



CalTaxReports

California Taxpayers Association

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INITIATIVE UPDATE:

Teachers Union and Hospital Association Unite Behind Measure to Extend Personal Income Tax Increase

The California Teachers Association and the California Hospital Association joined forces December 3 and filed an initiative that would extend the higher personal income tax rates approved by voters in 2012 with passage of Proposition 30.

[Initiative 15-0115](#), which proponents call "The California Children's Education and Health Care Protection Act of 2016," would allow Proposition 30's sales tax increase to expire, but would extend the increase in personal income tax rates through tax year 2030.

The personal income tax rates imposed by Proposition 30 would not be changed by the new initiative. Under existing law, the Franchise Tax Board adjusts income brackets for each taxable year to account for inflation.

Proposition 30, placed on the 2012 ballot by Governor Jerry Brown, included both an income tax and sales tax increase. The sales tax increase is scheduled to sunset at the end of 2016, while the income tax increase is scheduled to expire before the 2019 taxable year.

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1215 K Street, Suite 1250, Sacramento, CA 95814 ■ (916) 441-0490 ■ fax (916) 441-1619 ■ www.caltax.org

The California Teachers Association and the California Hospital Association each had filed initiatives that could have presented voters with the decision of picking between taxes supporting education or health care. Rather than face the prospect of competing with each other on the ballot, they joined forces to file the new joint measure. They are expected to begin collecting signatures as soon as the attorney general prepares the official title and summary for the initiative, and observers believe the groups have enough resources to easily qualify the measure for the November 2016 ballot.

This new initiative would divert a portion of the revenue now earmarked for school funding to health care programs. Specifically, the initiative would require the Department of Finance to determine how much of the revenue generated for education exceeds the minimum school funding guarantees under Proposition 98 and school workload budgets. The department would take 45 percent of the remaining funds (up to \$2 billion) and earmark the money for the California Department of Health Care Services for the stated purpose of ensuring that students are healthy, and to improve students' school attendance.

In other initiative news:

BOE Member George Runner and Senator Bob Huff File Initiative to Redirect Bond Funds to Water Projects. State Board of Equalization Member George Runner and state Senator Bob Huff filed an initiative November 13 that seeks to divert funding from California's high-speed rail project and Proposition 1 water bond to new water projects specified by their initiative.

"This initiative does not raise taxes," Mr. Runner said. "It does not ask for additional revenue or add any more debt. It reallocates unused money from past bonds to make better use of it during this dire drought. These funds will help store new water for California families, businesses and food production."

[Initiative 15-0107](#) would redirect approximately \$8 billion in unspent high-speed rail bond funds and \$2.7 billion in unspent water project funds toward projects focused on increasing the state's supply of drinking water and irrigation.

In addition to the bond measure, Mr. Runner and Senator Huff filed [Initiative 15-0109](#), which effectively would prohibit bond funding from financing the construction of the California High-Speed Rail project. The initiative also would stop all other funding, including legislative appropriations, for the project by 2025, if it is determined that the project will be over-budget, unfeasible or doesn't meet the voters' original intent.

Initiative Would Establish Electronic Voting in California. [Initiative 15-0108](#), filed November 13, would allow the state to contract two specifically named technology vendors to develop an electronic voting system for California. The vendors, CGI Group and SCYTL, currently work on other IT projects for state governments (including the Franchise Tax Board's massive IT project), and have a number of electronic voting system contracts with other states.

CALIFORNIA'S JOBS CLIMATE:**California Remains State With Third-Worst Business Tax Climate**

California ranks 48th out of the 50 states in terms of business tax climate, according to the 2016 edition of the *State Business Tax Climate Index*, released November 17 by the Washington, D.C.-based Tax Foundation. The Golden State, which has had the third-worst business climate in the Tax Foundation's rankings for several years, again came in just ahead of New Jersey and New York.

The index analyzes more than 100 tax variables in five categories: corporate, individual income, sales, property and unemployment insurance taxes.

"The states in the bottom 10 tend to have a number of afflictions in common: complex, non-neutral taxes with comparatively high rates," the Tax Foundation stated.

California ranked 35th in corporate tax structure, 50th in individual income tax structure, 40th in sales tax structure, 13th in property tax structure, and 13th in unemployment tax structure.

The three best states in this year's index, in order, are: Wyoming, South Dakota and Alaska.

