

CALIFORNIA INITIATIVE REVIEW

Proposition 92:

**Community College Governance, Funding
Stabilization, and Student Fee Reduction Act.
Constitutional Amendment and Statute.**

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I. Executive Summary

The California Community Colleges are institutions of higher education that serve approximately 2.5 million students annually. The community college system is comprised of 109 campuses operated by 72 districts that are each governed by a locally elected board of trustees. The system offers academic, vocational, and recreational programs for recent high school graduates and any other adults in the community. Legislative Analyst's Office, *Proposition 92: Community Colleges. Funding. Governance. Fees.*, http://www.lao.ca.gov/ballot/2008/92_02_2008.aspx (October 18, 2007) [hereinafter LAO, *Proposition 92*].

Approximately two-thirds of the funding supporting community college programs is from the State General Fund and local property tax revenues. Proposition 98, which was subsequently amended by Proposition 111, establishes a minimum annual funding level for K-14 schools (K-12 schools and community colleges). Each year, the Proposition 98 formula establishes the new K-14 minimum funding level by increasing the prior year's funding level by considering the growth in K-12 attendance and growth in the economy. The exact amount the state is required to spend on Proposition 98 each year depends on the specific calculations or "tests." *Id.* The remaining funding comes from other sources such as federal funds and student fee revenues. *Id.* Student fees are set by the state and are currently set at \$20 per unit. *Id.*

The Board of Governors of California Community Colleges oversees the entire community college system. The Board's 16 voting members, and 1 non-voting member, are appointed by the Governor of California. The Governor also appoints a Chancellor who brings recommendations to the Board. These recommendations are developed in consultation with representatives of community college organizations. *Id.*

Proposition 92 amends the State Constitution and state law to separate community colleges from K-12. Cal. Proposition 92 *Community College Governance, Funding Stabilization, and Student Fee Reduction Act, §12* (July 6, 2006) <http://ag.ca.gov/initiatives/pdf/06-0030.pdf>. This measure would increase funding to the community college system as well as to make attendance at community colleges more affordable by lowering student fees. *Id.* This measure will provide the community college system with a separate funding guarantee based on growth in the community college-aged population. *Id.* It will decrease annual community college fees and cap future increases. *Id.* Finally, the measure will alter the structure of the Board of Governors to make the Board more responsive to the needs of the community college system. *Id.*

II. The Law

A. Existing Law

1. Current Funding under Proposition 98 as Amended by Proposition 111

California voters enacted Proposition 98 in 1988 as an amendment to the State Constitution. Legislative Analyst's Office, *Proposition 98 Primer*, www.lao.ca.gov/2005/prop_98_primer/prop_98_primer_020805.htm (February 2005) [hereinafter LAO, *Proposition 98 Primer*]. This measure, which was later amended by Proposition 111, establishes a minimum annual funding level for K-14 schools. *Id.* Proposition 98 funding constitutes 70 percent of total K-12 funding and about two-thirds of total community college funding. *Id.*

Each year the State Legislature allocates a portion of the General Fund to K-14 education. Over time, K-14 funding increases to account for growth in K-12 attendance and growth in the economy. *Id.* The State Legislature allocates funds based on one of four options. The Legislature can choose one of three formulas, or "tests" that allocate funds based on the growth of the economy and General Fund revenues from year to year. *Id.* The fourth available option is to suspend Proposition 98 funding for the period of one year. *Id.*

The Test 1 funding guarantee, or "Share of the General Fund," allocates 41% of General Fund revenues to K-14. EdSource, *Proposition 98 Guarantees a Minimum Level of Funding for Public Schools*, http://www.edsource.org/pub_update_prop98.cfm (October 2006). Forty-one percent of the General Fund is a threshold that the State has easily exceeded each year. *Id.* Test 1, therefore, is generally only used if state tax revenues increased dramatically such that 41% of the state budget would be more than the Test 2 guarantee. *Id.*

The Test 2 funding guarantee, or "Growth in Per Capita Personal Income," increases prior year funding by the changes in enrollment in K-12 and growth in per capita income. *Id.* Typically, this test is used in years of normal to strong General Fund revenue growth. *Id.* Under this test, "changes in enrollment" is measured by the percentage change in average K-12 daily attendance. *Id.*

