

Division of Labor: California's Renewed Budget Crisis Splits the Union Movement

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In an earlier article, I discussed the odd morphing of California's state budget crisis of the early 2000s into a fight between Governor Arnold Schwarzenegger with public-sector unions over a series of ballot initiatives.¹ By making an enemy of the labor movement, the governor provoked a massive campaign against his initiatives. Below I describe a different strategy taken by the governor in the context of the California budget crisis of 2008-2009.

Schwarzenegger's 2005 Debacle

The dot-com bust of 2001 produced substantial declines in state tax revenue. Democratic Governor Gray Davis' recall in 2003 and his replacement by Republican Arnold Schwarzenegger largely resulted from the subsequent budget imbalance. Governor Schwarzenegger borrowed his way out of the crisis in 2004, promising "to throw away the credit card." Borrowing temporarily resolved the problem and the threat to public-sector jobs.

In 2005, however, the governor placed five initiatives on the ballot that antagonized organized labor. Two were aimed at public-sector unions, especially the California Teachers Association (CTA). The upshot was a campaign, largely financed by organized labor, to defeat the initiatives. In the end, all were rejected by voters and the governor's popularity tanked.

The 2006 Comeback

Schwarzenegger's popularity drop during the 2005 episode proved temporary. The governor reclaimed public approval, championing ballot propositions to expand infrastructure. Voters were offered about \$40 billion in infrastructure improvement, all to be supported by bond finance and no pay-as-you-go tax increases.

With the electorate enchanted by visions of reduced traffic congestion at no (immediate) cost, the incumbent governor beat his Democratic rival, state treasurer Phil Angelides. Unlike the 2005 propositions, the 2006 infrastructure program appealed to organized labor, especially in construction and local government. Thus, while most unions officially supported Angelides for governor, their support was tepid.

In another article, I reviewed Governor Schwarzenegger's abortive 2007 campaign for a state universal health insurance plan.² This time, the governor attracted support of the important Service Employees International Union (SEIU). As a result of his alliance with SEIU, Governor Schwarzenegger obtained *de facto* neutrality of most other unions. Only the California Nurses Association (CNA) – which adamantly favored single-payer - actively opposed the governor's plan.

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The health plan passed the state Assembly. But by the time it reached the Senate in late 2007 and early 2008, the budget had moved back into crisis. The plan was defeated in the state Senate by opponents who pointed to budgetary problems.

Given his experience in 2005 – defeat by antagonizing organized labor and allied groups – and his partial success in pushing a health plan through the state Assembly with the support of the SEIU – it appears that Governor Schwarzenegger gained in political sophistication. Subsequently, the governor, as will be detailed below, succeeded in splitting the union movement regarding a series of ballot propositions related to the budget that were presented to the electorate on May 19, 2009.

Budget Background

In order to understand the role of unions in the budget crisis that unfolded in 2008-09, it is important to point to a fundamental characteristic of the California state budget. The budget works only at the peak of the business cycle. Since on average, the economy is not at the peak, the California budget is prone to crisis. That characteristic was inherited by Governor Schwarzenegger and remained unchanged. Many factors contribute to this characteristic. Two are particularly important: heavy reliance on direct democracy and constitutional requirements that budgets and tax increases be approved by a supermajority of two-thirds in the Legislature.

Chart 1 illustrates the problem. The deficit budgets under former Governor Gray Davis starting in fiscal year 2001-02 can be seen on the chart.³ However, by the time Davis was recalled in the 2003-04 fiscal year, the deficit was receding as the state economy recovered. Nonetheless, substantial short-term debt had accumulated and needed to be refinanced over a multi-year period. There followed two good budgetary years, although even those were affected by a one-time inflow of funds under a tax amnesty program. By 2006-07, the budget was back in deficit. Thus, two years before the major financial crisis that erupted in fall 2008, the state budget was in difficulty.

The 2008-09 Budget Crisis

The state budget process begins with a proposal in early January by the governor for the next fiscal year. That proposal triggers some legislative hearings and analysis by the nonpartisan Legislative Analyst. However, typically, little progress is made until after the “May revise,” a modified budget proposal made by the governor in mid-May. The May revise reflects updated economic forecasts, more complete information about state revenue and spending, and some political analysis on what can be passed.

As part of his January 2008 budget message, Governor Schwarzenegger presented various charts and graphs in support of a constitutional amendment that would enlarge the state’s “rainy day” fund and create a spending cap. Curiously, there was no effort to put such an amendment on the ballot in 2008. The rainy day/spending cap idea lay dormant until it resurfaced in a budgetary deal in February 2009 and split organized labor.

Other earlier ideas were also recycled in the renewed budget crisis. At one point during debate over the 2007 health plan, the idea of enhancing or privatizing the state lottery as a source of funding emerged. That idea reemerged in February 2009 as a

borrowing plan to appear on the ballot. The lottery/borrowing proposal was one of the proposals that also led to divisions in the California union movement.

Summer 2008 Stalemate

The 2008-09 fiscal year began with a refusal by legislative Republicans to go along with a proposal by the governor to borrow against the state lottery. Proposals by Democrats for increases in the state income tax and other taxes were similarly rejected by Republicans. Lottery revenues are earmarked for education and could have potentially provoked the ire of the California Teachers Association (CTA).

Pressed to come up with resources, Democrats were split. Senate Democrats opposed the lottery plan although some in the Assembly favored it. However, any lottery plan would require voter approval since it would modify the state constitution. The idea of basing a budget on cash receipts that might or might not be approved in the future was not appealing at the time. But – as will be seen below – it eventually became part of the plan in February 2009 and was endorsed by both the CTA and SEIU.

