



**CITY OF LODI  
COUNCIL COMMUNICATION**

**AGENDA TITLE:** Consideration of a Development Moratorium  
**MEETING DATE:** August 16, 2006 City Council Meeting  
**PREPARED BY:** City Manager/City Attorney's Office

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**RECOMMENDED ACTION:** The City Council may take one of the following actions:

- 1) The Council may immediately adopt by a four-fifths vote an urgency measure to prohibit for 45-days the approval of any new development applications. Such an urgency ordinance requires a subsequent public hearing and adoption of findings after which the ordinance may be extended for 10 months 15 days; or
- 2) The Council may first call for a public hearing on a proposed 45-day interim ordinance to prohibit new development, which must be subsequently adopted by a four-fifths vote, and direct the City Attorney to prepare draft findings for Council consideration. Such an urgency ordinance can be extended for 22 months and 15 days.

**BACKGROUND INFORMATION:** At the Council Meeting of August 2, 2006, Mayor Susan Hitchcock requested that the Council consider a moratorium on development. In accordance with Lodi Municipal Code, and the Council Protocol Manual adopted March 15, 1006, any member of the City Council may place an item on the agenda for consideration subject to the City Manager's discretion as to the preparation of an accompanying staff report.

To respond to the Mayor's request in a timely manner, her request for consideration of a development moratorium is before the Council. A staff report regarding the merits or consequences of a moratorium has not been prepared.

Government Code Section 65858, authorizes a city to adopt, as an urgency measure, an interim ordinance if it can by four-fifths vote find that such a measure is necessary to protect public safety, health, and welfare. The interim zoning ordinance would prohibit the approval of any use which may be in conflict with a planning or zoning proposal that a city is considering adopting within a reasonable time. Such a moratorium requires no public hearing, and is effective for only 45 days.

However, after notice and a hearing, at which the Council must again make findings that the interim ordinance protects public safety, health, and welfare, the City Council may extend the interim ordinance for 10 months and 15 days. The ordinance may again be extended for another year. Extensions require findings and a four-fifths vote.

In the alternative, an interim 45-day ordinance may be adopted by a four-fifths vote with the same finding as noted above following a noticed public hearing, which can be extended after notice and hearing, by a four-fifths vote for 22 months and 15 days.

All "urgency" ordinances are limited by statue to a two-year period.

APPROVED:   
Blair King, City Manager

Additional prohibitions apply to moratoriums which would have a specific adverse impact upon continued approval of the development of multifamily housing projects.

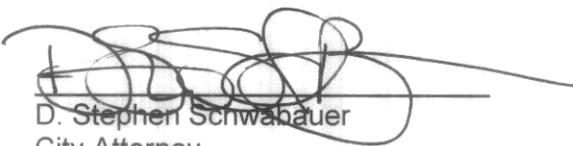
Urgency Ordinances can be adopted for 45-days without a hearing presumably based on the assumption that once the development community hears a moratorium is proposed, or a downzoning is being contemplated, an influx of applications could occur. Also, according to the sources referred to for the preparation of this memorandum, moratoria cannot be used to prohibit the processing of development applications. The City of San Juan Capistrano's interim ordinance was held invalid to the extent that it applied to processing development applications.

Further analysis will be provided at the Council Meeting on the effect a moratorium may have on the City's approved Housing Element.

Note: Curtin's California Land Use and Planning Law, 2004 Edition, Solano Press Books, and Gov't Code Section 65858 were used as sources for the information provided in this memorandum.

**FISCAL IMPACT:** Not analyzed for this memorandum.

  
\_\_\_\_\_  
Blair King  
City Manager

  
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D. Stephen Schwabauer  
City Attorney



## Fact Sheet: The ERAF Property Tax Shift

In 1992, the State of California found itself in a serious deficit position. To meet its obligations to fund education at specified levels under Proposition 98, the state enacted legislation that shifted partial financial responsibility for funding education to local government (cities, counties and special districts). The state did this by instructing county auditors to shift the allocation of local property tax revenues from local government to "educational revenue augmentation funds" (ERAFs), directing that specified amounts of city, county and other local agency property taxes be deposited into these funds to support schools.

In fiscal 2006-07, the annual impact of the ERAF shift is a shortstopping of some **\$6.7 billion** from cities, counties, special districts and the citizens those entities serve. Since their inception, the ERAF shifts have deprived local governments of over **\$65 billion**. Counties have borne some 73 percent of this shift; cities have borne 16 percent.