STATE BUDGET:**State Has Revenue Windfall, Major Growth in Education Spending and Strong 'Rainy Day' Fund, Legislative Analyst Reports**

The state government is in good fiscal shape, the Legislative Analyst's Office reported November 18, with revenue for the current fiscal year expected to be several billion dollars higher than anticipated when the budget was approved in June, and the state's "rainy day" fund potentially growing to \$7.2 billion by the end of the 2016-17 fiscal year.

Because of the improving economy and revenue growth, the state's Proposition 98 minimum funding guarantee for public schools will increase \$3.6 billion in 2016-17, the analyst projected. The minimum funding level for schools will reach \$71.4 billion in 2016-17, and will be almost \$10 billion higher in 2019-20 than it was in 2014-15, the analyst projected.

The analyst's rainy day fund estimate assumes that the Legislature and governor will approve a "true-up" payment of \$2.18 billion into the fund as part of the 2016-17 state budget – an assumption that relies on the Legislature making a larger payment than required by a literal reading of the law, the analyst noted.

"The report from legislative analysts will probably spark a new round of wrangling in the Capitol over the state's financial commitments," the *Los Angeles Times* reported November 18. "Brown is scheduled to release his next budget proposal in January. When

the current fiscal year ends in June, the state could have \$3.6 billion more revenue than expected when the governor signed the budget.”

Revenue already is \$1.1 billion above projections this year, the *Associated Press* noted in a November 18 story.

The *AP* added: “The forecast also assumes the expiration of Proposition 30, the temporary sales and income tax increases voters approved in 2012. The additional tax on high-income earners is set to expire in 2018 and the one-quarter cent sales tax expires in December 2016, but union-backed groups already are floating ... initiatives to ask voters to permanently continue the taxes.”

Asked about the efforts to extend Proposition 30’s income tax provisions, Governor Jerry Brown told reporters December 1 that some of the proposals “can be quite harmful in the way they tie up the budget” by earmarking revenue. “I’ll stick to my pledge” that Proposition 30 is temporary, the governor said, but added that in the initiative process, “Anybody can do whatever the hell they want.”

The legislative analyst focused on the rainy day fund – officially known as the Budget Stabilization Account, or BSA – that was created by voters with the passage of Proposition 2 in 2014.

Proposition 2 created new rules for minimum annual deposits into the rainy day fund, and also requires the state to spend a minimum amount each year to pay down specified debts. The measure has two avenues for making reserve deposits and paying debt. First, it requires the state to put aside 1.5 percent of general fund revenue (the “base amount”). Second, it requires the state to put aside a portion of capital gains revenue that exceeds a specified threshold. The state combines these two amounts and then allocates half of the total to pay down debts and the other half to build the rainy day reserve.

Under Proposition 2’s “true-up” provisions, the state will reevaluate the rainy day fund estimate twice: once in each two subsequent budgets. Under these reevaluations, the state revises the deposit up or down if capital gains taxes were higher or lower than the state’s prior estimates. The state does not revisit its estimate of the base amount in the true-up calculation. Debt payments also are not adjusted when new capital gains estimates are available later, which means that the entire revised estimate contributes to reserves rather than debt payments.

“Our current estimate of the 2015-16 Proposition 2 requirement includes debt payments and an initial deposit made in the June 2015 budget plan, and a true up deposit that will be made in the 2016-17 budget,” the legislative analyst said. “We estimate this total requirement will be \$5.9 billion under our ‘main scenario,’ which assumes continued economic growth. This requirement includes debt payments of \$1.9 billion, an initial deposit of \$1.9 billion, and a true up deposit of \$2.2 billion. ... We estimate the total BSA reserve at the end of 2016-17 would grow to \$7.2 billion under our assumptions of continued economic growth and a somewhat weak stock market.”

The analyst’s \$7.2 billion estimate includes four components: a \$1.6 billion deposit made before Proposition 2 was approved; the 2015-16 budget’s deposit of \$1.9 billion; the first 2015-16 true-up deposit of \$2.2 billion; and the 2016-17 budget’s deposit of \$1.6 billion.

The first two amounts are actual figures from the 2015-16 budget, while the latter two are estimates by the analyst.