While public-sector unions have an obvious interest in the state budget, unions in the construction industry have concerns with public infrastructure projects which are typically financed outside the general fund. Nonetheless, during budget crises, the notion of tapping outside funds appeals to the Legislature. Such tapping began to be raised as a possibility during the summer stalemate. A union-management group in construction – the California Alliance for Jobs – immediately protested, and the proposal was shelved.

With no budget in place, legal issues arose as to what bills the state controller could. In a budget crisis in the early 1990s, an attempt to pay state employees with IOUs was declared a violation of the federal Fair Labor Standards Act. However, there was some question of whether the state could meet its obligations by paying just the legal minimum wage and the rest in IOUs to be paid when a budget was enacted. In late July, probably hoping it would put pressure on legislative Democrats, Governor Schwarzenegger ordered the controller to do just that.

Democratic Controller John Chiang refused to go along with an order by Governor Schwarzenegger to pay only the minimum wage. An SEIU spokesperson accused the governor of harming vital state workers. Chiang argued that as an elected official, he did not have to follow the governor's order and that the state's computer system was antiquated and could not be re-programmed to revise paychecks to the minimum wage.

Despite litigation that followed, the matter was not resolved prior to a budget deal in mid-September and no one was paid the minimum wage. A much later court decision ruled that the governor had the authority to order the cut but left the door ajar to the argument that the computer system was technically unable to handle the change. However, as an adjunct to the minimum wage plan, the governor laid off many part-time workers, something the controller could not prevent. SEIU and a smaller union filed a lawsuit and unfair labor practice charges against both the proposed minimum wage cut and the actual layoffs. But the layoffs nonetheless occurred, supposedly including recalled retirees who knew how to reprogram the old computers in COBOL.

The stalemate was not entirely over fiscal issues. Business interests pressed Republicans to hold out for changes in state labor and environmental laws – an agenda

the California Labor Federation branded as a distraction. But the California Chamber of Commerce argued that such changes would stimulate the economy and increase tax revenue. In an interesting tactic, SEIU claimed it had a poll of Republican voters showing they would prefer compromise even if it entailed a tax increase. However, the California Alliance for Jobs, the group composed of construction employers and unions, aired radio ads cautioning the Legislature not to divert gas tax revenue earmarked for transportation projects to the general fund.

Flip Flop

By August 2008, Governor Schwarzenegger had reversed his position against tax increases and proposed a temporary 1-cent increase in the state sales tax and certain other revenue enhancements. The sales tax increase would last two or three years and then be removed, followed by a further cut of a quarter of a cent. A later version of the idea involved a November 2008 proposition to be put on the ballot that would give voters a choice between borrowing from the lottery *or* a 1-cent sales tax increase. Exactly how such an either/or proposition could be worded was unclear.

The either/or element did not become part of the eventual deal in September. However, the governor's basic plan was endorsed by Cal-Tax, a business-oriented tax watchdog group. Part of the governor's proposal was a hike in the state's rainy-day fund (in the future) by formula, presumably through a ballot proposition. The jump in the sales tax and the rainy-day fund – although not part of the September deal – resurfaced in a later budget deal in February 2009. But as far as legislative Democrats were concerned, while they wanted a tax increase, they wanted it to be an income tax increase rather than an increase in the regressive sales tax.

With the governor's minimum wage cut stymied by the controller, he had little leverage. Still, he threatened to veto any bill that came to his desk before the budget was enacted and closed the Department of Motor Vehicles' Saturday service, ostensibly because of the layoffs. However, the changed position on taxes may have weakened his hand since it appeared that he was more flexible than his stated positions.

On various occasions, the governor characterized fellow Republicans in the Legislature as ideological partisans for not compromising on taxes. But eventually he and the legislative Democrats – unable to obtain a two-thirds vote for a budget with a tax increase - caved in to Republicans on the tax issue. All but one of the legislative Republicans signed a no-tax-increase pledge in late August 2008, something those signatories who later acquiesced to a tax increase in February 2009 came to regret. Without a budget, the state was unable to pay bills to Medi-Cal providers, school and community college districts, and a variety of other state programs. Pressure from those sources forced a no-tax-increase deal in September.

In mid-September a recall petition was submitted to the California secretary of state by the California Correctional Peace Officers Association (CCPOA), representing prison guards. A representative from the American Federation of State, County and Municipal Employees (AFSCME) joined CCPOA as a signatory, but said his union had not yet taken an official stance on a recall. Even some Republicans – angered by the governor's flip-flop on taxes - toyed with the idea of endorsing the recall. In the end, the

secretary of state found technical errors in the recall filing, there was no follow-up by CCPOA, and a full recall effort was never mounted.

First Budget Deal: 2008-09

Also in mid-September, a deal was reached between the Democrats and Republicans in the Legislature which involved no tax increases. It would effectively borrow from taxpayers by raising income tax withholding, but not the tax rates. Over-withholding would occur – a kind of interest-free loan to the state which would be repaid when taxpayers filed their returns in 2010. Certain business tax breaks were also included. A plan to borrow against the lottery would be put to the voters and there would be a relaxation of state overtime standards for computer professionals. The last item was not budget-related; it was a concession to high-tech employers that Republicans were demanding.

