

MEMORANDUM
OFFICE OF THE
BOARD OF SUPERVISORS
COUNTY OF PLACER

TO: Honorable Board of Supervisors

FROM: David Boesch, County Executive Officer
By: Holly L. Heinzen, Chief Assistant County Executive Officer

DATE: November 9, 2015

SUBJECT: Proposal to form the State of Jefferson – Informational Only

ACTION REQUESTED

Presentations regarding proposal to form the State of Jefferson. No action will be taken.

BACKGROUND

The State of Jefferson is a new proposed U.S. state that would be formed with the intent of increasing representation in the state legislature. The new state would span the contiguous, mostly rural area of southern Oregon and northern California. The NorCal Tea Party Coordinator from Tea Party California has requested that the Board hear a presentation regarding the proposal.

According to the Tea Party of Northern California, as of November 1, 2015, eleven counties have declared their intent to separate from California and join the new state of Jefferson. Active committees in an additional twelve counties are working to educate the public regarding the proposal to form a new state.

The recent movement for statehood was publicly initiated in 2013, when the Siskiyou County Board of Supervisors voted 4–1 in favor of withdrawal from California to form a proposed state named Jefferson. The proposed new state would include the California counties of Del Norte, Siskiyou, Modoc, Humboldt, Trinity, Shasta, Lassen, Tehama, Mendocino, Glenn, Butte, and Plumas. Oregon Counties would include Coos, Douglas, Curry, Josephine, Jackson, Klamath, and Lake. The current effort appears to be based primarily in California, as there have been no county governments in Oregon that have endorsed the proposal to date.

Keep it California, was formed to advocate for better representation of rural California and to oppose breaking away to form a new state. This committee has also submitted materials to inform the discussion. They will be presenting this information at the Board of Supervisors meeting of November 17, 2015.

FISCAL IMPACT

There are no fiscal impacts associated with hearing this proposal.

Attachments: State of Jefferson White Paper (Attachment 1)
Keep it California (Attachment 2)



Executive Summary

Since 1965, northern California has not had adequate representation in the state legislature. The most expeditious way to restore representation to the counties of northern California is to create a new state with those counties that want representation restored. The only viable plan to restore representation is the “Jefferson” state movement which is using the only legal method of engineering a state split through the formula required by Article IV Section 3 of the US Constitution. This formula necessitates a simple majority of both houses of the state legislature and Congress approve the split in order to create a state out of an existing state or states. This process has created 4 new states in our nation's history.

In order for “Jefferson” to be successful, two tenets must be completed or verified. First, counties that want to be part of the new state must give the Jefferson Committee some indication of support. Typically this is done by the Board of Supervisors affirming a Declaration and Petition to Withdraw from the State of California. This is not the only avenue open to a County. Second, the state and national legislative actions outlined above must achieve a simple majority result. Third, although not required by Article 4, Section 3, the Committees will illustrate the financial viability of our new State to its citizens.

As of November 1, 2015, eleven counties have declared and Petitioned to Separate from California and join the new state of “Jefferson”. Both the California Legislative Analyst’s Office (LAO) and an internally generated financial model have shown that “Jefferson” is a viable entity. By the end of January 2015, those counties will have had their Declarations filed with the Secretary of State of California which could initiate the legislative phase of state separation. The legislative action will be delayed long enough to determine if additional counties would like to join the new state. There are 12 additional counties that have active committees trying to educate the public and reach their supervisors with the message of republican based representation which is guaranteed in Article IV Section 4 of the US Constitution.

Issue

A basket of Supreme Court opinions, culminating in Reynolds v. Sims, diluted the representation in rural counties in thirty states in 1964. Up until that decision, California, and many other states, had roughly one state senator for each county. This was consistent with the Connecticut Compromise as implemented in Article I Sections 2 and 3 of the US Constitution where the House of Representatives is determined by population and the Senate is comprised of two individuals from each state ensuring small or less populous states have an equal footing in Congress. The Warren Court in 1964 invalidated this form of government for thirty states by manufacturing the doctrine of “one man, one vote” from the 14th Amendment which used population as the sole arbiter of representation in both houses of the state legislature.



