Cal-Tax Reports
A Digest of Recent Tax and Spending Developments

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Note from Cal-Tax: We hope you are enjoying this publication. If there are others in your office who should receive this publication, please let us know. Karl@caltax.org.

IN THIS ISSUE

CAL-TAX STAFF:

David Doerr Honored for 50 Years of Shaping State Tax Policy

Cal-Tax Chief Tax Consultant David R. Doerr was honored by the Cal-Tax Board of Directors on September 17 for reaching a major milestone – his 50th year as a policy analyst in California.

Mr. Doerr (shown at right with Cal-Tax President Teresa Casazza) joined the Assembly staff as an intern in September 1959. By 1960, he was chief consultant of the Assembly Government Organization Committee, and in 1963, he was named chief consultant of the Assembly Revenue and Taxation Committee. After many years of working on tax policy with everyone from Governor Ronald Reagan to Assembly Speaker Willie Brown, Mr. Doerr came to Cal-Tax in 1987.

Cal-Tax President Teresa Casazza said: "Dave still is the taxpayers' best friend and most alert watchdog, and he is widely recognized as the state's tax policy historian. And for those of us who have the pleasure to work with him, he is a friend, a mentor, and a role model for working hard and paying attention to details, while still having fun and making time for family."

INITIATIVE UPDATE:

Union-Backed Tax Increase Measure Enters Circulation; Majority-Vote Tax Increase and Tobacco Tax Initiatives Filed

Secretary of State Debra Bowen has officially cleared a corporate tax increase initiative to circulate for signatures. The initiative, sponsored by Lenny Goldberg of the union-backed California Tax Reform Association, would repeal the single sales factor, tax credit sharing and net operating loss carryback provisions of February's budget compromise. The measure needs 433,971 signatures by February 8 in order to win a place on the June 2010 ballot.

On September 18, the Cal-Tax Board of Directors voted to oppose the measure because it would have a negative impact on jobs and the state's economy.

In other ballot measure news:

UC Berkeley Professor Files Measure to Lower Vote Requirement for Tax Hikes and Budget. George Lakoff, a University of California at Berkeley linguistics professor, filed an initiative September 24 that seeks to lower the legislative vote requirement for approving taxes and the state budget. The initiative would require a simple majority vote for taxes and the budget, down from the current two-thirds vote requirement.

Mr. Lakoff, who gained fame in 2004 as the author "Don't Think of an Elephant," a book on using "framing" and specific phrases to advance a liberal political agenda, has dubbed his measure the "California Democracy Act."

Cal-Tax President Teresa Casazza said the measure would strip taxpayers of an important constitutional protection, and would lead to higher taxes. "Californians have made it crystal clear that they don't support higher taxes, and that they don't want to make it easier for the politicians to raise their taxes," Ms. Casazza said. "Supporters may try to spin this initiative so voters don't think of a tax increase, but Californians are smart enough to see through the rhetoric and understand that this initiative is intended to pave the way for major tax hikes."

On the initiative papers filed with the state attorney general, Mr. Lakoff used his taxpayer-funded UC Berkeley e-mail address as his official e-mail contact.

Tobacco Tax Initiative Filed. A new initiative proposes to increase the state's tobacco tax by $1 per pack of cigarettes to raise money for cancer research. The initiative was filed with the Attorney General's Office on September 22. The sponsors are represented by the Sacramento-based law firm of Olson, Hagel and Fishburn LLP.

Measure Would Allow Referendums on Tax Legislation. A wide-ranging initiative was filed September 24 to make a number of changes to the state's initiative and referendum processes, including a change that would allow tax levies and urgency bills to be put to a referendum.

The initiative, filed by an individual who does not appear to have major political backing, also would extend the time period for collecting signatures to a full year (to make it more likely for all-volunteer efforts to have a chance of qualifying measures for the ballot) and would require the legislative counsel to provide assistance in the drafting of initiatives. The measure is titled the "Grass Roots Initiative Reform Act."

CALIFORNIA AIR RESOURCES BOARD:

CARB Adopts AB 32 Regulation Fee

Three years after passage of **AB 32**, the California Air Resources Board (CARB) took one more step in implementing California's 2006 landmark environmental legislation by adopting a fee structure to fund the program.