The state has provided some funding to local governments that it considers mitigation of ERAF. However, the vast majority of these funds are earmarked for particular purposes. Moreover, a relatively small portion of these funds has gone to cities. In 1992, California voters approved Proposition 172, which provided sales tax funding for police, fire and other public safety programs. Proposition 172 funds provide only \$2.5 billion annually to local government, **leaving local citizens facing a \$3.8 billion net ERAF gap in FY 2006-07**. Considering all state subventions that the Legislative Analyst defines as "ERAF mitigation," the net ERAF impact on cities is over \$1 Billion in the current year.<sup>1</sup>

As a part of the budget agreement that put Proposition 1A of 2004 on the ballot to protect city revenues from additional shifts and state takeaways, cities counties and special districts agreed to contribute an additional \$1.3 billion per year in FY04-05 and FY05-06. Although these ERAF III shifts ended in FY06-07, the original shifts that began in 1992-94, have not been reduced at all.<sup>2</sup> Proposition 1A, which passed by an unprecedented 84% yes vote, constitutionally protects major city revenues from additional shifts to the state and strengthens local government's ability to get reimbursement for unfunded mandates. However, it did not provide local governments with any new revenue nor reduce or alter the ERAF I and II shifts.

The ERAF takeaways have had real impacts on Californians' quality of life and the attractiveness of local communities to business. City residents have experienced the following consequences of the ERAF shift:

- Cuts in human services, including parks, libraries and other community services
- Deferred maintenance on the public's investment in its infrastructure
- Greater pressure for increases in local taxes, fees and assessments
- Reductions in reserves and greater reliance on debt rather than cash financing for capital improvements

All of this comes at a time when California's population is growing rapidly and is creating demands for additional services and facilities. Indeed, the population growth in cities (57 percent) has exceeded the statewide population growth rate (46 percent) over the past 20 years.

mjgc

<sup>1</sup> Cities not including the City/County of San Francisco.

<sup>2</sup> Subsequent to the transfer of these funds, they are reallocated within each county back to cities and counties to compensate for the state's repeal of the VLF backfill in 2004 and the temporary ¼ cent sales tax shift to support the state deficit reduction bonds. However, this mechanism does not alter the existence or real effect of the ERAF I and II shifts.

**Impacts of ERAF and Proposition 172 (\$ in millions)**

ERAF																Sum
	<u>1992-93</u>	<u>1993-94</u>	<u>1994-95</u>	<u>1995-96</u>	<u>1996-97</u>	<u>1997-98</u>	<u>1998-99</u>	<u>1999-00</u>	<u>2000-01</u>	<u>2001-02</u>	<u>2002-03</u>	<u>2003-04</u>	<u>2004-05</u>	<u>2005-06</u>	<u>2006-07e</u>	Total
Cities	-216	-483	-525	-523	-518	-511	-574	-606	-652	-704	-760	-807	-1,214	-1,303	-1,058	-10,454
Counties	-544	-2,374	-2,583	-2,567	-2,540	-2,665	-2,787	-2,934	-3,181	-3,447	-3,688	-3,930	-4,545	-4,953	-5,109	-47,848
Spec Districts	-212	-252	-281	-285	-279	-271	-316	-339	-339	-364	-384	-409	-797	-851	-556	-5,935
Redev't Agency:	-200	-65	-65	0	0	0	0	0	0	0	-75	-135	-250	-250	0	-1,040
	<u>-1,173</u>	<u>-3,175</u>	<u>-3,454</u>	<u>-3,374</u>	<u>-3,337</u>	<u>-3,447</u>	<u>-3,677</u>	<u>-3,879</u>	<u>-4,171</u>	<u>-4,515</u>	<u>-4,906</u>	<u>-5,281</u>	<u>-6,806</u>	<u>-7,357</u>	<u>-6,723</u>	<u>-65,276</u>