The Test 3 funding guarantee, or "Growth in General Fund Revenue," increases prior year funding by the changes in enrollment in K-12 and growth in per capita General Fund revenues. Typically, this test is used in years that General Fund revenues fall or grow slowly. *Id.* This test is one example of when K-14 funding grows more slowly than the economy. *Id.* However, a subset of Test 3, called "Test3B" ensures that growth in K-14 spending per student is at least as large as the growth in all other state-funded programs on a per-capita basis. *Id.* As under Test 2, "changes in enrollment" is measured by the percentage change in average K-12 daily attendance. *Id.*

The fourth option is for the State Legislature to suspend Proposition 98. With a two-thirds vote, the Legislature can reject the articulated formulas and instead allocate any level of funding it deems warranted. LAO, *Proposition 98 Primer*, *supra*. However, the Legislature is only permitted to suspend funding for a single year. *Id.* The funding allocated in a year following suspension must be allocated pursuant to one of the three "tests." Furthermore, when suspension is used (or when Test 3 is used), a funding gap, referred to as the "maintenance factor" is created. *Id.* This maintenance factor represents the extent to which the economy has increased at a higher rate over K-14 funding. *Id.* In the years

following suspension (or Test 3), funding is gradually increased to restore the maintenance factor. *Id.* In other words, funding is accelerated to return K-14 funding to what it would have been if Test 3 or suspension had not been used. *Id.*

Under the text of Proposition 98, community colleges are to receive approximately 11% of the money allocated to K-14 with the remainder allocated to K-12. Legislative Analyst's Office, *Initiative Fiscal Analysis: Community Colleges Governance*, <http://www.lao.ca.gov/ballot/2006/060672.htm> (August 10, 2006) [hereinafter LAO, *Initiative Fiscal Analysis*]. However, the state has suspended this allocation requirement (the whole of Prop. 98 isn't suspended) each year since 1991. *Id.* Thus, community colleges are receiving less money than what is allocated to them under Proposition 98.

2. Student Fees

California's community college fees are set by the state. LAO, *Proposition 92, supra*. California's community college fees have consistently been the lowest in the country. *Id.* Prior to 1984, the state did not charge a fee at all. *Id.* Fee levels have fluctuated between \$11 and \$26 per unit in the past ten years. *Id.* Currently set at \$20 per unit, a full time student taking 30 units per academic year will spend \$600 on fees. In 2007-08, student fees provided revenue of approximately \$285 million to the community college system. *Id.*

Under current law, fees are waived for resident students who demonstrate financial need. *Id.* Therefore, an estimated 25% of community college students do not pay any educational fees. *Id.* Most of these students are low- to middle-income. *Id.*

3. Governance

The Community College system is currently mentioned in, and governed by, the State Constitution in various financial contexts. *Id.* However, the system is not formally established or defined. *Id.* Rather, it is governed through laws adopted by the Legislature. *Id.* Under current law, the community college system is operated by districts that are governed by locally elected Boards of Trustees. *Id.* The state provides these boards with significant autonomy in determining course offerings, hiring and compensating campus staff, and managing district property. *Id.*

The entire statewide system is overseen by the Board of Governors, who in turn appoints a chancellor to run day-to-day operations and make recommendations on policy matters. *Id.* The Board of Governors, as well as the Chancellor's executive staff is appointed by the Governor of California. *Id.* All Board members are appointed to either a 2 or 6 year term, and 5 of the 17 board members are selected by the Governor of California from lists of persons approved by specified community college organizations such as the faculty and staff. *Id.*

B. Proposed Changes

1. Recognition in the State Constitution

Under Proposition 92, the California Constitution would be amended to recognize the community college system as a separate and independent part of the state's public school system. Cal. Proposition 92 *Community College Governance, Funding Stabilization, and Student Fee Reduction Act*, §4 (July 6, 2006) <http://ag.ca.gov/initiatives/pdf/06-0030.pdf>.

2. Separate Funding Guarantees for Community Colleges

This measure would amend the California Constitution to require that funding for community colleges be determined by economic growth and changes in the college-aged population, while funding for K-12 continue to be determined by changes in the economy and changes in K-12 enrollment. *Id.* at § 7.