The California state senate became a mirrored representation structure of the assembly. Roughly six senators and assemblymen come from the twenty northern most counties of California while 35 of 120 come from Los Angeles County alone. As go the large population centers, so goes the entire state. For nearly fifty years, adequate representation has not existed for the counties of northern California. Many rural counties are taxed but have no representation to determine how tax monies are spent.

Solution

Creating the new state requires a number of defined steps to be achieved. Declarations and Petitions to withdraw from the State of California and join the new state of "Jefferson" must be made by the counties who want to be involved and these must then be filed with the Secretary of State of California. Once filed, legislation must be crafted that acknowledges the Declarations, the participants and the legal description which defines the new state.

Declarations

The Declaration component is a critical step in the formation of a new state. The key to the language contained within the Declaration defines grievances borne by each county, the desire to dissolve its relationship with California and join the new state and the legal description of the physical boundary of the county. The combination of these elements creates standing for each county. Standing is the first component required for any judicial action.

Legislation

Scenario #1

If the State of California, ignores our Petition, by either, refusing to increase representation, or draft legislation, or failing to pass legislation authorizing the separation of the counties that have Declarations, creates the condition referred to as harm and triggers the second element for judicial action. Using the basis that the counties have standing and now have been harmed, the courts can adjudicate the issue and provide a remedy for the lack of representation for the counties.

The remedy could be additional representation in proportions that would make the California legislative houses unwieldy (over 1200), or bring back one senator for each county. Using the formula proposed by George Washington in 1787 where one for 30,000 was democracy and one for 40,000 was tyranny; there would be 1,266 members of the California Assembly. Knowing the potential judicial outcomes may stimulate a constructive response in the California legislative houses.



Scenario #2

The California legislature drafts a bill that acknowledges the Declarations filed by the counties and determines the boundaries of the new state. After drafting the legislation, both the California Senate and Assembly must pass the measure with a majority in each house. If the measure fails in one or both houses, then Scenario 1 above would be the next course of action.

Assuming the California state legislature does pass the measure in both houses, similar legislation must be drafted and passed in both houses of Congress. Once this occurs, the new state would legally exist and a state constitution would need to be drafted. Again, failure to pass legislation in Congress would trigger judicial action outline in Scenario 1 above.

Financial Viability

The financial viability has been demonstrated by two separate studies. The first was the result of the failed Six State Initiative that produced the LAO report on financial viability of the new six states. Although not the wealthiest of the six states, Jefferson had a projected financial outlook similar to the State of New Mexico. The second study conducted resulted in a Variable Jefferson Viability Model that uses the population, tax rates, tax collections, county budget expenditures and K-12 education expenses for the proposed 20 counties and includes a payment plan to reimburse California for its portion of the debt owed by the population of "Jefferson". The model allows the user to include/remove counties, adjust tax rates and tax splits between the new state and its counties. The base model uses the current California tax structure and demonstrates that the new state is viable on day one.

Conclusion

The formula to create a new state as outlined in Article IV Section 3 of the US Constitution is fairly simple but achieving the end result requires dedication and a thorough understanding of all parties involved.

"Jefferson" must be shown to be a win-win for both the new state and California. For "Jefferson", representation would be restored and how it chooses to govern itself will be determined within its borders. What remains of California will be two-thirds of its original land mass but greater than 95% of its population. This should enable the California legislature and governor's office to be more efficient and effective in creating and executing laws that directly relate to the population they govern. The concentrated urban centers would benefit from a government that is familiar with the issues and solutions required of an increased population density. Those within "Jefferson" face completely different challenges that would best be met by those who share similar circumstances.