SEIU threatened to put an initiative on the ballot repealing the business tax breaks. And Governor Schwarzenegger said he would veto any such deal if it did not contain a rainy-day fund amounting to one-eighth of the general fund. In theory, if there was a two-thirds vote available to enact the budget deal, such a veto could be overridden. However, Republicans began to balk over providing the votes for an override. They were willing to provide a two-thirds vote for the budget, but only after Democrats had raised withholding by a simple majority. Characterizing borrowing by withholding as a gimmick, Assembly Republican leader Mike Villines indicated his party members would not vote to override a veto of that component.

With a sustainable veto threat, the governor negotiated a new deal which dropped the withholding element. An enlarged rainy-day fund proposal would eventually be put to voters, timing uncertain. Limited authority to make mid-year cuts was given to the governor. A tax amnesty program and higher penalties for corporations that underpaid was supposed to make up for the lost cash flow the extra withholding would have provided.

The budget assumed success by the state in appealing the court decision preventing a 10% cut in Medi-Cal (Medicaid in California). It was signed by the governor on September 23, 2008 in a low-key ceremony – since no one expected the new budget was sustainable. By the time the signing occurred, the global financial meltdown was underway.

An odd result followed the September 2008 budget deal. Unions had opposed the governor's various initiatives in 2005, one of which called for redistricting by a neutral body rather than the Legislature. A similar redistricting initiative backed by the governor was again on the ballot in November 2008. CTA and SEIU, apparently angrier at the polarized Legislature than at Schwarzenegger, indicated they were not going to oppose the initiative – which was intended to produce less polarization by creating fewer safe districts. Absent major opposition, redistricting passed by a slim majority.

The Failed Emergency Session

Soon after the September 2008 budget signing, Governor Schwarzenegger let it be known that he was considering calling an emergency budget legislative session. When

the special session was officially announced, the governor proposed a 1.5 cents sales tax hike, a tax hike on alcoholic drinks, a severance tax on crude petroleum (California has oil producing areas), and furloughs and reduced holidays for state employees equivalent to a 5% pay cut. The last brought protests from SEIU and the California Labor Federation while the oil industry denounced the petroleum tax.

Aggravating the governor's relationship with organized labor was his call for reduced unemployment benefits and cutting the wages of state-funded home care aids to the minimum wage. However, the governor called for tax breaks to encourage local film production. That proposal pleased unions such as the Teamsters that have Hollywood representation. In the end, however, no deal came out of the special session.

New Session

A new Legislature convened in December 2008. The governor called a second special session simultaneously to deal with the unresolved budget crisis. "Our state is headed for a fiscal disaster," he warned.⁴ By that time, some in the business community were beginning to agree.

The Los Angeles Chamber of Commerce, for example, indicated it could support a mix of spending cuts and tax increases. It pointed to a possible increase in the vehicle license fee ("car tax") as an acceptable source of new revenue. The car tax was a sensitive one for Governor Schwarzenegger since it had been raised by his predecessor shortly before the 2003 recall. Schwarzenegger then flamboyantly reversed the car tax increase upon taking office.

Adding to the crisis atmosphere was the growing possibility that the state would run out of cash to pay bills during the winter and be unable to engage in short-term borrowing to secure the needed funds.⁵ In that event, state controller John Chiang would decide, within certain constraints, what bills to pay. As this possibility became more and more real, the controller had a heart attack, perhaps a symptom of rising tension surrounding state finance.

Chiang recovered and some bill paying, notably income tax refunds, ultimately was delayed by the budget crisis. The state engaged in internal borrowing from special funds outside the general fund and various infrastructure projects eventually had to be halted. Fears of a repeat of lost jobs on such projects later brought construction union support for the May 2009 ballot propositions.

The governor threatened more layoffs of state employees if a budget revision was not enacted. However, while such threats put pressure on legislative Democrats, it was with his own party that he had a major dispute. Responding to criticisms of the Republicans by the governor, Senate minority leader Dave Cogdill predicted that any eventual deal would be worked out among legislative leaders without gubernatorial involvement.

Cogdill's counterpart in the Assembly, minority leader Mike Villines, showed slightly more flexibility. Villines said if Democrats agreed to a host of reforms - including relaxed labor standards and spending cuts - then there could be discussion of revenue. As it turned out, when Villines and Cogdill finally did agree to a deal in February 2009 with tax increases, both were voted out of their leadership positions by angry legislative Republicans.

Outside the legislative process, the CTA announced plans for a ballot initiative to add one cent to the state sales tax for schools. A tax increase via the ballot would require only a simple majority of the voters. A law firm associated with CTA filed an initiative that would cut the two-thirds requirements for budgets and taxes to 55%. Meanwhile, CTA-sponsored radio ads demanded a budget solution. In late December, the governor announced furloughs of two days per month for state employees to lower costs, leading to charges of unfair labor practices and lawsuits by SEIU and two smaller unions.

New Plan from the Governor

Normally, the governor would present a new budget proposal in early January. However, at the tail end of December, the governor's Department of Finance presented a preview budget proposal. It included changes in the 2008-09 budget year that was already half over plus a budget for 2009-10. The late-December plan was a mix of cuts and tax increases and assumed that voters would approve a proposition allowing borrowing against the lottery.

Tax increases were similar to Governor Schwarzenegger's summer proposal: a temporary sales tax increase and an alcoholic drink tax increase. Also included was diversion of revenue from taxes earmarked by voters in previous elections for early childhood and mental health programs. The plan assumed that the state would issue Revenue Anticipation Warrants during 2009-10, short-term securities payable after that fiscal year. In broad terms, the new plan became the outline for an eventual deal in February 2009.

One element in the plan that was ultimately rejected was a proposed change in the administration of health insurance for state workers. The governor wanted direct control of the health plan and claimed such control would enable him to negotiate lower rates with insurance carriers. State unions denounced this proposal as a sly predecessor to a cut in health benefits and it never was enacted.