The Education Code will be amended to require that the amount calculated and appropriated for community colleges not be less than the greater of the following amounts: the total General Fund proceeds of taxes appropriated pursuant to total annual appropriations and allocated local proceeds of taxes appropriated for the support of community colleges in either the 2005-06 fiscal year or 2006-07 fiscal year, adjusted by one of the Proposition 98 formulas for each subsequent year until the effective date. *Id.* at § 11. Therefore, the fiscal year in which community colleges received a greater amount of money, 2005-06 or 2006-07, will serve as the minimum allocation of funding in future years.

In calculating the appropriate level of funding for community colleges, the Legislature must take into account "changes in enrollment." *Id.* at § 7. For purposes of allocating funding for community colleges, the Education Code will be amended to provide that "changes in enrollment" shall be determined by the sum of the following elements: (1) the greater of (a) the percentage change in the population of California residents between 17 and 21 years of age or (b) the percentage change in the population of California residents between 22 and 25 years of age; and (2) the prior year's unemployment rates, less 5% (only applicable when the unemployment figure is greater than 5%). *Id.* at § 9. Regardless of the sum, the growth factor is capped at five percent. *Id.* Furthermore, the growth factor cannot fall below one percent so long as the percentage of state residents enrolled in community colleges is less than the average enrollment rate over the proceeding twenty years. *Id.*

Furthermore, the Education Code will be amended to provide that community colleges will receive 10.46% of any funds allocated to repay the maintenance factor existing on the effective date of this statute. *Id.* at § 10. The maintenance factor is money that is being repaid at a later date rather than at the time it would have been originally allocated. Since some of this money would have been allocated to the community colleges, this amendment to the Education Code seeks to ensure that when the money is repaid, it is allocated as it would have been had the delay not been in effect.

3. Fee Reduction and Cap

When this proposition goes into effect, community college fees will be statutorily lowered and capped at \$15 per unit. *Id.* at § 16. Thereafter, any increase in the amount of fees must adhere to the following: (1) a fee increase cannot be greater than the lesser of either (a) the percentage change in per capita income of California residents from the second preceding year to the immediately preceding year (rounded down to the nearest whole dollar) or (b) 10%; and (2) any changes shall be effective for the fall academic term that follows at least 60 days after the fee change is approved. *Id.* Thus, fees can increase no more than 10% in any year, and fee changes can only occur during the fall semester.

4. Changes to the Board of Governors

The composition of the Board of Governors of Community Colleges will be altered by the enactment of Proposition 92. The Education Code will be amended to provide the new composition of the Board of Governors. *Id.* at § 13. The Board will now consist of nineteen voting members. *Id.* The public will be represented by twelve members, three of whom will be current or former elected members of local community college district governing boards. *Id.* These twelve members will be appointed with the advice and consent of two-thirds of the membership of the Senate and will serve six-year staggered terms. *Id.*

Community college students will be represented by two members, both of whom will be students enrolled in a community college with a minimum of five semester units at the time of appointment and throughout their one year term. *Id.* Faculty will be represented by three members, all of whom will be current or former faculty members of a community college appointed to a three-year term. *Id.* Finally, employees will be represented by two members, both of whom will be former or current employees of the community college system appointed for a three-year term. *Id.* Although currently the State Governor is only required to appoint 5 members from lists proposed by specified community college organizations, under this proposition, the Governor would be required to appoint *all* members from lists provided by these organizations. *Id.*

The Education Code will also be amended provide greater authority to the Board of Governors. First, the authority to appoint a Chancellor would be transferred from the State Governor to the Board. *Id.* at § 15. The Board will be authorized to appoint a Chancellor and up to six deputy chancellors and vice chancellors as its executive officers. *Id.* Under this proposition, the Board will be also be authorized to set the compensation levels for its executive officers, a task currently entrusted to the State Governor. LAO, *Proposition 92, supra*. In addition, this measure will give the Board control over how to spend funds appropriated for its administrative expenses in the annual budget. *Id.*

Finally, this proposition would amend the California Constitution to exempt the Board of Governors from civil service. Cal. Proposition 92 *Community College Governance, Funding Stabilization, and Student Fee Reduction Act*, §3 (July 6, 2006) <http://ag.ca.gov/initiatives/pdf/06-0030.pdf>.