The steps to achieving a legal separation are currently underway. As of January 1, 2015, six counties have Declarations and 14 additional counties are in various stages of completing that goal. Two separate studies have found “Jefferson” to be a financial viable entity. After compiling all the Declarations from all the counties that seek to become part of “Jefferson”, legislation will be authored and a majority in the California Senate and Assembly must pass the measure. If successful, Congress must perform the same steps as the state legislature.

In the absence of successful legislation at the state or national level, the issue would be adjudicated in the courts where the remedy defined in the cases related to Reynolds v Sims will require review and constitutionally valid solutions enacted. If a republican form of government as guaranteed in Article IV Section 4 of the US Constitution and applied in Article I Sections 2 and 3 of the US Constitution are sufficient for the federal government, then they should be successfully applied at the state level as well.

It is the preference of those seeking the new state of “Jefferson” to work with our local, state and federal representatives to achieve an amicable state split as defined by the US Constitution and required by Article 2 Section 1 of the California Constitution. It would be regrettable to all parties to have this issue decided in our court system where it would most likely affect the legislative operations in thirty or more states

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Date: November 11, 2015

To: Honorable Placer County Board of Supervisors

From: Cindy Ellsmore, Keep It California Chair

Re: Seceding from California

THE ISSUE

Many rural California counties have been slow to recover from the economic recession. Some continue to have levels of poverty and unemployment that rival the most impoverished urban areas. The challenges to economic development are exacerbated by increasing restrictions on traditional harvesting of natural resources. Significant portions of our counties are exempt from property taxes due to federal and state ownership which limits the tax base for providing needed services to county residents. These difficulties have led to frustration that we are not being heard in Sacramento.

STATE OF JEFFERSON

A vocal minority of rural Californians have proposed a radical scheme to cluster together rural California counties and break away from California to form a new state called Jefferson. Lack of representation is the problem this group identifies and offers the new state as the solution. Yet, if they were successful, the composition of the new legislature with one state senator for each county would immediately be illegal under Federal law.

Increasingly, it is clear that the main goal is to overturn the "one person, one vote" Reynolds v Sims decision from the US Supreme Court that dates back 50 years and has been reaffirmed multiple times. If they don't get a new state, they will go directly to the challenge to this decision with the counties that agree.

The proponents want to set up a case to challenge this decision and need the counties to adopt this "non-binding" Declaration stating they have been "harmed" by lack of representation so the counties will have standing to sue. In reality, Placer residents would have less representation in Jefferson where one vote in tiny Sierra County would have the weight of 122 Placer voters.

Only Tehama County voters have agreed to support this extreme solution since this effort began in 2013. Five counties, Siskiyou, Modoc, Glenn, Yuba and Sutter have adopted declarations to join the State of Jefferson, with a simple majority vote of the county Board of Supervisors and without financial evaluations of the impacts. Del Norte County voters overwhelmingly rejected the idea with 58% opposed to this proposal.



Since July 2014, this secessionist movement has stalled. Three county Boards of Supervisors in Lake, Lassen and Plumas, have agreed to place an advisory measure on the 2016 ballots. Other counties that have refused to take action to support this concept are Shasta, Butte, Colusa, Nevada and El Dorado. In September this year, the Trinity County Board of Supervisors adopted a pro-California declaration explicitly declining to join the State of Jefferson after undertaking a financial evaluation.

The proponents have said that in January 2016, before the voters in at least three counties have had their say, they will ask the California legislature to approve the State of Jefferson as a legitimate proposal to form a new state. It is revealing that while they are so concerned about representation in the state legislature, they are asking the approval of only three people in each county to make such a major decision for the rest of the residents. Nowhere in the white paper which describes their plan is the opportunity for the county or state citizens to vote.

KEEP IT CALIFORNIA

In April 2015, a concerned group of rural county residents opposed to the State of Jefferson, formed a new non-partisan, political action committee called Keep It California. Our mission is to advocate for better representation of rural California issues and to oppose breaking away from California. We think that time and resources wasted pursuing a new state can be better spent seeking practical solutions to the very real problems that rural counties face.