At CARB's September 25 meeting in Diamond Bar, the board unanimously voted to adopt an administrative fee that will generate an estimated $63.1 million in new revenue. The exaction was described as being necessary to continue funding California's climate-change program and to repay program start-up loans.

CARB staff predict that the new fee structure would have a total economic impact as follows: a small family restaurant would pay about $17 per year, a 100-person office would pay about $9 per year, a full-service grocery store would pay $120 per year, and an average household would pay an additional 77 cents per year for natural gas and electricity and 80 cents per year for using their vehicles.

The direct fee-payers will be large natural gas distributors; large users of natural gas; producers and importers of gas and diesel fuel; facilities that combust coal and petroleum coke; refineries; cement manufacturers; and electricity importers and in-state generating facilities. CARB staff said that some of the fees would be passed on to businesses and consumers.

According to the new revised fee estimates by CARB staff, the following emissions sources would generate the following fee revenue: gasoline would generate $21.6 million, natural gas would generate $14.6 million, in-state and imported electricity would generate $13.2 million, diesel would generate $6.6 million, coal would generate $1.2 million, and cement processing would generate $0.9 million.

Concerns were voiced over where exactly the fee would be assessed. Previously, CARB staff had considered moving the fee implementation from the point of refinery to an alternative point. However, upon reviewing alternative proposals, staff determined that the best place to assess a fee would be at the refinery level.

The proposed fees were developed at three previous workshops and have been considered at previous CARB meetings.

A representative of the AB 32 Implementation Group (a coalition that includes Cal-Tax) noted that CARB has not been entirely transparent about how the new fee was developed.

An AB 32 IG spokesman said that while there was no opposition to a conceptual administrative fee, there is significant concern for how the administrative fee was to be developed. Recently, AB 32 IG filed a Public Records Act request, which was denied by a superior court judge on September 18.

CARB Legal Counsel Ellen M. Peter said that the court focused on a significant number of pages not released, which she said were drafts. She said those pages did not have to be released. She also commented that early discussions of where an administrative fee was to be assessed did not have to be released to the public. Ms. Peter said that CARB has been transparent by releasing necessary documents on its website.

According to Ms. Peter, not every paper has to be handed over to the public. The AB 32 IG, however, said the board should have released accounting data on the new fee structure, to provide better public understanding.

TAX COMMISSION:

Panel Misses Another Deadline, Expected to Issue Report Tomorrow

The Commission on the 21st Century Economy has missed another deadline, as it failed to issue its report to the Legislature and governor by September 20. The commission was given extra time – the third such extension granted by the governor – and is expected to issue its report tomorrow, although some commissioners have publicly announced that they will not sign the report. The commission said the final report will be posted on its website.

Commissioners Richard Pomp, Fred Keeley and Bill Hauck have announced that they will not sign the report. Mr. Keeley objects to the plan because it would decrease progressivity, while Mr. Hauck opposes the proposed business net receipts tax (BNRT).

Another commissioner, Edward De La Rosa, wrote a memo to his colleagues September 18 stating that he "could support the package currently under consideration, if my support were accompanied by my statement of concerns … and by my suggestions …." One of his concerns is that the BNRT – the centerpiece of the proposal – is not a good idea. He wrote: "I remain unconvinced that it's a good idea to eliminate the current corporate tax and replace it with the BNRT. I find it particularly troubling that we received very few expressions of public support for the BNRT; not even from the business community nor from academics and tax experts that appeared before us."

The governor has indicated that he will call a special legislative session to consider the commission's report, but details have not been announced.

STATE BOARD OF EQUALIZATION:

FTB Imposing Interest for Period of Deadline Postponements for Fire Victims

During the hearing of a tax appeal by the State Board of Equalization at its September 22-23 meetings in Culver City (*Appeal of Joe L. Santos*), a representative of the Franchise Tax Board disclosed that the FTB is charging taxpayers interest for the period of FTBinitiated deadline postponements due to October 2007 wildfires in Southern California. The news came as a surprise to BOE Member Bill Leonard and others.

In an October 29, 2007 press release on the postponements, the FTB did not mention the interest liability that would accrue. The press release said:

"Franchise Tax Board (FTB) today announced that taxpayers impacted by the wildfires in any of the federally declared disaster areas will be given special tax relief.

