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May 13, 2011

Honorable Mariko Yamada  
Member, California State Assembly  
8<sup>th</sup> District  
P.O. Box 942849  
Sacramento, CA 94249-0008

SUBJ: Legislative Proposal for School Facilities

Dear Ms. Yamada:

Thank you for sending your Field Representative, Don Lowrie, to the August 25, 2010 meeting of the Measure C Citizens' Oversight Committee (COC) of the Fairfield-Suisun Unified School District (District) in response to the COC's invitation. (At that time Mr. Polk chaired the COC and Mr. Wood served as vice chair. Mr. Polk has since been appointed to fill a vacancy on the District governing board.)

Our COC has had a concern for some time about funding for school facility maintenance and the legal constraints that remain on raising taxes for that purpose. The COC was requesting local state legislative representatives hear its concerns and assist it in remedying the present situation. The COC appreciated Mr. Lowrie's input.

Our proposal is attached. Its development is explained further below.

### Background

As amended by the "Smaller Classes, Safer Schools and Financial Accountability Act" of 2000 (Proposition 39 of that year), the California Constitution allows school districts such as ours, with a 55 percent favorable vote of the electorate, to enact a local property tax for school construction bonds. In contrast, the Constitution has continued to require a two-thirds (66.7 percent) vote for a tax to maintain school facilities on an ongoing basis or to fund school construction without bonds.

In 2002, the District passed Measure C, a \$100 million school construction bond measure, in accordance with Proposition 39. The vote in favor was 60%. Those funds, when matched by state and other local funds, have resulting in over \$200 million in new local school facilities.

The COC's oversight of these expenditures is nearing an end, and the COC's attention has been drawn increasingly to protecting the public investment that has been made, through adequate facility maintenance and by future modernization, rehabilitation, and replacement.

### The Concern

The COC is concerned that with all the pressures on a school district's general funds—as legitimate as those needs are—it will be impossible to assure the COC's facility maintenance priority will be met. Facilities advocates must be able to turn to local taxpayers, and the COC sees little logic in a system that allows school facilities to be constructed with a 55% vote but requires a 66.7% vote to maintain them adequately. We expect many other Citizens' Oversight Committees around the state share these concerns.

At the August 25 meeting, Mr. Lowrie suggested our COC develop a specific proposal for your attention. In response, the COC formed a subcommittee (made up of Mr. Polk and Mr. Wood) to prepare a proposal.

On September 22, 2010, the COC considered the subcommittee's proposal and approved it as the COC's recommendation to you. The District governing board has not taken a position on the proposal, but has, rather, recently encouraged us to proceed on our own.

### The Proposal

Our proposal is a constitutional amendment modeled on Proposition 39 that will reduce the vote required for a local school facility maintenance or construction tax to 55 percent with accountability requirements similar to those enumerated in Proposition 39 for school bonds. In addition, to ensure this proposal does not merely replace funds already provided for school facility maintenance or construction, the amendment requires matching funds from other sources in the ratio of one dollar matching funds for every two dollars of new tax funds expended.

**We request you author a bill that would place this proposed constitutional amendment, or a proposal similar to it with the same or similar effect, on the California ballot as soon as possible.**

We would be happy to work with you further on this matter at your request.

### Thoughts on SCA 5

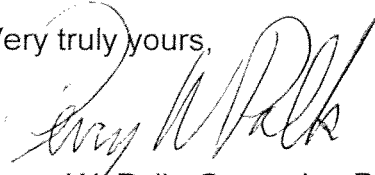
We are aware of SCA 5 (Simitian), now pending in the legislature, which would lower the voter approval threshold to 55% for parcel taxes covering all school purposes, not limited to facilities. While on the surface this might appear to be a superior proposal to ours, we believe—with due respect for Mr. Simitian's efforts—it is not for two reasons:

First, were SCA 5 to pass, facilities maintenance funding would be right back to where it is now, competing for funds with all the other potential uses that might draw revenue from the same, limited source. In that competition, we fear facilities, our priority, will lose out. Only by a more focused, facilities-only measure will facilities needs be met.