Furloughs

An order by the governor to impose mandatory furloughs on state employees was not well received by the state's elected administrative officials. For example, it was first assumed he could not apply his mandate to employees within the staffs of the attorney general, the secretary of state, the state controller, and other elected officers. Controller Chiang indicated he would find other efficiencies to lower costs but would not impose furloughs on his staff. Democratic legislative leaders also indicated there would be no furloughs of their employees, but that other "share the pain" cost-saving measures would be found.

The controller declared in a court filing that only the Legislature had authority over state employee pay. His filing was made in a lawsuit by SEIU and two small state unions against Chiang and the governor over the furloughs. Chiang said reduction of labor costs should be handled through collective bargaining.

Not surprisingly, organized labor was not pleased with the prospects of furloughs and layoffs. The executive secretary of the California Labor Federation declared that "the governor's failed approach to balance the budget through job cuts, inadequate

revenue increases, and drastically reduced services is precisely the wrong prescription for our ailing economy.”⁶ Nonetheless, the SEIU had begun negotiating with the state on the furlough issue.

Governor Schwarzenegger declared that it would be either furloughs or an equivalent saving in outright layoffs; unions could take their choice. By the end of January, he had a court ruling that his announced furlough plan was legal. By March, it had also been ruled that the furlough plan extended to staffs of elected officials.

Organized labor faced another threat. Republicans might demand, in exchange for votes on a tax hike, relaxation of state labor laws. A Teamsters leader threatened any legislators who voted for relaxed standards with a recall campaign. Possible targets for such relaxation sought by business interests were requirements for meal breaks and the state’s 8-hour/day overtime requirements. A coalition of organized labor and environmental groups demanded that the attorney general examine whether illegal vote trading was occurring in the Legislature.

IOUs, Recalls, and a Deal

By mid-January 2009, without visible progress from the Legislature on the budget, the controller laid out priorities for paying bills with cash versus IOUs, starting in February. Various infrastructure developments were halted as the state sucked out cash via internal borrowing from earmarked funds established for the projects. Shortly after the controller’s announcement, the California Chamber of Commerce followed the earlier example of the Los Angeles Chamber and indicated some forms of tax increase might be acceptable.

As January drew to a close, some Republicans began to hint that a tax hike might be acceptable if structural reforms were part of the package. Ratings of California general obligation bonds were lowered in early February below that of all other states, even Katrina-damaged Louisiana. The state auditor warned that California’s budgetary institutions had put it in a risky situation.⁷

The cracks appearing in the Republican ranks by late January triggered an immediate response from Los Angeles radio talk show hosts “John and Ken.” They began a “heads on a stick campaign” targeting for recall Republicans who suggested a tax increase might be accepted. Their radio campaign, which included public rallies, played a significant role in the later defeat of budget-related propositions in May 2009. There was also a push within the state GOP to censure any renegades that went along with tax increases.

Outlines of a deal began to emerge during the second week of February. Increases would occur in the sales tax, gasoline tax, and vehicle license fee (“car tax”) temporarily. Some kind of budget cap by formula and an enhanced rainy-day fund would be included. Also in the background was the earlier plan, agreed to in September 2008, that there would be borrowing against the state lottery. Funds previously earmarked by voters for early childhood and mental health programs would be temporarily diverted to the general fund. Various propositions would be put on the ballot in the spring covering items for which voter approval was needed. Furlough days for state workers would continue at two-a-month.

As the parameters of the deal became known, the California Chamber of Commerce officially endorsed it. Where organized labor would come out was not clear. Public-sector unions generally opposed spending caps by formula. Spending cuts were disliked. On the other hand, the tax increases would provide more revenue than otherwise for government jobs.

A critical vote that was needed for the two-thirds hurdle was that of Republican senator Abel Maldonado (from California's central coast) who was anxious to be seen as a tough bargainer, given the threats against him within his party. He insisted that the Legislature put a proposition on the June 2010 primary ballot to create nonpartisan primaries for legislative candidates – a proposition that might lead to more centrist candidates (such as Maldonado) being elected.

On a direct budgetary matter, Maldonado insisted that the gasoline tax not be raised and that equivalent amount of added revenue be added by raising personal income tax rates. He also insisted that among the propositions to be put to voters would be one which denied pay increases to the Legislature and certain other elected officials during budget crises. (It was highly unlikely there would be a pay increase in 2009 in any case.)

SEIU reached a tentative contract accord with the governor – subject to legislative approval – that dropped the furloughs for workers it covered but substituted a pay cut, fewer paid holidays, increased employee payments for health insurance, and other concessions. Various business tax breaks were negotiated by the Republicans including one to encourage local film production. Some relaxations in labor standards were included.

Retribution for the tax increases within the GOP began immediately. The Republican whip in the Assembly resigned that position in protest against Assembly minority leader Mike Villines' participation in the deal. Villines was later replaced as minority leader. Senate minority leader Dave Cogdill was replaced immediately.

A recall effort was begun against a Republican assemblyman from southern California who voted for the deal. Governor Schwarzenegger subsequently assisted him in fundraising to fight the recall effort. Another assemblyman, who voted *against* the deal, was targeted for a recall because he did not support ousting Villines for his tax-raising apostasy. There was milder retribution against three Democrats who refused to vote for the spending cap element of the deal. Assembly speaker Karen Bass stripped them of legislative committee chair positions.

