 38, but given the ongoing, deep cuts to education and the state’s safety net since the Great Recession took hold, our state’s top priority right now is to get its fiscal house in order and preserve existing programs. Given that only Proposition 30 or only Proposition 38 – but not both – can take effect, Proposition 30 addresses the more compelling need at this time. FCLCA OPPOSES PROPOSITION 38.


• Requires multistate businesses to calculate their California income tax liability based on the percentage of their sales in California.
• Repeals existing law giving multistate businesses an option to choose a tax liability formula that provides favorable tax treatment for businesses with property and payroll outside California.
• Dedicates $550 million annually for five years from anticipated increase in revenue for the purpose of funding projects that create energy efficiency and clean energy jobs in California.

As part of a midnight hour 2009 budget deal, the Legislature allowed multistate corporations to choose their method of calculating their state income taxes. Prior to this change, which went into effect beginning in 2011, multistate corporations calculated their California taxes using a three-factor formula that takes into account the portion of the corporation’s sales in California, property holdings in California, and California payroll. Another method – known as the single-sales

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Proposition 30:  Temporary Taxes to Fund Education, Guaranteed Local Public Safety Funding.

FCLCA’s POSITION  MY VOTE

_____ YES   _____ NO   _____ YES   _____ NO

Notes:________________________________________________________________________

Proposition 31:  State Budget, State and Local Government.

FCLCA’s POSITION  MY VOTE

_____ YES   _____ NO   _____ YES   _____ NO

Notes:________________________________________________________________________

Proposition 32:  Political Contributions by Payroll Deduction, Contributions to Candidates.

FCLCA’s POSITION  MY VOTE

_____ YES   _____ NO   _____ YES   _____ NO

Notes:________________________________________________________________________

Proposition 33:  Auto Insurance Companies Pricing.

FCLCA’s POSITION  MY VOTE

_____ YES   _____ NO   _____ YES   _____ NO

Notes:________________________________________________________________________

Proposition 34:  Death Penalty.

FCLCA’s POSITION  MY VOTE

_____ YES   _____ NO   _____ YES   _____ NO

Notes:________________________________________________________________________

(over)
Proposition 35: Human Trafficking Penalties.

FCLCA’s POSITION       MY VOTE

_____ YES   _____ NO

Notes: __________________________________________________________

Proposition 36: Three Strikes Law.

FCLCA’s POSITION       MY VOTE

_____ YES   _____ NO

Notes: __________________________________________________________


FCLCA’s POSITION       MY VOTE

_____ YES   _____ NO

Notes: __________________________________________________________

Proposition 38: Taxes for Education, Early Childhood Development Programs.

FCLCA’s POSITION       MY VOTE

_____ YES   _____ NO

Notes: __________________________________________________________

Proposition 39: Tax Treatment for Multi-State Corporations, Clean Energy Programs.

FCLCA’s POSITION       MY VOTE

_____ YES   _____ NO

Notes: __________________________________________________________

Proposition 40: Redistricting, State Senate Districts, REFERENDUM.

FCLCA’s POSITION       MY VOTE

_____ YES   _____ NO

Notes: __________________________________________________________
factor – was gaining popularity in other states that requires multistate corporations to calculate their state taxes on the basis of their sales within the state. When California moved to the single-sales factor, it allowed multistate corporations to choose either of these two methods, presumably the one that resulted in the lower tax. Allowing multistate corporations to choose has resulted in a revenue loss to California of $1 billion annually.

Proposition 39, the California Clean Energy Job Acts, closes this tax loophole and requires multistate corporations to use the single-sales factor to determine their tax liability. It would eliminate the unfair tax advantage given to multistate corporations and increase corporate tax collections in excess of $1 billion per year. For the first five years, half the revenues would be deposited into the Clean Energy Job Creation Fund to support energy efficiency, alternative energy projects and clean energy jobs. The rest of the funds would go into the state’s General Fund and support public education and other state programs. After five years all of the funds would go into the state’s General Fund.

FCLCA has become skeptical of ballot box budgeting and the earmarking of new revenues for specific programs which ties the state budget in knots. Given the deep cuts to education and the state’s safety net in recent years, energy efficiency and clean energy jobs are not our most pressing priority. Still, the benefits of Proposition 39 far outweigh the downsides, and funding clean energy programs will create a new player in future state budgets. FCLCA SUPPORTS PROPOSITION 39.

FCLCA supported Proposition 11 in 2008 to prevent the Legislature from gerrymandering electoral districts and to put the responsibility for drawing new districts into the hands of the newly created, independent Citizens Redistricting Commission. Since the issuance of the new districts, the California Republican Party has been trying to overturn the new State Senate maps. A recent challenge to the new Senate districts failed in the State Supreme Court, and the California GOP has since decided to drop its campaign for Proposition 40, but the Referendum remains on the ballot.

A YES vote on Proposition 40 is a vote to retain the new State Senate districts. A NO vote is a vote to reject the new districts and to have them redrawn by the California Supreme Court. There is no valid reason to reject the new State Senate districts. FCLCA SUPPORTS PROPOSITION 40.

– Jim Lindburg
<JimL@fclca.org>

CREDITS:
Ballot Propositions – Official Title and Summary: CA Secretary of State
Map of State Senate Districts: CA Citizens Redistricting Commission
Photos: istockphoto.com
A Message from FCLCA’s Clerk  (continued from page 2)

There are always a few, though, where conflicting values are at play, and which we really struggle with. Coming to unity on these propositions can lead to some very lengthy conversations and sometimes requires additional meetings.

Also at times, we do not support or oppose a proposition and instead adopt a neutral position, either because we cannot arrive at unity or because there is a sense that the proposition is such a mixed bag that we just can’t make a recommendation.

Once we have reached unity on our recommendations, we ask our legislative director, Jim Lindburg, to write up our recommendations along with an analysis of each proposition. Jim participates in the meetings in which the decisions are made, listens carefully to the pro and con arguments that are made and includes a thoughtful analysis along with the recommended vote. His write-ups often include information that you may not find in your official voter guide.

We all hope that you will find our work useful as you decide how you will vote. And thank you for your ongoing financial support that allows us to continue – decade after decade – to bring a voice of conscience to the world of politics.  FCLCA