Keep It California has built a network of coordinating committees in 20 rural counties and has challenged the Jefferson proponents at Board of Supervisors meetings in Plumas, Nevada, Trinity and El Dorado counties. Keep It California will also mount campaigns to oppose the separation of California on 2016 advisory ballots in every county where this question is placed on the ballot.

FINANCIAL RISKS AND UNCERTAINTIES

The financial issues are formidable and complex. This opinion is informed by 31 years in county government and as the former Sierra County Treasurer-Tax Collector. The State of Jefferson proponents have spent a lot of time on their "financial viability model" but haven't even touched the surface of the complicated financial relationship with the state of California. It includes only cursory and inaccurate revenue and debt assumptions. It does not include funding or an analysis of the effects on other government entities such as cities, fire districts, public utility districts, irrigation districts, colleges, etc.

Examples:

- The state income tax assumes a flat tax of 8% and overestimates the revenue by 400% that is currently generated by California's 3.8% average progressive tax. This means either a 400% tax increase in Jefferson to keep it afloat or a deficit of \$4,365,000,000.
- There will be no corporate taxes so the full burden of paying for public services will fall on individuals.
- This group rightly assumes that the new state would be paying a portion of California's debt based upon the percentage of population that becomes Jefferson. However, the model states that Jefferson will be paying ZERO interest on that debt over thirty years. No bondholder will take that deal. As a new state with no credit record and unstable revenue, Jefferson's debt would be rated as junk bonds. Even using a low 5% interest rate, the debt payment would double.



- CalPERS and CalSTRS are California government agencies, the second largest pension funds in the country. They do not provide pension programs for any other states so a split with California would mean setting up a new retirement plan with Jefferson, if one was offered. If the benefits are not commensurate with California's there would likely be an exodus of many educated and experienced people.

The financial situation overall does not favor a separation. All of the counties in the proposed state receive more money in state aid and grants than we send Sacramento in taxes and fees. The taxes paid in urban areas subsidize our roads, education, social services and health programs for youth, families and seniors.

Jobs funded by the state through government programs and the nonprofit community provide living wage employment which helps support our local economy. In exchange, we are the stewards of the water and natural resources that the state depends on. We have a good deal going, let's fix the problems not create more of them.

Keep It California is encouraging all local agencies to calculate the financial risks and uncertainties of continuing down a wayward path to Jefferson State. It is important for voters and elected officials to be informed of the impractical consequences of separating from California. What's in it for Placer County residents?

COLLABORATING WITH RURAL COUNTIES

While we can agree that there are critical rural issues that need to be addressed, this effort to secede from California is creating unnecessary disruption and division. We believe that rural issues can best be addressed through cooperation with the State of California and collaboration between rural counties. We are stronger together.

Keep It California is offering a non-partisan platform to build and strengthen regional alliances across party lines in order to work together for the benefit of our rural California counties. We have already begun to meet with and educate urban elected representatives to advocate for policies and programs that work in rural California. As citizens and community leaders, we have a responsibility to articulate what we are for, not just complain about what or who we are against.

FOCUS ON THE FUTURE - WORKING WITH CALIFORNIA

Keep It California is building understanding of rural California issues by meeting with representatives from urban areas.

In July 2015, Keep It California leaders met with California Senate President Pro Tem, Kevin De Leon to initiate a conversation about steps that the California legislature can take to provide support for California rural Counties. As a result of this meeting, Senator De Leon has established a rural county liaison in his office to keep lines of communication open.

In September, representatives of Keep It California provided a briefing and overview of rural issues to Assembly members from urban areas including San Francisco, Beverly Hills, Long Beach and Los Angeles.

FIRE PREVENTION FEE

Keep It California will advocate for effective use of the CalFire fee to fund fire prevention projects that are a benefit to rural counties. Removal of woody undergrowth from our forest will reduce the risk of



catastrophic forest fires. Fuel reduction programs have the potential to create jobs to assist with this effort.