The Special Election

The final agreement both revised the 2008-09 budget then in effect and set a budget for 2009-10. There were large spending cuts in education and health and welfare programs. The sales tax was increased one cent, the vehicle license fee or car tax (a kind of property tax on cars) would rise from .65% to 1.15%. And personal income tax rates in each bracket would rise by either 0.25% or 0.125%, depending on a subsequent determination of how much federal stimulus funding might enter the state budget. These increases would last for two years. They might be extended, if the extension were approved by voters, by one year for the sales tax and two years for the others.

Six propositions were placed on the ballot by the Legislature in a special election set for May 19, 2009. Proposition 1A would include the tax extensions (although not

mentioned in its official title), the spending cap formula, and the rainy day fund. Prop 1B was designed to move CTA from opponent to proponent. 1B provided a guaranteed eventual repayment to K-14 designed to compensate for funding cuts incorporated in the February budget deal. *However, 1B could not take effect unless 1A also passed.* CTA argued that under Prop 98 of 1988, the state would eventually have to make up for the K-14 cuts, but its legal position was uncertain. Thus, 1B, if passed with 1A, would avoid uncertain litigation and lock in the future refunding of K-14.

CTA ultimately bought the deal, officially supporting *all* the May 19 propositions, but especially Props 1A and 1B. Unlike 2005, the governor had CTA on his side. And CTA abandoned its campaign for an initiative that would raise the sales tax one cent to be earmarked only for education.

Prop 1C permitted borrowing against the lottery. The September budget deal already had included an agreement that a lottery borrowing proposition would be on the ballot at some point. That proposition became 1C. Props 1D and 1E, respectively, diverted earmarked funds from early childhood and from mental health programs into the general fund temporarily. Unions representing workers in social services or health care would not find 1D or 1E attractive. Finally, Prop 1F was the proposal Sen. Maldonado had inserted: no pay increases for the Legislature and certain other officials during budget crises.⁸

Division of Labor

After the February budget deal, the big question was whether unions other than CTA would support or oppose the ballot propositions and whether they would put money behind whatever positions they took. It became clear from the outset that there would be opposition on the right to all the propositions. Even 1F was opposed on the right because it had come from renegade Senator Maldonado.

Liberal groups opposed the propositions early on. If unions also opposed some or all the propositions, it would create an odd right-left alliance of advertising resources. Such an alliance could turn centrist voters and independents - whose vote on statewide matters tends to be decisive - toward opposition to the key propositions.

An initial California Field Poll of likely voters found that when voters were read the official summaries of the various propositions, they tended to support all but 1C, the lottery borrowing option.⁹ However, except for 1F - denial of pay increases for the Legislature and others - the support was rather tepid. Props 1A, 1B, 1C, and 1D polled less than 60% support. Official ballot titles were misleading. As noted, 1A's title left out the tax extension. 1D was entitled "Protects Children's Services; Helps Balance State Budget." But rather than protect services, Prop 1D in fact diverted money from them.

Folk wisdom suggests that if initial polling for propositions shows less than 60% support, they are very susceptible to defeat if a campaign is mounted against them. Such a campaign could point to the tax extension and the misleading language. The budget deal made the income tax increase contingent on an estimate of how much federal stimulus money would make it into the general fund. If the amount were less than \$10 billion - as determined by the governor's finance director and the state treasurer - then the income tax increase in the February deal would double and therefore 1A's tax

extension would be more costly to taxpayers. The two officials indeed determined that less than \$10 billion was coming. Their finding made 1A less attractive to taxpayers.

Additionally, 1A, with its formulas for the spending cap and rainy-day fund, was complicated. It would have even put a regression equation in the California constitution, undoubtedly a first for any state. In the early 1970s, when then-Governor Reagan put a formula-based spending cap on the ballot, it was defeated in part on the complexity issue.¹⁰ Prop 1A was similarly vulnerable to the charge of being incomprehensible.

Apart from CTA, Governor Schwarzenegger could rely on campaign funding from various business interests and wealthy individuals that were allied with him in the past. Industries at risk of being taxed if the propositions did not pass contributed to his campaign, including oil, tobacco, and alcohol. Others that were subject to state regulation such as health care and utilities were also donors. Construction interests, hoping to avert a repeat disruption of infrastructure projects, contributed as well.¹¹

Despite fissures within the state GOP, the party gave a fund controlled by the governor an unrestricted contribution of \$650,000. It was not clear whether this contribution arrived shortly before or after the February deal. But as unrestricted funds, they could be used as the governor desired.¹² However, as in 2005, an opposition campaign could overwhelm the resources he raised.

As it turned out, CTA was the only statewide public-sector union to buy into the full package. Divisions within organized labor over the budget measures did not seem to reflect other fault lines within the union movement. As at the national level, unions in California are divided between AFL-CIO unions, breakaway Change-to-Win unions, and unions outside either grouping. In addition, in California, a major health care local of SEIU had been put into trusteeship by the national parent. Dramatic as all of these fractures were, when it came to the special election, unions seemed to follow their own assessments of what strategy was best for their members.

SEIU opposed 1A due to the spending cap, although it favored 1C (lottery borrowing). Its collective bargaining contract with the governor - which dropped furloughs in exchange for other concessions - became a hostage in the Legislature. (The Legislature must approve such agreements before they go into effect.) Rumors swirled that the governor was behind holding the contract in limbo in the Legislature, a charge his administration denied.

Democratic leaders in the Legislature may have hoped to pressure SEIU into a neutral stance on 1A. If that was the case, the strategy only worked in part. The specific local whose contract was stuck in the Legislature was officially neutral on 1A, but not the parent SEIU. SEIU, in fact, sought (unsuccessfully) to obtain a ruling from the Obama administration that a proposed wage cut to home-care aides would violate the “maintenance of effort” requirements of stimulus funding received by California. In short, SEIU did not kowtow to the governor.