"California will match the postponement periods announced today by the IRS giving taxpayers impacted by the disaster who have tax returns, payments, or other time sensitive acts due on or after October 21, 2007, through January 31, 2008, an automatic postponement through January 31, 2008. This includes the estimated tax payment for the fourth quarter, normally due on January 15. For complete details regarding tax deadline postponements, refer to the IRS News Release IR-2007-178."

The press release added, "The last thing victims of these fires need to worry about is taxes."

"I remember bragging about your press release that billings are suspended," Mr. Leonard said. "I didn't know that interest continued. I've got a *mea culpa* to lots of people."

Under this system, Mr. Leonard added, "Government profits from their own delays."

In the *Santos* case, the FTB did not respond to a protest filed in February 2007 until after the fire postponement, while running the interest clock on the taxpayer. The FTB said the reply would have gone out in October, but was not sent out due to the announced postponement. BOE Member Michelle Steel also took issue with the delay in responding to a taxpayer protest.

Mr. Leonard urged the FTB and BOE to establish timelines for response to the filing of a protest to prevent extra interest being assessed taxpayers.

In the *Santos* case, Ms. Steel moved to abate interest for the period May 2007 to January 2008. Mr. Leonard seconded the motion. The motion failed on a 2-2 vote, with Board Chair Betty Yee and Deputy State Controller Marcy Jo Mandel, representing Controller John Chiang, voting "no."

In other board developments:

Flap Over Sales-for-Resale Exemption Resurfaces. Over the years, there have been a number of protests over the administration of the sales tax exemption for sales for resale. On September 24, the controversy arose again. In the *Appeal of Elufa Corporation,* board staff disallowed a resale certificate given to Elufa because a line describing the property was not filled out. The board staff then specifically disallowed an "XYZ letter" sent by the seller to the purchasers to verify that the sales are for resale. The XYZ letter was signed by the purchaser, who wrote that all of the items were for resale. Board staff then contacted the purchaser, and at first disallowed 50 percent of the tax-exempt sales, but later reduced this to 25 percent.

Board staff said a valid resale certificate gives absolute protection to the seller, but an XYZ letter does not provide the same level of protection. These letters are subject to verification, staff added. Board staff said the retailer has to enforce the sales-for-resale exemption.

The case at issue involved catalogs sold by Elufa, a small printing shop, primarily to American Latex Corp. and Line One Laboratories, to be sold to their customers.

Elufa's Jimmy Kha pointed out that the catalogs had sales prices printed on them, and he had no way of knowing they were not all sold. He said he was "very disgusted" with the auditor, and said the audit was "very unfair."

Mr. Leonard observed that the board has written documentation from the XYZ letter that they were sales for resale vs. hearsay from the board staff that some were not. "How is the board to judge?" he asked. Ms. Steel asked why staff would accept a verbal statement, but not a written, signed statement. Ms. Mandel asked if the purchaser paid use tax on catalogs given away. Board attorney David H. Levine said he didn't know, but would not expect the purchaser to pay a use tax.

Mr. Leonard asked if the seller has to write down, on the original resale certificate, every item purchased. He noted that the certificate has only one line. Staff said they would accept a certificate that says "see purchase order." Mr. Leonard said he has been bothered by the one line on the resale certificate to describe products.

A motion to deny the appeal failed on a 2-2 vote, with Ms. Yee and Ms. Mandel voting to deny, and Mr. Leonard and Ms. Steel voting "no." The matter then was put over to a future meeting.

(**Cal-Tax:** We fail to understand why the board does not collect the use tax from the purchaser in these situations, since the purchaser is the beneficiary of the sale-for-resale exemption. The retailer, who is an innocent third party, has to pay the disputed tax out of his or her own pocket.)

Jerome Horton to Be Sworn In October 5. The board's newest member, Jerome Horton, will be sworn in at 5:30 p.m. on October 5 at the California African American Museum in Los Angeles. Mr. Horton was appointed by the governor to fill the vacancy in the Fourth District seat that occurred when Dr. Judy Chu was elected to Congress.