Proposition 172																Sum
	<u>1993-94</u>	<u>1994-95</u>	<u>1995-96</u>	<u>1996-97</u>	<u>1997-98</u>	<u>1998-99</u>	<u>1999-00</u>	<u>2000-01</u>	<u>2001-02</u>	<u>2002-03</u>	<u>2003-04</u>	<u>2004-05</u>	<u>2005-06</u>	<u>2006-07e</u>	Total	
Cities	84	88	92	91	104	109	123	131	134	130	139	149	159	163	1,697	
Counties	1,301	1,400	1,510	1,595	1,682	1,757	1,974	2,153	2,096	2,143	2,274	2,456	2,628	2,707	27,676	
Spec Districts	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	
	<u>0</u>	<u>1,385</u>	<u>1,488</u>	<u>1,602</u>	<u>1,686</u>	<u>1,786</u>	<u>2,119</u>	<u>2,283</u>	<u>2,218</u>	<u>2,273</u>	<u>2,413</u>	<u>2,606</u>	<u>2,787</u>	<u>2,871</u>	<u>29,373</u>	

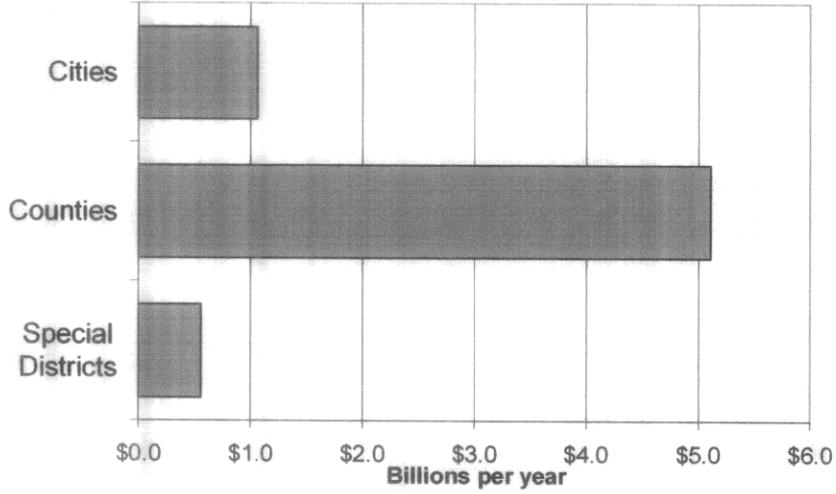
ERAF net of Prop172																Sum
	<u>1992-93</u>	<u>1993-94</u>	<u>1994-95</u>	<u>1995-96</u>	<u>1996-97</u>	<u>1997-98</u>	<u>1998-99</u>	<u>1999-00</u>	<u>2000-01</u>	<u>2001-02</u>	<u>2002-03</u>	<u>2003-04</u>	<u>2004-05</u>	<u>2005-06</u>	<u>2006-07e</u>	Total
Cities	-216	-399	-437	-431	-426	-407	-465	-483	-520	-570	-630	-668	-1,065	-1,145	-895	-8,757
Counties	-544	-1,073	-1,183	-1,057	-945	-983	-1,030	-960	-1,028	-1,351	-1,544	-1,656	-2,089	-2,325	-2,402	-20,172
Spec Districts	-212	-252	-281	-285	-279	-271	-316	-339	-339	-364	-384	-409	-797	-851	-556	-5,935
Redev't Agency:	-200	-65	-65	0	0	0	0	0	0	0	-75	-135	-250	-250	0	-1,040
	<u>-1,173</u>	<u>-1,789</u>	<u>-1,966</u>	<u>-1,772</u>	<u>-1,651</u>	<u>-1,662</u>	<u>-1,812</u>	<u>-1,782</u>	<u>-1,887</u>	<u>-2,285</u>	<u>-2,633</u>	<u>-2,868</u>	<u>-4,201</u>	<u>-4,570</u>	<u>-3,853</u>	<u>-35,903</u>

Sources: PSAF (Prop 172) actuals through 2000-01 from State Controller. ERAF and PSAF actuals by agency from Calif State Assn of Counties survey of County Auditors. FY06-07 is estimated. Updated Aug06.