“Our reading of Proposition 2’s requirements is based on our understanding of legislative intent,” the analyst wrote. “Under a literal reading of the measure, the true up would be lower by an amount equal to half of the base amount (roughly \$900 million). Had we applied this alternative reading, Proposition 2 BSA deposits would have been about \$900 million smaller each year beginning in 2015-16. We chose not to reflect this literal reading because systematically reducing the BSA deposit did not seem to be the intent of the Legislature or voters at the time of enactment.”

In other budget news:

Democrat Questions Necessity of Proposed Tax on Managed Care Organizations.

The Legislature’s Conference Committee on SBX2 2 and ABX2 1 held an [informational hearing](#) December 1 in Los Angeles to discuss proposals to increase taxes on managed care organizations to help finance the Medi-Cal system, and one of the big questions was whether a tax increase is needed, in light of the revenue windfall projected by the legislative analyst.

Senate Health Committee Chairman Ed Hernandez, a Democrat from Azusa, opened the hearing by criticizing Governor Jerry Brown’s Department of Finance for not sending a representative to testify on behalf of the tax measures supported by the governor.

“I’m a little disappointed that the Department of Finance declined our invitation to be here today, because I believe the recent LAO revenue projection should give us some caution about the impacts associated with the rising cost of insurance,” Senator Hernandez said. “We know a new MCO tax would have an impact on health insurance premiums that individuals, families and businesses have to pay – for a product they are now required to purchase by law. It seems to me that Finance should be here to make a case about why the tax remains necessary in light of the LAO projections.”

Political columnist Dan Walters of *The Sacramento Bee* wrote December 2 that the analyst’s revenue projection “stiffens Republican opposition to raising any taxes and raises the question of whether the MCO tax is even needed, since the supposed hole in Medi-Cal financing could be easily filled with a fraction of the extra money pouring into the state treasury.”

PUBLIC EMPLOYEE PENSIONS:

CalPERS Reduces Estimate of Investment Returns, Triggering Higher Taxpayer Costs

The board of the California Public Employees’ Retirement System (CalPERS) voted November 18 to reduce its estimate of future investment returns, a move that the *Los Angeles Times* noted “will require taxpayers to pay billions of dollars more than expected over the next decades.”

For many years, CalPERS has estimated that it will earn an average of 7.5 percent or more a year from its investments. Under the new plan, the pension fund will slowly reduce that rate to 6.5 percent, in increments over the next 20 years.

“With investment income contributing less to the cost of government worker pensions, taxpayers must pay more,” the *Times* noted.

The newspaper offered the example of a California Highway Patrol officer who is paid \$105,000 per year. Taxpayers currently pay \$47,000 per year for that officer’s pension, but that figure will jump to \$68,000 per year under the new estimated investment returns for CalPERS.

After several years of enjoying double-digit returns, CalPERS this year earned just 2.4 percent on its investments.

Governor Jerry Brown objected to the phased-in approach, indicating that it would be more accurate to lower the estimate right away, to reflect the current state of affairs. In a statement released after the CalPERS vote, the governor said: “I am deeply disappointed that the CalPERS Board reversed course and adopted an irresponsible plan that will only keep the system dependent on unrealistic investment returns. This approach will expose the fund to an unacceptable level of risk in the coming years.”

In related news, CalPERS disclosed that it paid approximately \$1.1 billion in the latest fiscal year to the companies that manage its private-equity investments. That amount includes approximately \$700 million in profit sharing. CalPERS officials said the cost is justified by profits, which totaled \$4.1 billion last year.

(Sources: *Los Angeles Times*, November 17 and November 18; *The Sacramento Bee*, November 25; News release from Governor Jerry Brown, November 18.)

STATE BOARD OF EQUALIZATION:

Actor Rob Lowe and Wife Sheryl Berkoff Substantially Prevail in Tax Dispute With FTB

It has taken a long time, but actor Rob Lowe and his wife, Hollywood makeup artist Sheryl Berkoff, finally have the Franchise Tax Board off their backs. On November 17, the BOE ruled substantially in their favor in a dispute over the basis of their showplace home on Garden Lane in Montecito (near Westmont College).



The 20-room Georgian-style home at the center of the dispute was featured in the November 2010 issue of *Architectural Digest*, and was sold in 2005 for \$25 million.

Mr. Lowe and Ms. Berkoff (pictured, left, with attorney Mark Bernsley) argued that the basis of their home was \$13.52 million,

while the FTB said it was closer to \$6.67 million, thus substantially increasing the capital gain on its sale. The BOE voted 5-0 to set the basis at \$11.36 million. Ms. Harkey and Mr. Runner said they supported the taxpayers' figure, but Ms. Harkey observed that there did not appear to be a third vote to adopt the taxpayers' basis.