STATE BUDGET:
State to Sell Off $2 Billion Worth of Buildings

Seeking an infusion of cash for a budget that now appears to be out of balance, the Schwarzenegger administration is planning to sell off $2 billion worth of state buildings, according to report in *The Sacramento Bee*. Eleven relatively new buildings are on the block – including the Franchise Tax Board's world headquarters on Butterfield Way. The state would plan to lease back the buildings.

According to *The Bee,* $1.4 billion of the proceeds would be used to pay off bonds, and $600 million would flow to the general fund. (**Cal-Tax:** The building that should top the list of those to be sold – the State Board of Equalization headquarters in downtown Sacramento – is not on the list. The building has been in the news repeatedly for problems including water leaks and windows that spontaneously fell out of their frames, and the state is spending millions each year for remediation of building defects.)

From a budget standpoint, these sales will result in more of the current level of spending being funded by one-time revenue, with higher state costs in future years to make the lease payments.

CALIFORNIA'S BUSINESS CLIMATE:
Regulations Cost California $492 Billion Per Year, Study Finds

California regulations cost the state $492.99 billion per year, according to a study released this week by the Governor's Office.

The estimated $492.99 billion includes the total direct, indirect and induced cost of regulations incurred by California. The figure includes the total income that would have been paid to employees had the state utilized a less burdensome regulatory structure, the impact from the total number of jobs lost in California, and the total property, excise, sales and business license taxes and fees that were not generated due to reduced economic activity in California.

The study, produced by two academics from California State University at Sacramento, was the first study of its kind to review the cumulative fiscal impact of California's regulatory structure.

The study's findings showed that the cost of regulation in the state resulted in an employment loss of 3.8 million jobs, and a $210.47 billion loss in wages and benefits paid to Californians. Also, the total cost of regulation was $134,122.48 per small business, and the total tax and fee revenue lost was $57,260 per small business. About one job was lost per small business.

By stifling the economy, the state's regulations are costing the state approximately $16 billion a year in lost tax revenue, the study found.

AB 2330 (Arambula) of 2006 required that a study be completed and reviewed by the Legislature on the cost of state regulations on small business. The study was turned in to the Governor's Office in 2008, and not released until recently.

The study reviewed California's small businesses, which were said to make up more than 90 percent of the state's employers. The study does not include **AB 32** of 2006, which includes costly regulations intended to reduce greenhouse gas emissions in this state.

Assemblyman Dan Logue led a press conference in the state Capitol on September 24 to discuss the study and to call for a moratorium on new state regulations until the cost of existing regulations can be studied further. He said the economic impact of proposed regulations should always be considered, especially at a time when the state's unemployment rate is 12.2 percent.

Cal-Tax Director of Communications David Kline, speaking at the press conference, said: "The report shows that regulation in California is rapidly becoming strangulation of the economy. Policy makers need to look for ways to undo the unnecessary regulations while keeping the important ones that protect the public, and really free up the economy to expand and create more jobs. The best source of new revenue for the state is a thriving economy."

Mr. Kline continued: "There is $16 billion in revenue that the state could be collecting if the economy was just allowed to thrive more, without the impact of overregulation. Instead of searching for new ways to tax people, or entirely new taxes on anybody, we would urge policymakers to look for ways to free up the economy and let the job-creators do their thing, and the state will reap the benefits, too."

Representatives of the National Federation of Independent Business, the California Manufacturers and Technology Association, the Hispanic Chamber of Commerce and other groups also participated in the press conference, along with Assemblymen Roger Niello, Bill Berryhill, Tom Berryhill and Ted Gaines.

Mr. Logue said that he intends to pursue regulatory reform on a bipartisan basis, and hopes to work with labor unions that are concerned about the job losses created by state regulations.

CALIFORNIA'S BUSINESS CLIMATE:

California's Business Tax Climate Is Nation's Third Worst, Study Finds

A study conducted by the non-partisan Tax Foundation reports that California's business tax climate is among the nation's worst, with only New Jersey and New York having higher business tax burdens than the Golden State.

The Tax Foundation's *2010 State Business Tax Climate Index* study, released September 22, found that South Dakota has the most "business-friendly" tax system. The index measures the competitiveness of the 50 states' tax systems and ranks them based on the taxes that matter most to businesses and business investment: corporate income, individual income, sales, property and unemployment insurance taxes.