C. Effects of the Changes

1. Impact on K-12 Funding

It is unclear exactly how this initiative will interact with Proposition 98 funding. There are two potential scenarios of interaction. One scenario will cause an increase in K-12 funding, while the second scenario will cause a decrease in K-12 funding.

Under the first scenario, the Legislature will separately allocate funds to K-12 and community colleges out of the General Fund. First, the Legislature will use one of the three formulas (or suspension) to determine the amount of the General Fund to be allocated to K-12 using the same “changes in enrollment” factor as created under Proposition 98. Then, the Legislature will use that same formula (or suspension) to determine the amount of the General Fund to be allocated to community colleges using the “changes in population” factor created by Proposition 92. Because the amount of K-12’s funding allocation under Proposition 92 will equal K-14’s allocation under Proposition 98, and because K-12 will no longer have to share that money with community colleges, K-12 funding will increase.

Under the second scenario, the Legislature will not separately allocate funds to K-12 and community colleges. The Legislature will use one of the three formulas (or suspension) to create the pot of money allocated to K-14. Once that pot of money is created, K-12 will be allocated a portion of that money based on its changes in enrollment and community colleges will be allocated a portion based on changes in college-aged population. Theoretically, K-12’s portion of the funding under Proposition 92 will be equal to its portion under Proposition 98. However, since 1991, K-12 has been taking more than its share of funding. *See* LAO, *Initiative Fiscal Analysis, supra* (stating that although Proposition 98 requires community colleges to receive 11% of the funds, the Legislature has suspended that requirement since 1991). Therefore, since under Proposition 92 K-12 will be unable to take more than its share of funding, K-12 actual funding will decrease from previous years.

The uncertainty discussed above will only occur in years where Test 2 or Test 3 is used because Proposition 92 does not make any changes to Proposition 98 in years where Test 1 is utilized or suspension of Proposition 98 is in effect. *Id.* Since Proposition 92 does not address the appropriate allocation between community colleges and K-12 under Test 1 or suspension, it is unclear exactly how the funds will be allocated.

2. Fiscal Impact from Funding Changes

If the effect of Proposition 92 will be to actually increase funding for both community colleges and K-12 (scenario one), then there will be a significant fiscal impact on the State. This measure would in effect split the existing Proposition 98 funding guarantee for K-14 schools into one guarantee for K-12 schools and a separate guarantee for community colleges. *Id.* Total required funding would be higher under the amended laws in any year that Test 2 or Test 3 is in effect and growth in the initiative's new community college enrollment factor exceeded growth in K-12 attendance. *Id.* The Legislative Analyst's Office has projected that both conditions will apply for the next few years. *Id.*

It is projected that this measure would result in an increase in the minimum of funding required for K-14 schools to approximately \$135 million in 2007-2008, \$275 million in 2008-09, and \$470 million in 2009-10. *Id.*

If the effect of Proposition 92 is to ensure that community colleges are receiving their appropriate share of funding (scenario two), then the fiscal impact on the State is not greater than under Proposition 98. The pot of money allocated to K-14 will be the same. The only difference under Proposition 92 is that community colleges will be receiving a larger percentage of that money.

3. Fiscal Impact from Student Fee Reduction and Cap

Under Proposition 92, student fees will be reduced from the current \$20 per unit to \$15 per unit in 2008-09. This will save the average full-time student approximately \$150 per academic year (\$5 savings per unit at an average of 30 units per academic year).

Under the restrictions on student fee increases, the Legislature's authority to increase fees in subsequent years is significantly limited. The measure limits annual fee increase to the lower of 10% or the percentage change in per capita personal income in California, which typically averages around 4%. *Id.* At \$15 per unit, a 4% growth would allow for an increase of 60 cents. However, this amount must be rounded down to the nearest dollar, and therefore will remain at \$15 per unit. Under these restrictions, the Legislature would only be able to increase the fee if per capita personal income exceeded 6.7% in any given year. As this has only occurred one time in the past 20 years, the fees will remain at \$15 per unit for the foreseeable future.

