

APR 21 1987

**CALIFORNIA TOBACCO TAX INITIATIVE
ACA 14**

April 15, 1987

CONFIDENTIAL

50661 0188

C-O-N-F-I-D-E-N-T-I-A-L

MEMORANDUM

April 15, 1987

To: Samuel D. Chilcote, Jr.
From: Roger L. Mozingo 
Subject: California Assembly Constitutional Amendment 14

BACKGROUND

ACA 14, a measure to increase California's cigarette tax from 10 to 35 cents per pack, is unusual in that two steps are required for adoption: (1) it must be approved by two-thirds of the lawmakers in each house and (2) be approved by a simple majority of the voters on either the June or November 1988 ballot. Proponents of the tax increase have chosen this constitutional amendment approach to avoid conflict with the state's spending limitations as mandated by the 1979 Gann constitutional amendment.

The bill, introduced on February 23 by Assemblyman Lloyd Connelly (D-Sacramento), also contains language to increase the tax on other tobacco products based on the wholesale price of those goods. Assemblyman William Filante (R-San Rafael), the only M.D. in the legislature, co-authored ACA 14.

On May 4, 1987, the California Assembly's Revenue & Taxation Committee holds the initial hearing on ACA 14. If the measure is not stopped in that committee, ACA 14 could be referred to another Assembly committee and at least two committees in the Senate. Legislative counsel advises that the Assembly Revenue & Taxation Committee is the legislative body most receptive to our position against increased taxes.

If adopted, the new funds would be earmarked in a politically appealing manner to the educational community, senior citizens, the poor for medical assistance, cities and counties, and various environmental and other interests.

Strong support for the measure continues to be voiced by the California Medical Association (CMA), as well as the California chapters of the cancer society and lung and heart associations. The proponents have come together under the banner of the Coalition for a Healthy California.

The anti-tobacco groups, with promised heavy financial backing from CMA and others, have vowed to take the tax increase issue to the voters regardless of the legislative outcome. In other words, if ACA 14 is defeated in the legislature, proponents are ready to proceed with the costly ballot initiative process. CMA has publicly committed \$1 million for this effort.

Our immediate goals are to defeat ACA 14 in the Assembly Revenue & Taxation Committee and to implement a program to discourage placement of the tax question on the 1988 initiative ballot. Failing that, we must be prepared to mount a full-scale program to defeat a ballot initiative. What follows is a summary of activities already underway, as well as recommendations for additional activity as events unfold.

A full briefing and discussion of the issue took place at the State Activities Policy Committee meeting on April 3, 1987. In addition, background material was shared with member company personnel.

Our work breaks into three closely-related categories:

- Legislative Phase -- Currently underway and will continue through the May 4 hearing or until the issue is resolved in the legislature.
- Interim Initiative Phase -- Will begin as soon as the legislative outcome is decided and continue until proponents meet initiative filing requirements. This phase could last approximately five months.
- Initiative Phase -- From filing until the ballot question is decided in either the June or November 1988 election.

LEGISLATIVE PHASE

ACA 14 is currently before the Assembly Revenue & Taxation Committee. A hearing has been scheduled May 4. In preparation for that specific hearing and for our general legislative program, the following actions are being undertaken:

- LEGISLATIVE PROGRAM
 - ...Legislative counsel (three lobbyists from A-K Associates) are in direct contact with key members of the legislature in an effort to limit support for the measure.
 - ...T.I. counsel representatives also are working directly with Hispanic and Black groups, organized labor, seniors, California Taxpayers Association, etc.
- LEGISLATIVE SUPPORT resources are being provided by T.I. field and headquarters staff and member company representatives.

50661 0190

Potential ACA 14 hearing witnesses

- ..."Social Costs" witness: Robert Tollison, Ph.D., George Mason University
- ...Economic witness: Hal Summers, Ph.D., UCLA
- ...California Chamber of Commerce
- ...Spokesperson on Gann Initiative spending limits
- ...California Taxpayers Association
- ...Labor spokesperson
- ...Tobacco wholesalers/vendors
- ...California Retailers Association

Other groups being coordinated to oppose ACA 14

- ...California Manufacturers Association
- ...Mexican American Grocers
- ...Minority leaders (Hispanics, Blacks, Orientals, etc.)
- ...Billboard advertising community
- ...Convenience store officials

Additional legislative support activities

- ...Letter-writing campaign targeted to members of the Assembly Revenue and Taxation Committee. During this phase, the campaign will be limited to key company contacts and certain TAN activists.
- ...Preparation of background materials, including an excise tax "white paper" and targeted tax fact sheets.
- ...A presentation before the California Chamber of Commerce to solidify opposition to tobacco excise tax increases.