"When policymakers are considering tax changes in their states, they should remember two rules: Taxes matter to business, and states do not enact tax changes – increases or cuts – in a vacuum," said Kail Padgitt, who authored the report.

The report noted that California ranks poorly despite having the 13th best score on property taxes.

A note on California's status explains: "With such a low ranking, it may not assuage California taxpayers to hear that the state's tax system has improved one spot this year and now ranks 48th best. Unfortunately, even this slightly good news does not come because of improved tax policy. New York implemented even worse policies, dropping below California. In fact, California's raw score dropped substantially because it added

0.25 percent to each personal income tax rate and increased its statewide sales tax to 8.25 percent, now the nation's highest state-level rate."

(**Cal-Tax:** Note that this ranking doesn't take regulations into effect, and as the previous story in this week's *Cal-Tax Reports* indicates, regulations add significantly to the cost of doing business in California. Also, the study does not account for tax policies like California's 20 percent "understatement penalty," which has the effect of forcing law-abiding businesses to overpay their taxes.)

CALIFORNIA'S BUSINESS CLIMATE:

California's Energy Policies May Lead to More Jobs in Nevada, Silver State Officials Say

Energy policies in the Golden State may have given Nevada the upper hand, thus costing California both jobs and future tax revenues, a Nevada newspaper reports.

The *Las Vegas Sun* noted that an executive order signed by Governor Schwarzenegger last week would require one-third of all energy sold to Californians to originate from renewable energy sources within the next decade. The order was issued after the governor said he would veto **SB 14** (Simitian) and **AB 64** (Krekorian), both of which would have mandated increased production of renewable energy in California. The governor said the legislation could have increased energy rates by restricting California's energy suppliers from utilizing out-of-state energy generators.

The *Sun* said this is good news for Nevada, where business taxes are nominal, there is a less stringent regulatory structure, and desert areas eliminate problems with residents complaining about locating power generators in their neighborhoods.

"Given the difficulty of building projects in California, if that state is going to meet its needs it's going to need to get power on a regional basis," Geothermal Energy Association Executive Director Karl Gawell said.

According to Mr. Gawell, since renewable energy developments are easier to get off the ground in Nevada, it is the better place to do business. Two of the factors that have made Nevada more renewable-development friendly are that public lands are less populated and land use lawsuits don't delay projects.

Senator Harry Reid told the *Sun*: "California clearly has plenty of an electricity demand, so with the right economic development strategy and strong public-private partnerships, we really have a great opportunity to sell affordable and clean power into that market. That means lots of new Nevada jobs." (Source: *Las Vegas Sun*, September 23.)

PUBLIC PENSIONS:

Many School Administrators Getting Six-Figure Pensions

More than 3,000 retired school administrators are getting $100,000 or more in California taxpayer-guaranteed pensions from the State Teachers Retirement System, according to a STRS database obtained by the *Orange County Register.* There are 196,000 people getting STRS retirement checks, and only 1.6 percent of the retirees account for 5 percent of the $8 billion annual STRS payments.

The average STRS pension is $36,272, according to June 2008 figures. However, those retiring in 2008 got an average pension of $51,948.

According to officials, the system will face a $23 billion funding gap by 2039.

One of the members of the $100,000-plus club is former Capistrano Union School District Superintendent James A. Fleming, who gets $141,331 from STRS, on top of a $64,068 Florida pension. The *Register* noted that the pensions will continue even if Mr. Fleming is convicted on a felony indictment charging him with using school resources to track his political enemies.

According to the *Register,* former Laguna Beach Unified School District Superintendent Theresa Daem earns the eighth-highest pension in the STRS system, at $235,224 a year. She retired from a four-school district with just 3,700 students. (Source: *Orange County Register,* September 20.)

PROPERTY TAXES:
BOE Says Step Transaction Doctrine Applies to Negate a Change of Ownership

For years, the assessment community aggressively sought to broadly define property transactions as changes of ownership, which usually triggered a higher assessment (see *Steinhart v. County of Los Angeles*). Now, with so many declines in value, changes of ownership produce lower base-year values for properties assessed under Proposition 8. In response to inquiries, the State Board of Equalization is advising assessors that the step transaction doctrine can be used to negate a change-of-ownership for decline-in-value properties (see **Letter to Assessors 2009-41**).