BIOMASS

Biomass energy facilities are a key component to removal of fuels from our forests. Having an expanded number of decentralized biomass facilities will create a market pull for woody debris, will reduce fire hazards and ultimately will reduce greenhouse gases. Studies have shown that burning woody fuels in an air pollution controlled biomass facility will emit fewer carbon emissions than uncontrolled forest fires.

There is a plethora of biofuel in our forests. There are many advantages to encouraging biomass energy production in our counties. These include jobs, low cost energy, forest thinning and cleanup, fire prevention. Perhaps Fire Fee monies could be used in the fire prevention aspect of bio fuel production. Legislators do not understand how much biofuel there is and we can help educate them.

LEGISLATION

In the next legislative session, Keep It California will be advocating support for two bills that were introduced in 2015, SB 234 (Wolk) and AB 590 (Dahle)

Democratic Senator Lois Wolk's bill, SB 234 will repay the counties for payments in-lieu of property taxes (PILT) that were suspended when the state was going through the recession.

Republican Assembly Member Brian Dahle's bill AB 590 will provide funding and encourage biomass energy projects to reduce the fire danger and provide sustainable jobs in rural areas.

CONCLUSION

Sooner or later the majority will decide that the State of Jefferson is not a viable proposition. The question is, "How much time and good will do we want to waste before we decide this?" Do we want to wait until after multiple meetings of the Board of Supervisors or after an expensive and divisive ballot measure? Shall we go along to see if the State Legislature and the United States Congress approve this secession from California? Is it worth it to spend time and resources to analyze and negotiate a divorce from California? How will this affect our current relationship with our elected officials?

While we can agree that there are critical rural issues that need to be addressed, we believe that we will get further by working with California. Even some Jefferson supporters will acknowledge that they have a very slim chance of actually forming a new state. In the end the State of Jefferson movement is nothing more than a protest. However, it is a protest without a purpose. The only solution they propose is to form a new state. Yet Jefferson proponents do not offer a compelling case to justify this radical step and offer no detailed solutions to the real problems that face rural counties. What is most important to people is what will make their life better now, not some time in the distant future, if everything works out.