The fiscal impact of this reduction will depend on what the fee level would have been without this measure. Assuming the fee level would have otherwise remained at its current level of \$20 per unit, the decrease to \$15 per unit results in a loss of \$70 million annually in student fees. *Id.*

4. Fiscal Impact from Governance Changes

Enactment of Proposition 92 would not create any significant fiscal effects relating to governance changes. With the increased number of positions on the Board of Governors, some additional costs will be incurred, such as the addition of salaries. However, these are not significant increases. Rather, the significant fiscal impact the proposition creates is in granting the Board of Governors increased control over the funds that are provided to it.

III. Drafting Issues

A. Ambiguity

Proposition 92 will amend Section 8(f) of Article XVI of the California Constitution to read “[c]ommencing with the 2007-08 fiscal year, in determining the total allocations to school districts and community college districts from General Fund proceeds of taxes

appropriated pursuant to Article XIII B and allocated local proceeds of taxes pursuant to [Test 2 or Test 3], or in the calculation of the maintenance factor created under subdivision (d), *the amount shall be separately calculated and appropriated by the Legislature to school districts and community college districts.*” Cal. Proposition 92 *Community College Governance, Funding Stabilization, and Student Fee Reduction Act*, §7 (July 6, 2006) <http://ag.ca.gov/initiatives/pdf/06-0030.pdf> (emphasis added).

The phrase “separately calculated and appropriated” could have one of two interpretations. First, the phrase could mean that the Legislature will allocate one portion of the General Fund to community colleges and one portion to K-12. Second, the phrase could mean that the Legislature will create a single allocation of the General Fund for K-14 and then use the Proposition 98 “changes in enrollment” to determine what portion of the allocation will go to K-12 and then use the new Proposition 92 “changes in population” to determine what portion of the allocation will go to community colleges. As stated above, the effect of this proposition on K-12 funding depends upon what the drafters of this initiative actually intended.

According to the California Supreme Court, where there is an ambiguity in the language of the measure, ballot summaries and arguments may be considered when determining the voter's intent and understanding of the ballot measure. *Professional Engineers in California Government v. Kempton*, 40 Cal. 4th 1016, 1037 (2007).

Therefore, the court will likely consider the arguments of the proponents regarding the intent of the initiative. The court will likely also consider the information that was available to the voters, such as the LAO summary. Since that summary discusses a major fiscal impact with the passage of the initiative, the LAO must interpret the language of the initiative to call for a completely separate allocation of funding to community colleges (separate from K-12).

B. Severability

Proposition 92 contains a severability clause which purports to allow provision(s) to be severed from any portions of the initiative found invalid. The severability clause states:

The provisions of this act are severable. If any provision of this chapter or its application is held invalid, that invalidity shall not affect other provisions or applications that can be given effect without the invalid provision or application.

Id. at § 19(b). The California Supreme Court has developed a three-part test to determine whether the remaining provision(s) can be severed from the invalid section(s). The invalid provision must be grammatically, functionally and volitionally severable. *Gerken v. Fair. Pol. Practices Commn.*, 6 Cal. 4th 707, 714 (1993).

The first determination is whether “the valid and invalid parts can be separated by paragraph, sentence, clause, phrase, or even single word.” *People’s Advocate, Inc. v.*

Superior Court, 181 Cal. App. 3d 316, 330 (1986). If a provision of Proposition 92 is found invalid, most, if not all, of the other provisions would still be grammatically whole because they are found in independent constitutional provision and independent code sections. As such, Proposition 92 is grammatically severable.

The second determination is whether “[after the statute has been severed], the remainder . . . is complete in itself.” *Id.* at 331. Proposition 92 focuses on independently allocating funds for community colleges, lowering community college fees and altering the Board of Governors of the Community College system. These changes are to be accomplished through changes and additions to the California Constitution as well as several sections of the California Education Code. Each one of these changes and additions address a different aspect of the intended goal. Since each of these sections is distinct and independent from other sections, any sections remaining after severability could be implemented on their own. For example, if the fee reduction were found invalid, it would not affect the validity of the Board of Governor changes. If the Board of Governor changes were found invalid, it would not affect the validity of the separate allocation of funds for community colleges. Also, if the separate allocation of funds were found invalid, this would not affect the validity of the fee reduction. Therefore, the main portions of Proposition 92 are functionally severable.