Ironically, the step transaction doctrine was first enunciated to trigger a change-of-ownership in *Shuwa Investments Corp. v. County of Los Angeles.*

According to the BOE:

"Recently, we have received numerous inquiries regarding change-in-ownership transactions involving properties where the current market value is less than the factored base-year value. Specifically, a property owner transfers his/her property to a second party, and then the second party transfers the property back to the original owner, often on the same day. The apparent intended consequence is to record a change of ownership that would establish a new base-year value at a lower current market value, thereby reducing property tax obligations. County assessors have inquired as to whether the step transaction doctrine could be applied to these transactions. The answer is yes.

"The step transaction doctrine is applied when a series of transfers are used to transfer real property in order to circumvent the change-in-ownership laws. The general principle is that whether a transaction is a change in ownership depends upon the substance of a transaction rather than its form. That is, the doctrine focuses on whether each step of a transaction may stand alone or, rather, whether the transaction should be treated as a whole."

WASTE, FRAUD & MISMANAGEMENT:
Your Tax Dollars at Work

San Jose Giving Low-Income Home Loans to Top City Officials. If you are a big-shot working for the city of San Jose, you may be eligible for a low-interest home loan. Currently, the city has seven low-interest loans outstanding, worth a total of $1.75 million.

In August, the City Council had to forgive an "underwater" mortgage when former police auditor Barbara Attard left city employment and had to repay the loan. She had a $250,000 city loan, granted in 2004 when property values were higher, with 2.86 percent interest. The city doesn't believe any other loans are "underwater."

City Councilman Pete Constant urged the council not to make anymore loans, and along with Councilwoman Nora Campos, he voted "no" on a settlement with Ms. Attard. They were outvoted, however, and the city forgave the loan, took over the property and agreed to pay $94,000 on the property's mortgage.

According to the *San Jose Mercury News,* redevelopment director Harry Mavrogenes, an existing loan-holder, "already lived in San Jose and had been working for the city for nearly a decade when he used a city loan in 2006 to buy a $1.5 million spread near the Almaden Golf and Country Club." (Source: *San Jose Mercury News,* September 20.)

CSU Backs Out of Lease Deal, Causing Tax Dollars to Be Squandered. Board of Equalization Member Bill Leonard reported in his September 21 newsletter that California State University officials have backed out of a lease arrangement with the BOE, resulting in a massive waste of time and money for the tax agency.

Mr. Leonard wrote: "I have learned so much since moving from the Legislative Branch to the Executive Branch. One lesson is that faceless huge bureaucracies can be as unethical and duplicitous as any individual. Our Board of Equalization has grown tremendously over the last 20 years with not only the growth of the economy but the dozens of new 'fee' programs assigned to us by the Legislature. So we set out to find additional space to house these people.

"After jumping all the hurdles to get permissions we advertised for new space in Sacramento. We found a few worthy prospects and spent time reviewing them. In the end we decided that a building owned by California State University, Sacramento fit our needs. We told the other bidders the bad news and focused on the CSU property. We have spent thousands of hours in space planning, building logistics of the move, and details of the lease. It has now been two months of negotiations since we chose this property and sent the others away.

"After leading us along for all this time, some CSUS decision makers have now told us the property is no longer for lease. It is unethical behavior of saying one thing and then doing another that gives government bureaucracies such a bad name. And now another government agency is the victim. It is a good lesson for the folks at the Board of Equalization to know that government lies."

The property in question reportedly is on Hornet Drive, south of the CSUS football field. (Source: *Leonard Letter*, September 21.)

University of California Lays Off Teaching Staff, Hires Lobbyist. The University of California system has so many budget problems that it has laid off thousands of employees, furloughed faculty, cut class offerings, reduced library hours and increased student fees. Still, UC President Mark Yudof has found $121,000 to hire a new lobbyist, *The Sacramento Bee* reports. Vince Stewart, formerly the governor's deputy secretary of higher education and workforce development, started September 1. His annual salary of $121,000 currently equates to take-home pay of $111,000 because of furloughs. He also will receive generous fringe benefits.

The Bee noted that two weeks ago, Mr. Yudof told students: "We are going to Sacramento, but when you contact our political leaders, they flat out don't have the money." The paper asked, "So why spend scarce funds to lobby legislators who have no money?" A UC spokesman said lobbying is needed to stave off reductions to the university's current budget. (Source: *The Sacramento Bee*, September 24.)