The FTB withdrew a \$178,671 penalty for failure to furnish information.

After extensive discussion by board members, the amount allowed was less than the taxpayers' stated basis primarily because capitalized mortgage interest and other minor items were removed from the taxpayers' number. It was not clear whether the capitalized mortgage interest number (which stemmed from the portion of incomplete records provided) was in or out of the taxpayers' basis figure, but observers concluded that it probably was not in the number. (**CalTax:** The Lowes had a number of very well-qualified experts estimate what it would have cost to acquire the property and build the home at the time it was built. It does not make sense that these estimates of replicating the home would have included capitalized mortgage interest or other minor costs. If they were not included in the replica estimates, what is the rationale for deducting them from these estimates?)

There were several key aspects to the case:

- Despite the fact that the IRS did not challenge the taxpayers' estimate of the property's basis on their federal return, the FTB did not follow the IRS, and went after the famous couple.
- Some records were unavailable, largely due to a computer crash suffered by one of the professionals who handled the taxpayers' financial transactions in the past 15 years. Also, the main contractor has moved out of the country. In lieu of complete records, the taxpayers produced witnesses who estimated the various costs that would go into the basis of the type of house that was built. They said the basis reported would be on the low end of costs of constructing the high-end home. One witness noted that a tree house on the property cost approximately \$10,000, largely because of permits relating to protecting the tree from harm.
- The "Cohan rule" was applied in this case. The rule stems from a case where the famous Broadway entertainer, George M. Cohan, was unable to produce records of actual expenditures, but the court relied on reasonable estimates based on facts provided. According to Ms. Harkey, applying Cohan, the board was able to rely on a reasonable estimate of the construction costs and the resultant gain on the sale. (**CalTax:** Mr. Cohan wrote and performed in a number of smash Broadway musicals in the early 20th century. Songs he wrote included the major patriotic World War I song "Over There," and the song about New York titled "Give My Regards to Broadway.")
- Mark Bernsley, attorney for the taxpayers, said the FTB's estimate of basis did not include a number of remodeling and landscaping costs.
- Ms. Ma contacted the Santa Barbara County Assessor's Office and found that the information she received tended to support a high-end basis for the property.

- Attorney Sonia Woodruff, representing the FTB, said the agency allowed approximately \$4 million for expenses, and approximately \$2.8 million for the cost of the property. She said there was double counting of costs.

In an opening statement, Mr. Lowe said he and his wife were not trying to avoid taxes, and noted that they already have paid millions of dollars of tax on the gain. He said he did not have 20 years of records, but it would have been impossible to build the house with the amount claimed by the FTB. He told the board that he and his wife spent every penny they said they spent, and added that they want what is right and fair. "Respectfully, I am not a liar," Mr. Lowe said.

In another case involving the basis of a home, records were not available to determine basis for a home that was constructed in 1987 on oceanfront lots in the Naples area of Long Beach, and sold for \$6.3 million in 2006. The taxpayers said they did not know they had to keep tax records for longer than seven years (*Appeals of William R. Dobkin and Donya Dobkin; and Deborah Dobkin*). The outcome of the appeal was that the land cost portion of the basis was increased to \$1.8 million from \$300,000. On the rest of the amount in dispute, the board sustained the FTB.

Board Approves Ban on Member Mass Mailings Before Elections. The board unanimously adopted a policy banning mass mailings (with certain exceptions) by board members prior to an election. The blackout on mass mailings will begin 60 days prior to an election, and run through Election Day.

Chairman Horton said the genesis of the proposal was a similar action taken by the Legislature. At the request of Ms. Ma, the ban will cover all board members, not just those whose names are on the ballot for a re-election bid or for another elected office.

STATE BOARD OF EQUALIZATION: **Controller Slams BOE for Lax Financial Controls**

Controller Betty T. Yee announced November 18 that her office conducted a detailed review of the State Board of Equalization's accounting and administrative controls, and identified major material weaknesses in how the board allocates retail sales and use tax.

In some cases, the controller said, the problems led to state revenue being deposited in the wrong accounts.

The controller's review team also discovered weaknesses in the board's oversight of its internal revolving fund used for salaries, travel, and vendor payments.