The final determination of the severability test is whether “it can be said with confidence that the electorate’s attention was sufficiently focused upon the parts to be severed so that it would have separately considered and adopted them in the absence of the invalid portions.” *Id.* at 333. To meet this third test “the [invalid portions] to be severed must be so presented to the electorate in the initiative that their significance may be seen and independently evaluated in the light of the assigned purposes of the enactment.” *Id.* at 332-333.

The main goal of Proposition 92 is community college reform. The Proposition accomplishes this goal primarily three ways: by reducing community college fees, allocating funds for community colleges separate from K-12, and altering the Board of Governors. Viewing the ballot measure as a whole, as well as the Official Title and Summary prepared by the Attorney General, it seems as though the three goals – reduction in fees, separate allocations, and changes to the Board of Governors – are sufficiently highlighted to be independently separated and still accurately reflect the intent of the measure. Therefore, a court would likely find that Proposition 92 meets the necessary requirements to be severable. An invalidated portion of the measure will not invalidate the measure in its entirety.

C. Language: Enrollment v. Population

Under Proposition 98, the portion of funds to be allocated to K-12 is based upon the increase in K-12 *enrollment*. LAO, *Proposition 98 Primer, supra*. Under Proposition 92, this test for K-12 fund allocation would remain the same. However, the allocation for community colleges would be based upon the increase in *population* of specific age groups. Cal. Proposition 92 *Community College Governance, Funding Stabilization, and Student Fee Reduction Act*, §7 (July 6, 2006) <http://ag.ca.gov/initiatives/pdf/06-0030.pdf>. Thus,

community colleges would be allocated funds based not upon the actual increase in enrollment, but the increase in all members of the college-aged population without discounting for the individuals in those age groups who either attend other types of institutions or do not attend any institution at all.

IV. Constitutional Issues

A. Federal Constitution

There do not appear to be any conflicts between Proposition 92 and the United States Constitution.

B. California Constitution

The California Constitution Article II § 8(d) invalidates any initiative that addresses more than one subject. The Supreme Court of California defined this requirement as the “reasonably germane” test as set forth in *Senate v. Jones*, 21 Cal. 4th 1142 (1999), where the single subject rule is satisfied when “the various provisions are reasonably related to a common theme or purpose.” *Id.* at 1157. However, the Court also held that “the single-subject provision does not require that each of the provisions of a measure effectively interlock in a functional relationship.” *Id.*

The rationale for this rule is to decrease the possibility of voter confusion, to only have initiatives on the ballot that deal with one particular issue, and to ensure that if there are two unrelated matters, that they are presented as two different initiative to the voters so that “log rolling” (the art of coupling a popular issue with a less popular one in an effort to either bolster support for both or find success for the less popular on the coattails of the more popular issue) is prevented.

Proposition 92 modifies Proposition 98 and adds provisions relating to the separate funding of community colleges from the K-12 school system, the lowering and capping of student fees, the increase in the authority of the Board of Governors from under the direct control of the Governor of California, and recognizes the community college system in the California Constitution. All of these changes are directly related to the funding and separation of the community college system from the current K-14 system created by Proposition 98. Therefore, the provisions are reasonably related to a common theme or purpose as required by the single-subject rule. It is unlikely that Proposition will be challenged under the single subject rule. However, if challenged, the provisions of Proposition 92 are likely to be upheld under the single subject rule.

After the voters passed Proposition 98 in 1988, an action was brought alleging that the proposition violated the single subject rule. *See Cal. Teacher’s Assn v. Hayes*, 5 Cal. App. 4th 1513 (1992). As Proposition 98 was upheld, it is unlikely that a similar challenge will be made against Proposition 92 as 92 is merely a modification of 98 and is neither as comprehensive nor wide ranging as the provisions of Proposition 98.

At issue in the Proposition 98 challenge was the validity of including funding for the Child Care and Development Services Act (Ed. Code, § 8200 et seq.) within the educational funding guarantees of Proposition 98. *Id.* Upholding the provision's inclusion in the proposition as valid under California law, the court held that this provision did not violate the single-subject rule. *Id.* *California Teacher's Association* was the only constitutional challenge to the enactment of Proposition 98. Therefore, it can reasonably be assumed that no other provisions within the existing Proposition 98 language will be held to violate the single-subject rule.