Union Outsources Picketing as it Protests Outsourcing. The union representing Sacramento County engineers, engineering technicians and technical inspectors has set up picket lines to protest the county's use of private-sector consultants on a construction project at Sacramento International Airport. But the union hasn't been practicing what it preaches, *The Sacramento Bee* reports. Two bargaining units have been outsourcing the picketing by hiring homeless people to carry signs and walk the picket lines. On September 21, about 10 homeless people were picketing at the airport, carrying signs printed by the bargaining units, the paper reported. "The homeless protesters seemed pleased for the opportunity to picket," *The Bee* stated. "Carmen Bray said she and her co-protestors are getting $40 a day plus lunch for about five hours of work." (**Cal-Tax:** Are 1099s being filed for these independent contractors? Should the homeless people form a union to demand better pay, more rest breaks and medical insurance coverage?) (Source: *The Sacramento Bee*, September 22.)

Community Paid for Park That City Refuses to Build. Residents of Pacific Highlands Ranch, in San Diego County, have paid for a five-acre park in their community, but the city refuses to move forward with the project because it says it won't have enough money to operate and maintain the park. Residents are complaining that the city is reneging on its promises, and they say the city pushed a "smart growth" agenda that was supposed to provide services like parks as a tradeoff for higher density. Residents note that the delay means their children are going to grow up and possibly miss out on the benefits.

The funding comes from a "facilities benefit assessment" of almost $80,000 per single-family unit parcels, initially paid by developers.

One resident said he got especially frustrated when the mayor delivered a speech before the San Diego County Taxpayers Association in which he touted his resolve to build a new City Hall, downtown library and convention center expansion, even while the park project sits on hold. (Source: *VoiceOfSanDiego.org*, September 20.)

POTPOURRI:
Symposia, Sightings, Salutes & Snafus

Americans Believe Government Wastes Significant Amounts of Tax Money. Most Americans believe government at all levels wastes a lot of tax money, according to a new Gallup Poll. The poll found that 35 percent of Americans think the federal government wastes more than half of every tax dollar, compared to 26 percent who thought waste was that high in 2001. Additionally, poll respondents said their own state government wastes, on average, 42 cents of every dollar (up 4 cents from 2001), and local government wastes, on average, 37 cents of every dollar (up 1 cent from 2001). (Source: *Orange County Register*, September 19.)

High Taxes Factored Into Beatles' Breakup, Author Says. A book by Tony Bramwell, a long-time friend of the Beatles, says Britain's high tax rates were a contributing factor to the band's breakup. The book, *Magical Mystery Tours*, says sky-high taxes and various efforts to avoid them helped destroy the group's cohesion and sap their morale. In 1970, the year that Paul McCartney decided to go out on his own, the top British income tax rate was 83 percent. (**Cal-Tax:** Members of the band criticized high tax rates in interviews about their 1966 song "Taxman," which has the famous lyrics: "If you drive a car, I'll tax the street; If you try to sit, I'll tax your seat; If you get too cold, I'll tax the heat; If you take a walk, I'll tax your feet.") (Source: *The Tax Foundation*, September 10.)

Is Legislature Coming Back Into Session? Will the Legislature reconvene in October to consider the governor's vetoes, the tax commission report, water issues and bills that were still pending on September 11? *Capitol Weekly* reported that Senate President Pro Tempore Darrell Steinberg sent an e-mail to members telling them to return for a special session, beginning October 13. The *Los Angeles Times* said this special session date was picked because so many senators are travelling overseas. Seven are leaving for Europe this week. (Source: *Capitol Weekly,* September 24 and *Los Angeles Times,* September 25.)

Blast From the Past

"It is my belief that we are going to need the safeguard of a favorable financial balance soon after the war has ended and that the size of that balance will have a definite influence upon the facility with which we absorb post-war shocks. I want to see provision made now which will conserve a sufficient portion of our present surplus to ease the strain of post-war transition."

— Governor Earl Warren, discussing his "rainy day fund" during a speech at Cal-Tax's Annual Meeting in 1943. (Excerpted from *California's Tax Machine*, by David R. Doerr.)