

THE TOBACCO INSTITUTE

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MEMORANDUM

November 27, 1991

TO: Kurt L. Malmgren

FROM: Robert S. McAdam

RE: California Local Referenda Program

In the absence of a preemptive state law governing smoking restrictions, we have confronted -- and will continue to confront -- an unprecedented threat of workplace and restaurant smoking ban actions at the local level in California. Either through the ballot box by referenda or through a reasonable compromise forged with local officials, this increasing treat of local smoking bans must be challenged.

Mounting credible referenda campaigns is an extremely expensive undertaking. The most productive and cost-efficient way in which to thwart smoking bans and limit referenda expenses is to forge reasonable smoking law compromises -- before the issues reach the ballot stage -- with local lawmakers.

The past eight months of operating at the local level have given us some substantial insight into what organization and resources have been most effective in waging this particular battle to stop these prospective bans. It should also be noted that some of these proposed bans on the ballot, such as in Sacramento, cover populations greater than many states.

Through this document, I hope to propose both a strategy and an allocation of resources for future local battles in California. Whether we fight these ordinances at the ballot box or we motivate changes prior to the ballot box, the allocation of resources for these local battles must be done in a coordinated manner. To do that effectively, I need to give a brief description of what I see us facing in the future in this environment.

The grant money available through Proposition 99 revenues has been effectively distributed to local health agencies and through them to local advocacy groups throughout the state. There continue to be materials circulated throughout the state outlining processes to be followed for application for additional grants. The local grants are invariably tied to required outspoken support for total smoking bans. In fact, the grants have established a new vested interest through the distribution of this money. Across the state there are increasing numbers of individuals who depend on the Prop. 99 grants for their livelihoods. That not only increases the sophistication of their information network, but creates a new lobbying force that is dedicated to the perpetuation of this program and which is totally divorced from the policy issues in question.

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While the total amount of Prop. 99 revenue available for local grants has been reduced to \$30 million, there is still enough to fund those who want to eliminate smoking at the local level. Furthermore, even a total cutoff of local grant money this coming year would leave enough money in the pipeline to cause us serious concern.

Despite the flow of funds, the establishment of a network, and the creation of a new vested class of workers, the overall operation of the anti drive to create an entirely smoke-free environment has been less than optimal. Nevertheless, their drive, coupled with numerous newspaper articles and the JAMA study, have worked to undermine our ability to organize local business interests.

That the opposition has operated at less than 100% efficiency should not minimize their overwhelming advantage in this arena. Not only do they have substantially more money at their disposal, but the political atmospherics weigh heavily in their favor. It is still a political benefit for any local politician to "protect" his constituents from the "evils" of the tobacco companies.

WHAT WE HAVE ACHIEVED

Despite the financial and atmospheric advantages of the anti, we have been able to achieve some remarkable progress during the past eight months, using both Institute and company resources. To date, comprehensive smoking bans (restaurants and workplace) exist in only the following communities:

- San Luis Obispo
- Lodi
- Sacramento (phase in June 1992)
- Bellflower
- Nevada County (restaurants only)
- Roseville
- Colfax
- Auburn

Referenda will be held in the following communities to determine the fate of the proposed smoking bans:

- Sacramento County (June, 1992)
- Oroville
- Paradise
- Visalia
- El Dorado County

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It is important to note that San Luis Obispo, Lodi, and Sacramento occurred prior to the establishment of the organization that we are currently operating and Bellflower occurred during its first month of operation.

In each of the jurisdictions where we have engaged in battle, our coalition has consisted of grassroots smokers, restaurateurs, a small number of local office building owners, bowling alley proprietors, bar and tavern owners, vending company proprietors, a small number of hospitality industry members, and other tobacco family members. Retailers have not played a substantial role in this effort. On occasion, we have employed the use of a local lobbyist to communicate our position to members of the governing body. On still rarer occasions, we have sent a TI representative to work directly with local officials.

While the industry has coordinated the process, we have effectively used surrogates throughout this effort, and we have several organizations started which serve to facilitate the organization of local interests. These entities provide us with the negotiation necessary to limit our referenda exposure.

First, we have created Californians for Fair Business Policy, which is the name given to our operation that has conducted the various referenda, and it is clearly identified as a "tobacco organization." Then there is the California Business and Restaurant Alliance (CBRA). This organization has a tax exempt status and is operated by The Dolphin Group with assistance from our consultant, Joe Justin. Finally there is Restaurants for a Sound Voluntary Policy (RSVP) operated by Rudy Cole. While this organization was active in the Los Angeles battle, and to some extent in Bellflower and Culver City, it has not grown since then and does not have a presence outside the Southern California region. A variety of RJR-sponsored local smokers' rights organizations have been created for specific battles to assist in the grassroots efforts.

As we approach 1992, a number of key battles at the local level are before us. Of primary importance is the City of Los Angeles. With a substantial expenditure of time and resources, a smoking ban ordinance was defeated by the industry in the Fall of 1990. The atmosphere has changed somewhat since then; the battle is likely to be more difficult and we are likely to operate with fewer resources. A number of other major jurisdictions are poised to act on this issue in the very near future. They include San Jose, San Mateo County and Oakland.

WHAT WE NEED FOR THE FUTURE

As the opposition gets more aggressive (which they will), we must become more aggressive in our efforts to defeat them. What follows is a strategy for the future along with a description of the resources that are needed to fulfill the strategy.