"The board is entrusted with making sure tax dollars get to the right places," Controller Yee said. "I am deeply concerned that the board is falling short in this crucial mission. The board must implement more internal controls, train staff, and break down silos that are detrimental to sound administration."

In the 2013-14 fiscal year, the BOE collected \$48.5 billion in retail sales and use tax revenue, accounting for more than 24 percent of all state revenue.

As controller, Ms. Yee holds a seat on the five-member BOE. She previously served on the board as an elected member representing a district that included the San Francisco area.

Among the [review's findings](#):

- The board lacks adequate controls over the retail sales tax fund, rendering it unable to timely detect errors. In one case, the controller's team found that the state general fund received \$47.8 million too much, while other funds were shortchanged that amount.
- The board suffers from a lack of reliable information and communication among its staff units. As a result, revenue-collection staff may be unaware of what is included in statistical reports used to determine tax allocations or the effects of new laws and regulations on allocations.
- In quarterly reconciliations of tax revenue allocations, the board improperly counted items that should have been left out, and made incorrect adjustments, leading to misallocations of funds.
- The board's Office Revolving Fund did not collect debts in a timely manner. The debts included those attributable to travel advances, salary advances and payments due from various vendors. Running vendor payments through the revolving fund instead of the normal claims process opened the door to misuse of state funds, the controller said. Employees did not sign forms requesting salary advances, and the controller's reviewers could find no evidence that advances were approved by managers or supervisors.

In response to the controller's findings, BOE Executive Director Cynthia Bridges wrote that the board is committed to strengthening fiscal controls and communication. An internal review, dated June 30, led board staff to develop an action plan to address weaknesses, Ms. Bridges wrote.

The controller's review team noted that the board did not describe improvements that were under way before they saw the controller's report. As a result, the controller's team could not assess the board's action plan.

In response to the audit, BOE Member Fiona Ma called for the creation of a standing board "Auditing and Oversight Committee." She added: "The controller's audit of the State Board of Equalization internal auditing and administrative controls raises a number of disappointing and troubling issues. As a certified public accountant, it is unacceptable to me that a tax and auditing agency would fail to perform and carry out its basic responsibilities and functions."

BOE Chair Jerome E. Horton said Ms. Bridges will lead an agency-wide initiative to strengthen fiscal controls. The initiative will include five major components: Review of internal control systems; practices and procedures; risk assessment policies and responses; financial data; and information management.

COURTS:**Legal or Not, Parcel Tax Can't Be Challenged After 60 Days, Court of Appeal Rules – Refund Claim Denied**

In a setback for taxpayers, the First District Court of Appeal ruled November 25 that if the legality of a parcel tax isn't challenged within 60 days of passage, a taxpayer cannot subsequently seek a refund based on alleged illegality of the tax – even if the tax is, in fact, improper under the law.

A November 27 headline in the *San Francisco Chronicle* summarized the case accurately: "Challenge taxes in time, or you're out of luck, court rules."

In *Golden Gate Hill Development Company Inc. v. County of Alameda*, the appellate court upheld a trial court judge's decision to dismiss the taxpayer's action on the grounds that the 60-day validation period for the two parcel tax measures in question expired years ago, and the taxes thus cannot be deemed invalid.

"If no action is brought within the 60-day timeframe, the public is 'forever barred from contesting the validity of the agency's action in a court of law,'" the Court of Appeal wrote.

At issue were two parcel taxes (Measure I and Measure J) approved by voters in November 2009, authorizing Albany Unified School District to levy non-uniform parcel taxes. Golden Gate Hill paid the tax – more than \$197,000 in just a three-year period – and in 2014 sued for refund on the grounds that the measures improperly impose different rates on residential and nonresidential properties, and different rates on nonresidential properties of different sizes. The company noted that in 2013, the Court of Appeal found in *Borikas v. Alameda Unified School District* that a non-uniform parcel tax was invalid.

CalTax filed an amicus brief in support of the taxpayer.

Golden Gate Hill argued that since it was seeking only a return of a portion of its parcel taxes – the amount above the lowest rate paid by residential property owners – its claim was a refund, rather than a "reverse validation" action to invalidate the tax. The taxpayer also argued that denial of its refund claim would violate its right to due process under the U.S. Constitution.