V. Policy Considerations

A. Proponents' Arguments in Favor of Proposition 92

Proposition 92 will make community colleges more affordable. First, the proposition will reduce fees, which will lower the cost of attendance. Furthermore, the proposition will prevent mid-year increases in fees, which will make it easier for students to predict costs and budget their money. LAO, *Proposition 92, supra*.

Proponents assert that Proposition 92 will increase funding to community colleges without increasing taxes or taking money from K-12. Californians for Community Colleges, *Our Community College Initiative*, <http://www.faccc.org/initiative/Ballot%20Measure%20Talking%20Points.pdf> (accessed October 19, 2007). K-12 will still get the money it needs because its funding is still determined pursuant to the same formula. Furthermore, there will be no increase in taxes needed because the money is simply allocated from the General Fund. Therefore, important steps can be taken in furthering higher education to all while opening up these resources to those who cannot currently afford them.

Sabrina Lockheart, press representative for Gov. Schwarzenegger, commenting on the 2007 decrease from \$26 to \$20 per unit, said that the decrease in community college fees will serve to further the system's success. E. Ashley Wright, *California community colleges lower registration fees*, The California Aggie Online (Nov. 29, 2006). (available at media.www.californiaaggie.com/media/storage/paper981/news/2006/11/29/CityNews/California.Community.Colleges.Lower.Registration.Fees-2512271.shtml). "California already has the lowest community college fees in the nation," she said. *Id.* "Lowering fees and making higher education accessible is a key to improving our economy through better educating the workforce." *Id.*

When California community college fees reached an all-time high of \$26 per unit, there was a sharp decline in community college attendance. California Community College Chancellor's Office, *Education Leaders Celebrate Pending Fee Reduction for California's Community Colleges: Student Accessibility and Affordability Returning*, http://www.cccco.edu/news/press/press_2006/press_october/press_100306.htm (Oct. 3, 2006). With the news of a fee reduction, community college enrollment is expected to rebound. *Id.* "Several years of rising costs have created a barrier for some of our prospective students," remarked Chancellor Drummond in the 2006 press release. *Id.* "If California is to remain an economic

leader, we must ensure that we are adequately preparing our future workforce to meet the challenges and demands of tomorrow. We believe that creating greater access to higher education is an investment in California's future." *Id.*

B. Opponents' Arguments in Opposition of Proposition 92

In general, opponents of this initiative recognize that community colleges are underfunded. However, opponents believe that as drafted, this initiative is an inappropriate response to this problem at a time when all public educational facilities are in need of additional funding. Judy Lin, *Prop. 98 battle: Education Measure Targeted*, Sacramento Bee (Sep. 30, 2007) (available at <http://www.sacbee.com/111/story/406690.html>).

Separately allocating community college funding and K-12 funding, in the manner proposed by this initiative, puts too much stress on the General Fund at a time when the state is already struggling to pay its bills, and "would result in prioritizing one higher education system's funding priorities over the needs of two other important systems – the University of California and the California State University System." *Id.*

The initiative would cause funding for community colleges to grow faster than funding for K-12. This initiative undercuts Proposition 98's intent to make K-12 education the state's budget priority. *Id.* This position is seen as a drawback of the proposition by the California Teacher's Association.

Not only does this initiative divert funds from K-12, opponents say, but by reducing the amount of student fees, the initiative significantly reduces funds coming into the state. The reduction of community college fees alone will lead to a loss of \$71 million at a time when the community colleges are asserting a need for increased funding. *Id.*

VI. Conclusion

If approved by the voters in February 2008, Proposition 92 will amend the California Constitution and the California Education Code. This proposition will ensure a higher percentage of the General Fund is allocated to the community college system than is currently being allocated. It is unclear whether this increase in funding to community colleges will decrease the funding to K-12. Furthermore, Proposition 92 will decrease student fees and limit the potential increase in fees in future years, creating an economic strain, but allowing for increased availability of higher education to the California population. The proposition will also alter the composition of the Board of Governors to be more independent of the Californian Governor's control and providing the Board with the authority to employ and set the compensation for its executive members. Finally, the proposition will recognize the community college system in the California Constitution.