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Local elected officials continue to be sensitive to local business interests as well as the "health and welfare" of the citizenry as a whole. We must continue, therefore, to demonstrate the impact of smoking bans on local business interests. Beyond that, the population that smokes must become more vocal about its objection to total smoking bans.

Consultants:

The mobilization of the various Regional Directors from other regions to impact the California situation over the past few months has been very instructive. First, it is clear that one individual cannot handle this workload even in a contracted region. Therefore, it is important to have two individuals who will be full time consultants for the duration of this project. Second, one individual must be in charge of this campaign, and it needs to be someone with sufficient stature to talk with the various company people on a peer basis. Under my guidance, it is possible that a skilled Regional Vice President could handle this. Now that Bob Pruett has taken over, I believe the appropriate supervision is available. Thirdly, we will need to continue to retain a local grassroots consultant who will concentrate on businesses other than restaurants. He handles unique problems that require a significant amount of time in any one community. The personnel cost for this part of the operation would be roughly \$150,000. We should also budget an additional \$60,000 for travel to the various localities throughout the state. These consultants will be retained by one of our surrogate organizations.

Because the three consultants will be housed outside of the TI structure and facilities, we will need to budget an additional amount of \$60,000 for support staff and office expenses.

Research:

We need to produce some hard information about the economic impact of the smoking bans. To date the information has been slow to materialize because the tax data is difficult to obtain from the state Board of Equalization. Now that the bans have had one or two quarters to take effect, we can look at tax data that will be available this fall and create a study that can be used across the state. A Price-Waterhouse study with some credibility in this area would cost \$25,000.

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Grassroots Smokers:

On several occasions, we have mobilized grassroots smokers for both appearance at local government hearings and phone calls and letters to elected representatives. This operation has been managed by both PM and RJR and has yielded some positive results. I believe that budget constraints necessitate the need for the companies to continue funding this effort. It would be ideal if we could create a unified purged industry list to deploy on a case by case effort for both local initiative and for local ordinance fights. We will further investigate this approach, funded by the companies, but triggered by our Regional Vice President in California.

Local Business Mobilization:

Perhaps our strongest weapon in this battle has been our ability to organize and mobilize local businesses opposed to the ban. This has been accomplished through CBRA and our full time consultant, Joe Justin, and a great deal of work by The Dolphin Group. If our battle is to continue on this level, this part of the operation is essential. If PM will continue to fund this group, which again can be triggered by both circumstances and our Regional Vice President, it will fit into our defensive strategy.

Local Business Communication:

As an adjunct to our grassroots business development, there are times when a direct mail/phone bank effort to local businesses is necessary to mobilize them. We need to budget some funds for the maintenance and mobilization of the contacts that our consultant force is identifying: \$95,000

Local Lobbyists:

We have had some mixed experiences with local lobbying in this environment. On some occasions it has been essential to our effort, on others it has been a waste of money. This part of the project is essential but needs to be determined on a case-by-case basis, based on what consultants are available and what our judgement is as to their usefulness in the particular environment. TI has retained a firm for Los Angeles, but is unable to meet the financial demands to hire representatives for the rest of the state.

This money will give us flexibility to retain individual consultants for specific jurisdictions, as well as have ongoing representation in the largest jurisdiction in the state. Projected budget: \$80,000.

Referenda:

The referendum process of getting enough signatures to place a ban on the ballot continues to be our weapon of last resort but a potent one nonetheless. Our degree of success in negotiating with local lawmakers prior to the referenda stage will determine the degree to which this weapon will need to be used in this effort. If we need to exercise this option in places like Los Angeles, the cost will increase Dramatically. My recommendation would be that we have a pool of money available in our political committee that can be exercised with the approval of the companies but without the need for repeated small assessments. Total projection: \$750,000 which would be collected when needed as in the past by special assessment to Californians for Fair Business Policy. We would only exercise this kind of expenditure to place a ban on the ballot as a last resort and after your approval.

Referendum Elections:

In addition to those issues that we have caused, by referenda, to appear on the ballot in 1992, two cities have decided independently, to place the smoking ban issue before the voters. The outcome of the elections in all of these cities will have a major impact on the decision of other communities to proceed on this issue; therefore, it is important to do our best to win these elections.

The most expensive of these efforts will be the battle in Sacramento County. An initial estimate for that campaign is \$1.5 million. Each of the remaining communities, Paradise, El Dorado County, Oroville, and Visalia, should not require more than \$40,000 to wage an effective campaign. Thus, the total is \$1.54 million. These are clearly preliminary estimates, survey research will provide additional information to refine these budgets.

Clearly, this cost dramatically demonstrates the need to fund the other parts of our local California defense to keep as many bans off the ballot as possible.

Budget Summary:

Local Organization Efforts:

Local Full Time Consultants	\$150,000
Local Staff Travel	\$60,000
Local Staff Office Expenses	\$60,000
Research	\$25,000
Business Communication	\$95,000
Local Lobbyists	\$80,000

Local Organization Efforts Total: \$470,000

- * Those functions that are being currently paid for in total or in part by individual companies must for obvious strategic reasons be triggered by T.I.

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Political:

Referenda \$50,000

Local California Referenda Total \$50,000

* The local referenda total could reach \$750,000 if we have to fight Los Angeles and other areas by exercising the referenda tool.

Elections:

Sacramento County \$1,500,000

El Dorado County, Oroville, Paradise, Visalia \$40,000

Local California Election Total \$1,540,000

**GRAND TOTAL FOR CALIFORNIA LOCAL
REFERENDA PROJECT \$2,060,000**

RSM/mln