"We agree the difference in the relief sought ... means appellant's claim is not properly characterized as a reverse validation action," the court wrote. "However, that distinction does not change the result, because appellant's claim for a refund is *based on* the alleged illegality of the tax scheme enacted by the Measures."

The court added that taxpayers "remain free to present claims for refunds not based on the validity of the Measures themselves, such as claims based on errors in implementation of the Measures. ..."

The opinion was certified for partial publication – the section dealing with due process claims was not published. In that section, the court opined that the taxpayer's due

process rights were not violated, because the taxes could have been challenged within the 60-day period.

“(A) reasonable taxpayer would have recognized the need to timely challenge the Measures, in order to prevent validation of the Measures,” the court wrote.

The taxes expired last year, and were succeeded by a new voter-approved parcel tax that applies to residential property only.

LOCAL TAX ELECTION RESULTS:

Santa Cruz Voters Approve Two Parcel Taxes in Special Election

In a special vote-by-mail election, voters in Santa Cruz approved two parcel tax measures to raise revenue for local schools. The election, which had a November 17 deadline for returning ballots, featured separate parcel tax measures for the Santa Cruz city elementary and high school districts.

Measure O, imposing an annual tax of \$72 per parcel until 2024 to fund the high school district, was approved with 71.6 percent of the vote. Measure P, renewing the elementary school district’s annual tax of \$105 per parcel, was approved with 76.6 percent of the vote.

According to the Santa Cruz County Elections Office, voter turnout for the vote-by-mail election was about 31 percent of registered voters. (Source: *Santa Cruz Sentinel*, November 24.)

In other local tax election news:

Results of Close November 3 Elections Now Known. As reported in the *CalTaxletter* of November 13, voters in many parts of the state approved local taxes in low-turnout elections held November 3, but the fate of four measures – all school bonds – was up in the air when the preliminary results were released.

To pass, the school bonds needed support from at least 55 percent of the voters, and final results show that three of the four close measures were approved (see table below for details).

In the Compton Unified School District, only 7 percent of the voters (4,937 of the district’s 69,688 registered voters) cast ballots on Measure S, which authorizes the issuance of \$350 million in bonds. The measure was approved with 55.94 percent of the vote – just 46 votes above the threshold for passage.

County	Jurisdiction	Ballot Designation	Description	Result	% in Support
El Dorado	Placerville Union School District	Measure B	Authorizes the issuance of \$3.2 million in bonds to increase access to technology for students. Voter turnout was 36.8 percent.	Pass	55.78

Los Angeles	Compton Unified School District	Measure S	Authorizes the issuance of \$350 million in bonds to fund school and facility construction. Voter turnout was 7 percent.	Pass	55.94
Los Angeles	Walnut Valley Unified School District	Measure O	Proposed the issuance of \$208 million in bonds to upgrade technology and classrooms, improve school safety, and repair classrooms and equipment. Voter turnout was 14.2 percent.	Fail	53.42
San Mateo	San Mateo-Foster City School District	Measure X	Authorizes the issuance of \$148 million in bonds to build new facilities to ease overcrowding. Countywide voter turnout was 29.5 percent.	Pass	59.07

**WASTE, FRAUD & MISMANAGEMENT:
Your Tax Dollars at Work**

Community College Officials Travel in Luxury at Taxpayers’ Expense. Officials with the Rancho Santiago Community College District have been spending tax dollars on high-end travel and accommodations, the *Voice of OC* reports. Recent spending included:

- \$2,036 for trustee Jose Solorio’s airfare, convention registration and two-night stay at the Aria Resort & Casino on the Las Vegas Strip, while attending the annual meeting of the National Association of Latino Elected Officials.
- Spending on more than 200 trips, to 48 different cities in five countries, during the past five years.
- \$777 on rental cars, gasoline and parking for two cars rented by trustees attending a Dallas conference that was less than two miles from their hotels.
- \$201 for a Saturday night stay at a hotel in Washington, D.C., by a trustee who was attending a “leadership conference” that didn’t start until Monday. Another trustee charged \$259 in a similar arrangement.
- \$120 for a trustee to take a private limousine ride from Washington, D.C., to Baltimore.
- A \$121 liquor tab (later reimbursed) and \$94 food and tip expense for two trustees to dine together while “debriefing” in the nation’s capital after last year’s U.S.- Mexico Binational Forum on Higher Education, Innovation and Research.

The Voice of OC also found that trustees routinely booked luxury seats on flights, rather than flying coach. (Source: *Voice of OC*, December 1.)