# Loss to E.R.A.F.

annual statewide in 2006-07

Chart 2A

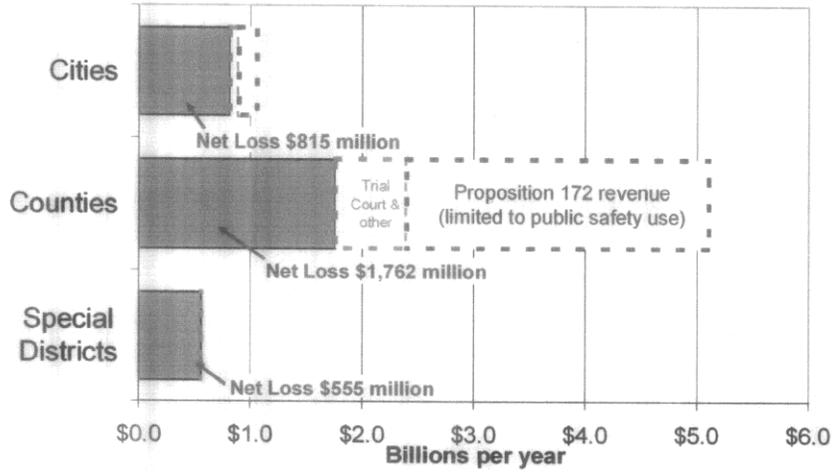


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# Net Loss: E.R.A.F. & "Mitigations"

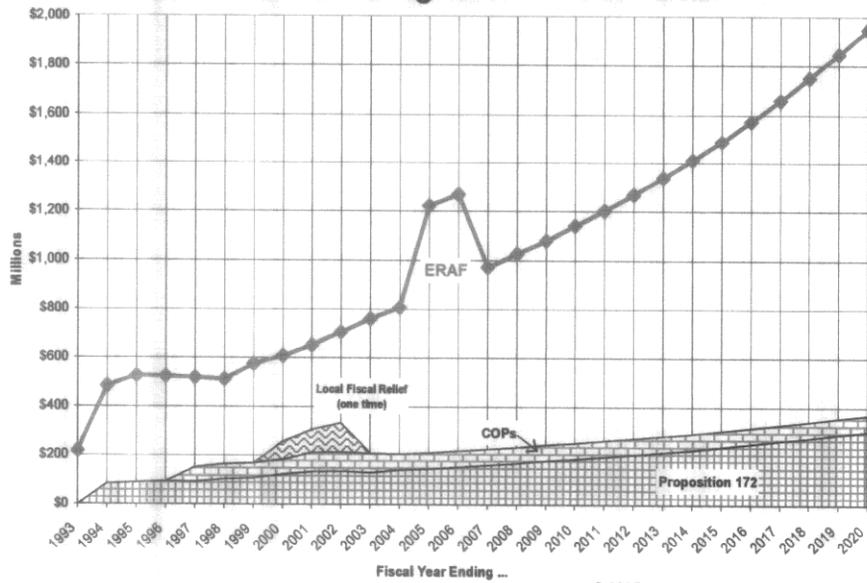
annual statewide in 2006-07

Chart 2B



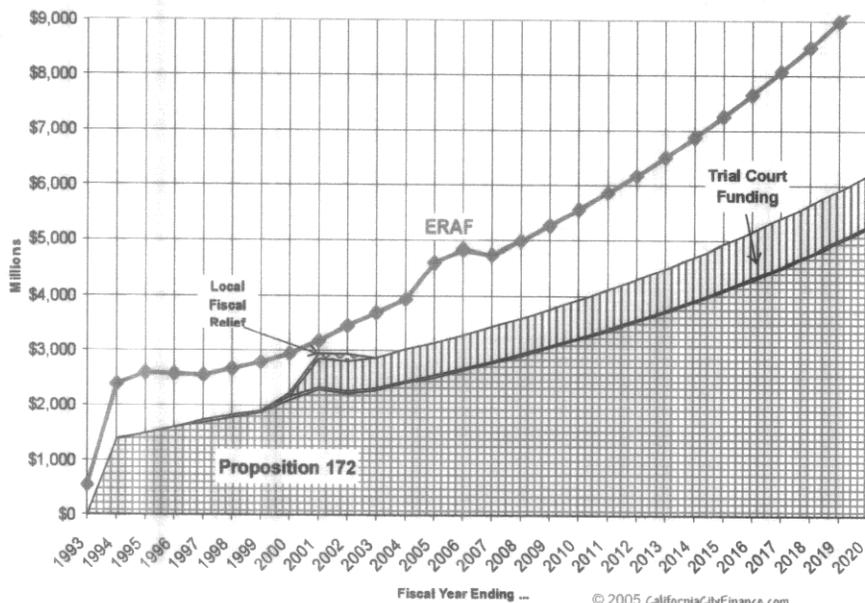
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**ERAF versus "Mitigations" - Calif Cities** Chart 3A



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**ERAF versus "Mitigations" - Calif Counties** Chart 3B



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