Cindy Ellsmore, Chair

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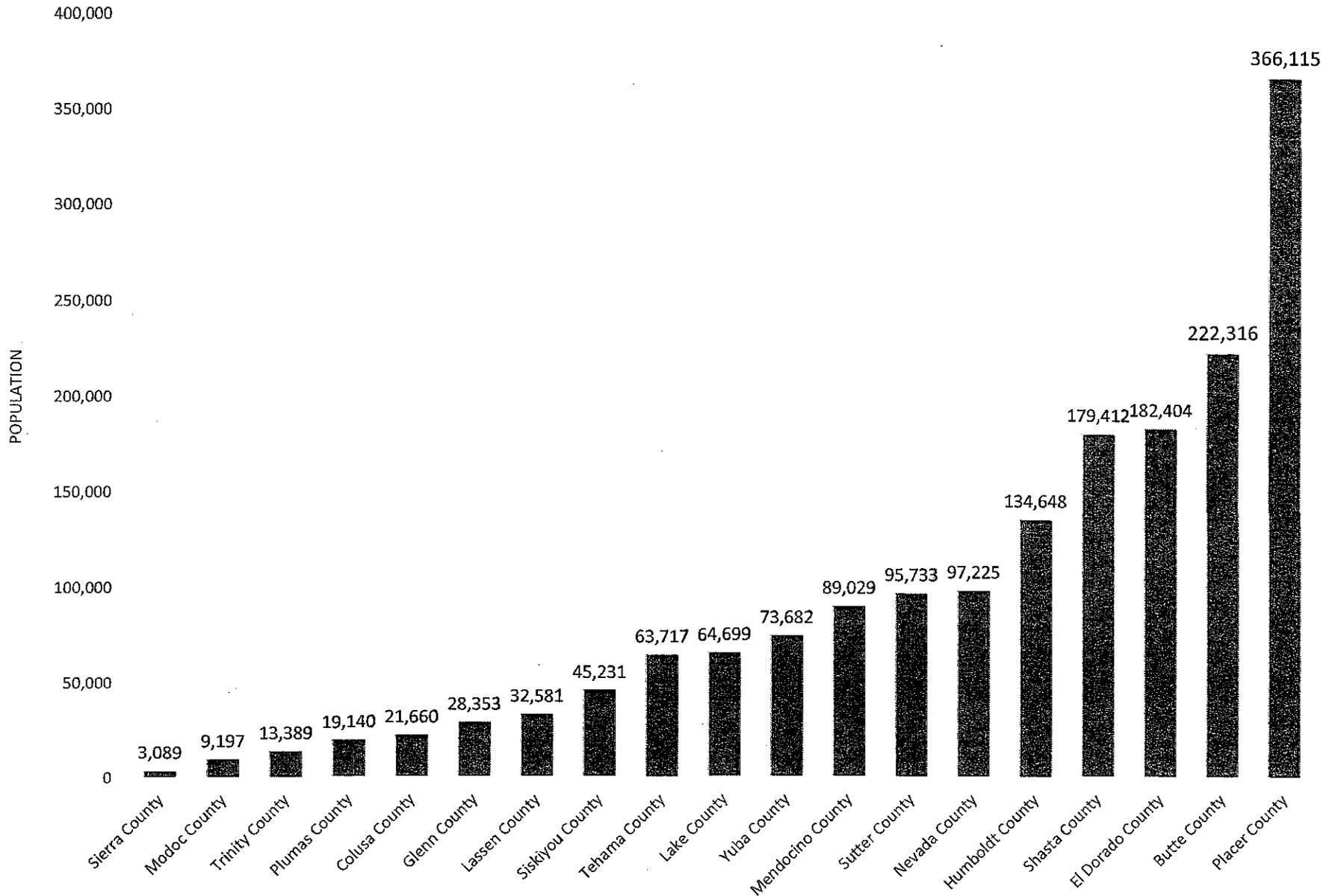
paulindaw@yahoo.com