Mismanagement at Central Basin Municipal Water District Wastes Money, Audit Finds. Los Angeles County’s Central Basin Municipal Water District is leaking ratepayer funds thanks to a host of management problems, the state auditor reported December 3.

In an audit titled, [“Central Basin Municipal Water District: Its Board of Directors Has Failed to Provide the Leadership Necessary for It to Effectively Fulfill Its Responsibilities,”](#) the auditor found:

- The district's board of directors' poor leadership has impeded the district's ability to effectively meet its responsibilities.
- The board's actions caused the district to lose its liability insurance coverage, resulting in higher costs for less coverage.
- The board violated state law when it improperly approved the establishment of a legal trust fund without adequate public disclosure. Further, it lacked a means of ensuring the expenditures made from the \$2.75 million trust fund were appropriate.
- The district consistently engaged in questionable contracting practices by avoiding competitive bidding and inappropriately using amendments to extend and expand contracts.
- The district spent funds on purposes unrelated to its mission that likely constitute gifts of public funds.
- The district hired unqualified staff and created an unnecessary position.
- Some of the benefits the district offers to its board members may be overly generous. For example, it provides full health benefits and a generous automobile allowance, even though board members essentially work part time.
- The district paid for unreasonable travel and meal expenses for both its board members and staff.

"Although the district has made changes to improve its ability to operate efficiently and effectively, it could benefit from a different governance structure," the auditor stated.

Community College Instructor Taught Ethics While Under Indictment for Fraud Charges. While under indictment for federal charges of conspiring to commit mail and wire fraud, business instructor Gregory Scott Baker was allowed to teach ethics and other subjects at American River College for approximately two years. Mr. Baker pleaded guilty to the charges November 5, and resigned effective December 18.

Mr. Baker, who admitted participating in a scheme to bilk an Indian tribe in Auburn out of millions of dollars, recently taught seven classes at the community college, including an "Introduction to Business" course that included a section on ethics. (Source: *The Sacramento Bee*, November 29.)

POTPOURRI:

Symposia, Sightings, Salutes & Snafus

State Puts Tax Lien on Boston Red Sox. The state has placed a lien on the Boston Red Sox Baseball Club/J.R.Y. Corp. for unpaid employment tax totaling \$10,766, according to a list of liens published November 27 in the *Sacramento Business Journal*. "J.R.Y." is named after Jean R. Yawkey, the late owner of the Red Sox.

TAX TRIVIA:**Who Delivered 'West Wing' Monologue on Tax Fairness?**

In an episode of the hit television show "The West Wing" originally broadcast May 2, 2001, what character delivers the speech below to a group of legislative aides, and what actor portrayed the character?

"I'm not talking about policy, I'm talking about rhetoric, and the men you work for need to dial it down to '5.' Henry, last fall, every time your boss got on the stump and said, 'It's time for the rich to pay their fair share,' I hid under a couch and changed my name. I left Gage Whitney making \$400,000 a year, which means I paid 27 times the national average in income taxes. I paid my fair share – and the fair share of 26 other people. And I'm happy to, 'cause that's the only way it's going to work, and it's in my best interest that everybody be able to go to schools and drive on roads. But I don't get 27 votes on Election Day. The fire department doesn't come to my house 27 times faster. And the water doesn't come out of my faucet 27 times hotter. The top 1 percent of wage earners in this country pay for 22 percent of this country. Let's not call them names while they're doing it, is all I'm saying." (Answers below.)

BLAST FROM THE PAST:**Christmas Gifts From Dying Father Not Subject to Inheritance Tax**

"Ogden Mills and Mrs. Whitelaw Reid, children of Darius Ogden Mills, will not have to pay inheritance tax upon the \$2,000,000 in Christmas gifts from their father just before he died, January 3, 1910. The appellate court has declared the gifts exempt. The elder Mills was accustomed to give his children \$1,000,000 as Christmas gifts."

– *Los Angeles Herald*, May 6, 1916. The elder Mr. Mills was a prominent banker and philanthropist, and is said to have been the wealthiest person in California at one point. Among other things, he built a country estate that grew into the city of Millbrae, served on the University of California Board of Regents, and donated the statue of Queen Isabella that graces the rotunda of the state Capitol.

Tax Trivia Answer: "Sam Seaborn," portrayed by Rob Lowe.