Table 1 summarizes union support or opposition to the various propositions, based on official statements and news accounts. Table 2 summarizes tangible support or opposition, based on campaign contributions. Private-sector unions, with the exception of construction trades (which hoped to avoid another cash crisis that would stop infrastructure projects), generally stayed out of the fray. CCPOA, the influential prison guards’ union, seemed undecided and also stayed out. It was busy suing the governor over furloughs as applied to state prisons. AFSCME opposed 1A, with the exception of

one local representing state employees that made a token contribution to support of the package of propositions.

Even the education sector was not united, despite CTA's position. The rival, but smaller, California Federation of Teachers (CFT) opposed 1A and 1E. (It supported 1B, but without providing campaign cash. CFT felt that if 1A, which it opposed, nevertheless passed, 1B's payments to schools would be useful.) A large teachers' local in Los Angeles, which is jointly affiliated with both CTA and CFT, kept silent. Finally, the California Faculty Association, an SEIU affiliate which represents faculty at the California State University system (but not the University of California system), opposed 1A. In an understatement, the secretary-treasurer of the California Labor Federation noted that "we've got all kinds of divisions."¹³ Given the split in organized labor, some legislative Democrats felt free to take an opposing position. They had agreed only to put the propositions on the ballot, not necessarily to support them.

The Campaign

As the May 19th Election Day approached, it became clear that even if all the propositions passed, the deteriorating state economy would ensure that there would still be a budget crisis after that date. Props 1A and 1B really had no direct effect on the 2008-09 or 2009-10 budgets. The tax extension and the school payback were in the future, i.e., beyond 2009-10. Prop 1A's spending cap would not bite in the near future. And its rainy-day funds could only accumulate when the budget Sun was shining, which it clearly was not.

Prop 1C was supposed to borrow \$5 billion against the lottery and there was roughly another \$1 billion in diversion of earmarked funds under 1E and 1D. But the combined \$6 billion would not offset the decline in revenue relative to the February projections that was being forecast. Voters could not be credibly told that if they supported the propositions, the state's fiscal problems would be resolved, even temporarily.

Because of the complicated features of Prop 1A and because of Prop 1B's linkage to 1A, the first TV ad sponsored by CTA was largely a sequence of boxes and arrows trying to explain their features. Yet the ad started with a voiceover declaring that California's budget was a "total mess." The boxes and arrows did not necessarily provide convincing evidence that a vote for 1A and 1B would end messiness. They suggested complication.

Later ads reverted to a more appealing teacher and firefighter (complete with ash on his face) to make the case for 1A and 1B. An ad supporting all of the propositions that was sponsored by a committee controlled by the governor focused on the "mess" theme, a mess denounced by a father playing ball with his son. However, the father then had to explain to viewers that those who caused the mess were supplying voters with propositions that would be the fix. The dual message was a hard sell.

The key opposition TV ad featured a community college accounting professor saying he had discovered that there were hidden features in the language of the complicated 1A that allowed wasteful spending. Radio opposition ads by the Howard Jarvis Taxpayers Association emphasized the tax extension feature of Prop 1A. At the same time, the public impression of a wasteful and out-of-touch Legislature was

reinforced when Assembly staffers were given a 5% pay raise in the midst of the campaign (approved by the leaders of both parties). After an outcry, the raise was rescinded.

A radio ad opposing Props 1D and 1E featured film director Rob Reiner. Reiner had sponsored the initiative that created funding for the children's program 1D now proposed to raid. He declared that the propositions would put kids "at risk" and that supporters of 1D and 1E were tobacco and oil companies. He also claimed that "teachers" were against 1D and 1E – something not true of CTA, although correct for the smaller CFT.

Voter opinion surveys as the campaign progressed suggested that all the propositions with the exception of 1F (the slap at the Legislature) were in trouble. A decision was then made in the governor's campaign to focus just on 1A and 1B. Note that Props 1A and 1B had no immediate effect on the budget since their key features applied in the out years. Passage of 1A, with its rainy-day fund and spending cap, might give Governor Schwarzenegger a claim to a legacy of future reform. But it would not help the immediate crisis.

Since 1C, 1D, and 1E in theory contained an immediate \$6 billion, defeat of those propositions, even if 1A passed, would leave the governor with largely the same fiscal crisis right after the election as if all - including 1A - failed. For CTA, 1A and 1B were still the main goal. But for Governor Schwarzenegger, the decision to focus only on 1A and 1B was a major retreat.

Although normally the governor presents a May revise budget for the coming fiscal year, in theory such a presentation was not necessary since the Legislature had already enacted the 2009-10 budget as part of the February 2009 deal. Yet given deteriorating revenue and the sense that \$6 billion anticipated in February from the propositions was not going to be forthcoming, a May revise was presented. The proposal was drawn up with two contingencies – either the propositions would pass or they would fail. The vision presented was of sharp cuts in basic social welfare and education programs as well as layoffs. Forced borrowing from local governments was also proposed.