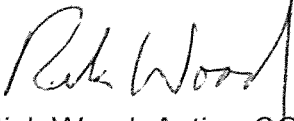
Second, and more importantly, SCA 5 has less chance of passing than our proposal. Senator Simitian has submitted his proposal several times from at least as early as 2003 (when he was in the Assembly), and it has never passed out of the legislature. By being focused on protecting existing public investments in infrastructure—and with the Proposition 39 precedent—we strongly believe our proposal is a more viable alternative to SCA 5, both in the legislature and at the ballot box.

Thank you again for your support.

Very truly yours,



Perry W. Polk, Governing Board Member and former COC Chair  
Fairfield-Suisun Unified School District



Rick Wood, Acting COC Chair  
Fairfield-Suisun Unified School District

cc: Honorable Noreen Evans, Senator, 2<sup>nd</sup> District  
Honorable Lois Wolk, Senator, 5<sup>th</sup> District  
Honorable Michael Allen, Assembly Member, 7<sup>th</sup> District  
Gerry Shelton, Chief Consultant, Assembly Committee on Education

PROPOSED AMENDMENT TO CALIFORNIA CONSTITUTION TO ALLOW  
ENACTMENT OF SPECIAL TAXES FOR SCHOOL FACILITIES BY A 55% VOTE

As amended by the “Smaller Classes, Safer Schools and Financial Accountability Act” of 2000 (Proposition 39 of that year), Article 13A of the California Constitution allows school districts, community college districts, and county offices of education, with a 55 percent favorable vote of the electorate, to enact a local property tax for school construction bonds. In contrast, Article 13A has continued to require a two-thirds (66.7 percent) vote for a tax to maintain school facilities on an ongoing basis or to fund school construction without bonds.

The proposed amendment will reduce the vote for a school facility maintenance or construction tax to 55 percent with accountability requirements similar to those required by Proposition 39 for school bonds. In addition, to ensure this proposal does not merely replace funds already provided for school facility maintenance or construction, this amendment requires matching funds from other sources in the ratio of one dollar matching funds for every two dollars of new tax funds expended.

ARTICLE 13A SECTION 4 SHALL BE AMENDED AS FOLLOWS

Section 4. (a) Cities, Counties and special districts, by a two-thirds vote of the qualified electors of such district, may impose special taxes on such district, except ad valorem taxes on real property or a transaction tax or sales tax on the sale of real property within such City, County or special district.

(b) Notwithstanding any other provisions of law or of this Constitution, school districts, community college districts, and county offices of education may for the construction, reconstruction, rehabilitation, replacement, modernization, or maintenance of school facilities impose special taxes on such district or county, as appropriate, approved by 55 percent of the voters of the district or county, as appropriate, voting on the proposition on or after the effective date of the measure adding this paragraph. This paragraph shall

apply only if the proposition approved by the voters and resulting in the special tax includes all of the following accountability requirements:

(A) A requirement that the proceeds from the special tax be used only for the purposes specified in this paragraph, and not for any other purpose, including teacher and administrator salaries and other school operating expenses unless directly related to the purposes specified in this paragraph.

(B) A list of the specific school facilities projects to be funded and certification that the school district board, community college board, or county office of education has evaluated safety, class size reduction, and information technology needs in developing that list.

(C) The minimum proportion of the tax proceeds to be dedicated to school facility maintenance and a representative list of maintenance activities eligible for funding.

(D) A requirement that the school district, community college district, or county office of education provide matching funds of not less than one-third of the total funds to be used for the purposes of this paragraph from sources other than the special tax.

(E) A requirement that the school district board, community college board, or county office of education conduct an annual, independent performance and financial audit to ensure that the funds have been expended in accordance with this paragraph.