INTERIM INITIATIVE PHASE

If we are successful in defeating ACA 14 in the legislature, proponents have made it clear that they will continue their tax

50661 0191

increase efforts by going directly to the voters via the ballot initiative process. It can be assumed that anti-tobacco forces will couch the question in terms of a 25-cent per pack cigarette tax increase, with similar increases on other tobacco products.

To qualify for a ballot initiative, the "Healthy California" group must gather nearly 600,000 valid signatures. Although such a signature-gathering effort could cost the group up to \$1 million, we believe they can gather the needed signatures. As noted, CMA has committed publicly to supply necessary financial support to reach the initiative ballot goal.

To counter, we need to be prepared to initiate -- in most cases, simultaneously -- the following activities at the conclusion of the legislative process:

- . Selection and training of necessary consultants.
- . A carefully-crafted media/pr campaign to counter the positive press already generated by proponents during the legislative phase.
- . Intensified coordination with leaders of California's various minority communities.
- . Mobilization of California smokers via member companies.
- . Involvement of elements within the state's labor and business communities.
- . Work closely with other potentially helpful groups such as senior citizens, conservative political groups, taxpayer associations, etc.
- . Assistance from state political leaders who oppose the tax increase.
- . Identification of nationally-known figures to help spearhead the initiative campaign.

It is our hope that our preparation for an initiative will help dissuade CMA and others from pursuing a ballot initiative. In addition, we can also help discourage the ballot initiative by:

- . Offering counter-initiatives for the ballot to the Attorney General. In other words, add to the public debate nontobacco issues of key importance to our opponents so that their time will be required to battle other initiatives rather than promoting a tobacco tax hike initiative.

- . Introduce nontobacco-related bills in the legislature that will tend to divide our opponents or at least magnify the inherent conflicts within the "health" community.
- . Ensure that any rifts within the ranks of our opponents receive full attention in the media and that their "special interests" get a complete airing.

If these efforts are not successful in thwarting an excise tax initiative, we must be prepared to tackle a statewide initiative vote on tobacco taxes.

INITIATIVE PHASE

The industry has had previous initiative/referenda experience in the State of California. That experience makes it clear that it will be necessary to put into high gear steps outlined in the INTERIM INITIATIVE PHASE.

In order to zero in on precise strategy and tactics, polling and thorough research will be required as with California Prop. 5 in 1978 and Prop. 10 in 1980. Within the next five months, after thoroughly surveying the political opinion landscape, we can provide a detailed initiative program.

Our basic program will entail parallel lines of action depending upon an assessment of appropriate strategy and required tactics:

- . PR/media campaigns

Select appropriate media consultants and conduct an ongoing series of voter surveys to target the basic theme(s) of the campaign and how best to approach the various constituencies within the state.

Aside from employing the traditional arguments against tobacco excises, e.g., regressivity, it may be necessary to focus awareness on issues our opponents would like buried. Examples could include unreasonable doctors' fees and the concept that physicians be required to retake and pass a medical proficiency examination every two years.

- . Voter campaigns

Contact programs with key minority and other California subgroups such as labor and senior citizens as listed earlier in the report.

Intensified contact with smokers.

. Nontobacco initiative ballot questions

During attempts to defeat a tobacco tax increase initiative, it may also be necessary to push for passage of nontobacco initiatives opposed by anti-tobacco forces.

STAFF RECOMMENDATIONS FOR EXECUTIVE COMMITTEE ACTION

Legislative Phase

- . No Executive Committee action is necessary. The program is in place and progressing on schedule.

Interim Initiative Phase

- . Recommend approval to proceed as outlined within the guidelines of the proposed budget. *
- . Executive Committee approval of the budget and approach, e.g., strong public disagreement with the CMA, will be required.

Initiative Phase

- . No Executive Committee action required at present.
- * An "Estimated Budget" for all phases follows for your review.