Responses from organized labor to the 2009 May revise were muted. A spokesperson for the California Labor Federation focused on closing corporate tax loopholes. But how a two-thirds vote might be obtained to produce such closing was not specified. A spokesperson for the state employees' SEIU local that had remained neutral on Prop 1A claimed it could offer over \$9 billion in savings to the governor, if asked.¹⁴ The president of the Oakland local of CTA spoke out against its parent union's support of 1A, saying "schools are not islands, somehow separate from the rest of society."¹⁵

Ultimately, the divergent positions within organized labor contributed to a public sense that when in doubt, vote "no." As Table 3 shows, although voters in union-affiliated households had somewhat different attitudes toward the propositions than the average voter, the consequences for the propositions would not have been different, even if the ballot had been confined to union households. The outcome mirrored the pre-election opinion polls; all the substantive propositions went down to defeat by large margins. Only the vacuous 1F passed.

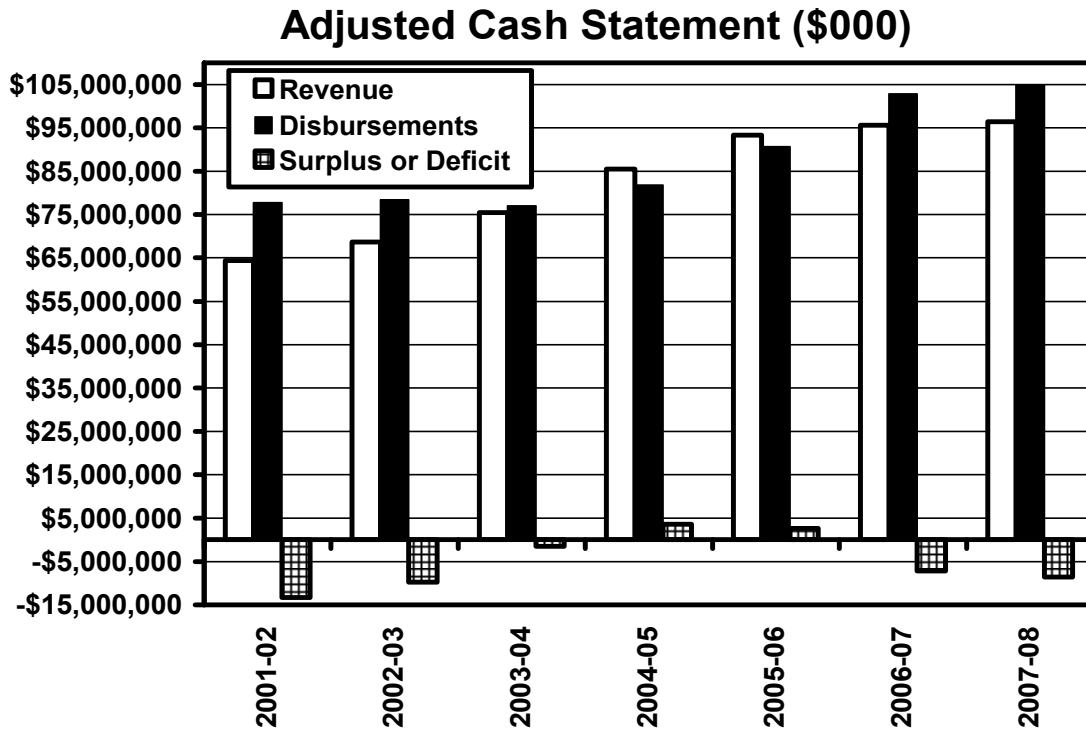
Aftermath

The magnitude of the budget problem after the special election left some in Sacramento in denial. Activities continued as if the state's fiscal affairs were in a normal condition. The Assembly voted to create a Blueberry Commission. The governor proclaimed June to be Real California Milk Month. But reality inevitably crept in.

Governor Schwarzenegger followed a two-pronged strategy. He called on the Legislature to develop a cuts-only budget and produced Dickensian suggestions such as a complete abolition of Healthy Families (medical insurance for working-poor children.) But married to that approach was an agenda of seeking aid from the federal government.

As of summer 2009, however, Washington was absorbed in matters such as health care. California ended up issuing IOUs due to a cash shortage. Eventually, a budget plan was cobbled together with major cuts and layoffs, spilling down to local governments as well. As former Assembly speaker Willie Brown noted, "*Can you imagine being a union leader who opposed the budget measures on the special election ballot, and now you have to go to your members and say it appears that 4 of the 10 of you sitting here just lost your jobs?*"¹⁶

Chart 1:



Source: Mitchell, D. 2009. "I never knew it could be like this": Lessons from the 1980s for California's Budget Crisis. *Municipal Finance Journal*. 29:101-124. Winter. p. 121.

Table 1: Union Positions on the Six Budget Propositions on May 19, 2009 Ballot

Proposition	CTA*	CFT*	SEIU**	AFSCME***	CNA
-1A: Spending Cap, Rainy Day Fund, Tax Extension	Favor	Oppose	Oppose	Oppose	Oppose
-1B: Future Payback of K-14 Funds Contingent on Passage of 1A	Favor	Favor	Favor	Oppose	Oppose
-1C: Borrowing Against Lottery	Favor	Oppose	Favor	Oppose	Oppose
-1D: Diversion of Earmarked Funds from Early Childhood Programs	Favor	Oppose	Oppose	Oppose	Oppose
-1E: Diversion of Earmarked Funds from Mental Health Programs	Favor	Oppose	Neutral	Oppose	Oppose
-1F: Ban on Pay Increases for Legislature and Other Elected Officials	Favor	Oppose	Oppose	Oppose	Oppose

Note: CTA = California Teachers Association (National Education Association affiliate), CFT = California Federation of Teachers (American Federation of Teachers affiliate), CNA = California Nurses Association. "Neutral" means no apparent position on website or other communications. *The large local representing teachers affiliated with both CTA and CFT in the Los Angeles Unified School District indicated no position. The SEIU-affiliated California Faculty Association representing faculty at California State University campuses opposed Proposition 1A and was neutral on the other five propositions. **SEIU Local 1000 representing 95,000 state employees took no position on Proposition 1A. A communication from SEIU-UHW, a local in trusteeship to the national, supported 1B but not 1A. Due to trusteeship, this stance appears to be the national position. ***AFSCME Local 2620 representing 5,000 state employees endorsed all six propositions. Source: News accounts; union websites.