County Status - Jefferson Proposal

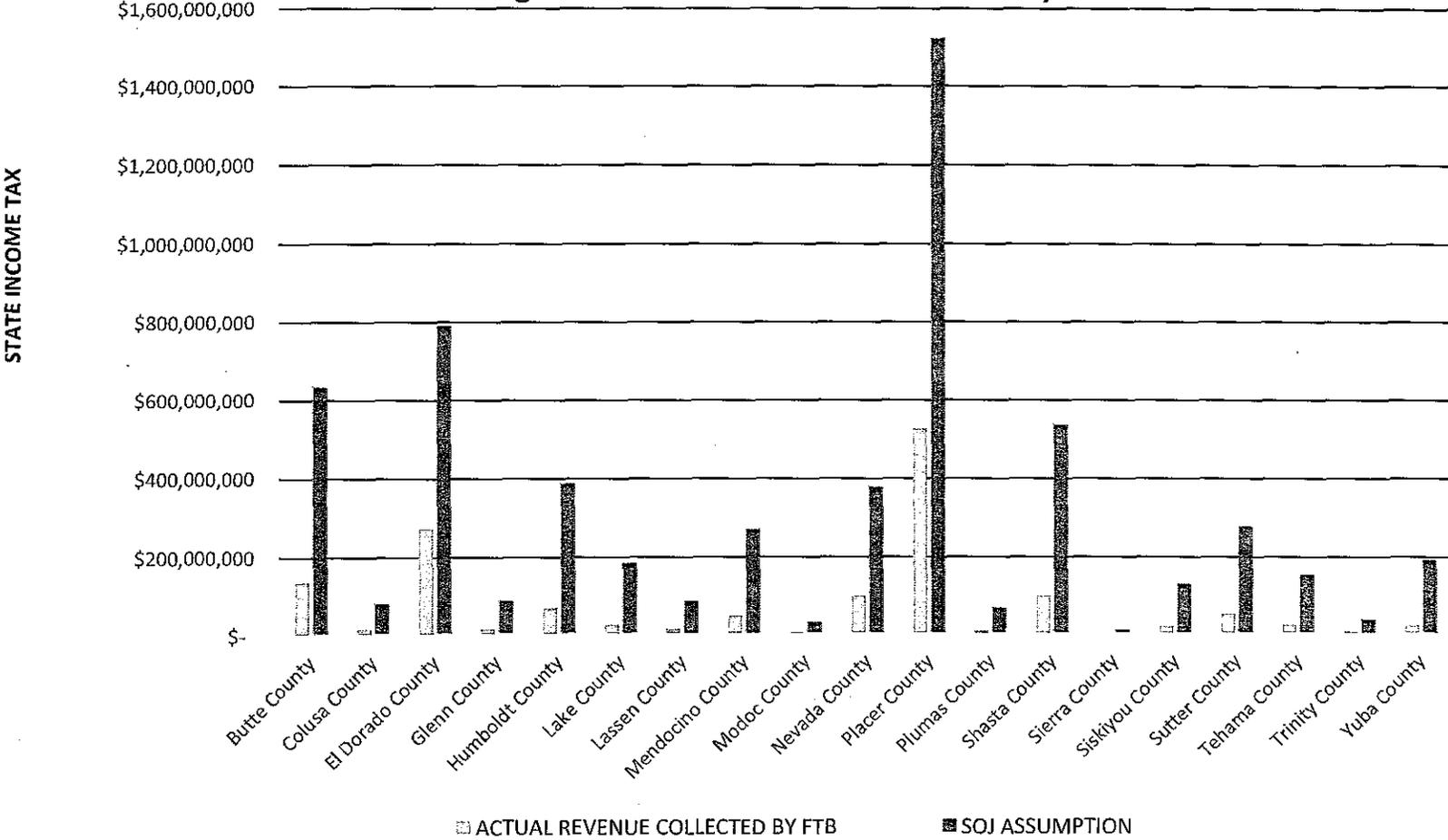
Updated 11-4-15

County	Status	Method	Date of last action
Tehama	Voter Approved	Election	6/3/2014
Glenn	BOS Approved	BOS Vote	1/21/2014
Modoc	BOS Approved	BOS Vote	9/24/2013
Siskiyou	BOS Approved	BOS Vote	9/3/2013
Sutter	BOS Approved	BOS Vote	7/22/2014
Yuba	BOS Approved	BOS Vote	4/15/2014
Del Norte	Voter Rejected	Election	6/3/2014
Lassen	Election in June 2016	BOS Vote	3/17/2015
Plumas	Election in June 2016	BOS Vote	10/20/2015
Lake	Election in Nov 2016	BOS Vote	2/17/2015
Shasta	BOS Rejected	BOS Vote	6/24/2014
Trinity	BOS Rejected	BOS Vote	9/15/2015
Colusa	No Action	BOS (no vote)	2/10/2015
El Dorado	No Action	BOS (no vote)	8/11/2015
Nevada	No Action	BOS (no vote)	5/13/2015
Humboldt			
Mendocino			
Placer			
Sierra			

**FAIR REPRESENTATION? 1 PERSON'S VOTE IN SIERRA = 122 PEOPLE IN PLACER?
1 SENATOR PER COUNTY, 2014 TOTAL POPULATION = 1,741,620**



**Comparison By County of State Income Tax for 2013
an Average 400% Increase in Jefferson "Viability Model"**



Sources: <https://www.ftb.ca.gov/aboutFTB/reports/pitstats/2014.pdf>
State of Jefferson Viability Model, October 2015

Research by: Keep It California PAC