Table 2: Selected Campaign Expenditures by Unions Related to the May 19, 2009 Special Election

Education

California Teachers Association (NEA affiliate):
\$2.3 million to support 1A-1F, \$10 million to support 1A & 1B
National Education Association:
\$3 million to support 1A & 1B
California Federation of Teachers:
\$520,000 to oppose 1A, \$50,000 to oppose 1E
California Faculty Association (SEIU affiliate):
\$1.2 million to oppose 1A

Construction

Laborers: \$200,000 to support 1A-1F
Carpenters: \$8,600 to support 1A-1F
Operating Engineers: \$50,000 to support 1A-1F
State Building Trades: \$50,000 to support 1A-1F

Law Enforcement

Los Angeles Deputy Sheriffs: \$50,000 to support 1A-1F

Health Care

California Nurses Association:
\$5,000 to oppose 1A, \$5,000 to oppose 1E
United Nurses Associations of California (AFSCME affiliate):
\$35,000 to oppose 1A

General

Service Employees International Union:
\$1.6 million to support 1C, \$1.3 million to oppose 1A
American Federation of State, County and Municipal Employees:
\$465,000 to oppose 1A
AFSCME Local 2620:
\$9,000 to support 1A-1F

Note: Data as of May 26, 2009. Data omit in-kind campaigning and contributions that may have been reported after May 26, 2009. Data also omit contributions to various committees that included organizations other than labor unions which campaigned for or against particular ballot propositions. Committees reflected in this table are Budget Reform Now (for 1A-1F), Yes on 1A and 1B, Californians for Modernization (for 1C), No on 1A, Protect Children and Families (against 1D), Bay Area No on 1D, Committee to Stop 1D, Yes on 1A-1F, and No on Prop 1E. Source: www.electiontrack.com.

Table 3: Field Poll Voter Intentions in Late April 2009 and Actual Election Results: Percentage Support for Propositions 1A-1F

	Intention to Support the Propositions Among Likely Registered Voters		
	All	Union-Affiliated	Actual Result
Prop 1A* Rainy Day Fund/Spending Cap/ Tax Extension	39.8%	41.4%	34.1%
Prop 1B** Guaranteed Future Refunding Of K-14 Education	39.5	41.9	37.4
Prop 1C Borrowing Against Lottery	32.3	37.4	35.4
Prop 1D Temporary Diversion of Child Funding to General Fund	39.5	42.2	34.2
Prop 1E Temporary Diversion of Mental Health Funding to General Fund	40.3	43.8	33.6
Prop 1F Ban on Pay Raises for Officials During Budget Crises	70.9	70.3	73.9

*When asked if Prop 1A extended tax increases, 60.0% of all respondents and 67.8% of union-affiliated respondents correctly answered “yes.”

**When asked if Prop 1B could only take effect if Prop 1A passed, 43.3% of all respondents and 50.9% of union-affiliated respondents correctly answered “yes.”

Source: Field Research Corporation. Tabulations available through the *Sacramento Bee* and its “Capitol Alert” service. Source: http://media.sacbee.com/smedia/2009/04/28/14/tabs428.source.prod_affiliate.4.pdf; election results from the California Secretary of State website as of May 20, 2009

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Footnotes

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- ¹ D. Mitchell. 2006. "They want to destroy me": How California's fiscal crisis became a war on "Big Government Unions." *WorkingUSA* 9, pp. 99-121.
- ² D. Mitchell. 2008. Something different in the air? The collapse of the Schwarzenegger health plan in California. *WorkingUSA* 11, pp. 199-218.
- ³ Fiscal years begin July 1.
- ⁴ Press release of December 1, 2008, available at <http://gov.ca.gov/index.php?/press-release/11159/>.
- ⁵ California Legislative Analyst. 2009. *California's cash flow crisis*. January 14.
- ⁶ Quoted in "Reactions to the State of the State." *Sacramento Bee Capitol Alert*, January 15, 2009.
- ⁷ California State Auditor. 2009. *High-risk: The California state auditor has designated the state budget as a high-risk area*. February.
- ⁸ Details of the propositions are available in California Secretary of State. 2009. *Special election Tuesday, May 19, 2009: Official voter information guide*.
- ⁹ California Field Poll. 2009. Release #2297. March 3.
- ¹⁰ D. Mitchell. 2007. Governor Reagan's ballot box budgeting: One that got away. *Southern California Quarterly* 89, pp. 195-227.
- ¹¹ Data on contributions to "Budget Reform Now," a committee set up to support the propositions, are available from electiontrack.com.
- ¹² The contribution went to the "California Dream Team" fund.
- ¹³ Michael Finnegan. "State Democrats decline to endorse 3 of 6 ballot measures." *Los Angeles Times*, April 27, 2009.
- ¹⁴ "Capitol reacts to revised budget proposals." *Sacramento Bee Capitol Alert*, May 14, 2009.
- ¹⁵ Paul Abowd. "California unions battle over ballot proposals." *Labor Notes*, May 16, 2009.
- ¹⁶ Willie Brown. "Lawmakers sharpening their budget axes." *San Francisco Chronicle*, May 24, 2009.