

INTRODUCTION

Be it on the Coast, in the Web, or in the State Capitol: The Question of California Rising to the Challenge

By Bill Whalen

Drive into the Central Valley city of Modesto and, at the intersection of 9th and I Streets, you'll pass underneath the fabled centennial arch that dates back to the early years of the 20th century. That arch's slogan, "Water, Wealth, Contentment, Health," (definitely an improvement on the original choice, "Nobody's Got Modesto's Goat") is a convenient way to look at the current state of the Golden State.

As far as "water" is concerned, California's better off than it was a year ago, when the effects of a historic drought—the topic of this September 2015 [Hoover Golden State Poll](#)—were forcing communities to cut back on the precious commodity. Thanks to rainfall produced in this year's "Miracle March," California's reservoirs got a needed boost—Lake Shasta, for instance, rising above its average level to date for the first time in three years.

"Wealth?" The Golden State is home to seven of the nation's 14 [most expensive ZIP codes](#) (the leader: Atherton, a town midway between San Francisco and San Jose, with a median home price of \$10.5 million.) There is the not-insignificant matter of California's income inequality (the nation's most unequal state, [some argue](#)), but that's a conversation for another day.

"Contentment?" [A January Field Poll](#) had 50% of Californians saying the state's on the right track. But here, things start to get complicated. [Half of San Franciscans](#) think their uber-wealthy city is on the wrong track. Two years of Hoover Golden State Polls [have consistently shown](#) Californians in a dour mood when it comes to their job security and financial standing.

And finally, "health"—one of the reasons why we assembled a broad range of topics for this issue of *Eureka*. A nation-state with a population closing in on 40 million residents has its needs, one of which is paying for Medi-Cal, the state's health care program for the poor. It seems easy enough, in a state that's [awash in money](#) at the moment. But times change; so too will California's notoriously volatile revenue stream. What doesn't change: [poverty in California](#), which is down from a year ago but still above pre-recession levels.

Californians also demand that the state act as a responsible steward of its celebrated natural beauty. But that confidence is wobbly, what with reports earlier this year of political infighting within California's Coastal Commission (i.e., "[the circus](#)"), long a flash point at the junction of environmental protection and the developmental wants of a growing population.

Though we live in an age of unprecedented connectivity, Californians remain largely in the dark as to how their government operates. With the media's footprint smaller in Sacramento thanks to a changing news industry and Arnold Schwarzenegger's departure

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from the Capitol stage, where will a disconnected and disillusioned electorate get its knowledge?

Then again, some Californians may prefer living in the dark. Each year, lawmakers in Sacramento talk a bold game of innovation and reform and seizing the moment—2016 being no exception. But like John Belushi working his way through [the cafeteria line in *Animal House*](#), the Legislature at present seems guilty of having bigger eyes than its stomach.

In this issue of *Eureka*, we explore four topics vital to California's future in terms of the state's fundamental wellbeing and its ability to tackle major challenges.

This issue includes:

- [Terry Anderson, the Hoover Institution's John and Jean De Nault Senior Fellow, takes stock of the California Coastal Commission](#), now in its 40th year. In a better world, Anderson observes, the commission would focus on clarifying and strengthening private property rights to coastal entities;
- [Sam Blakeslee, the founding director of the Institute for Advanced Technology and Public Policy at Cal Poly State University, San Luis Obispo](#), writes about invigorating civic engagement through technology;
- [Lucien Wulsin, founder and director of the Santa Monica-based Insure the Uninsured Project](#), writes about navigating the “Scylla and Charybdis” of California's Medi-Cal program—the enormous pressure of accommodating a steadily growing number of subscribers, coupled with threading the many constitutional and statutory needles necessary to fund Medi-Cal services;
- And finally, Hoover research fellow [Carson Bruno explains why California state government may be guilty of policy binging](#)—trying to tackle transportation, water, and school infrastructure.

We hope you enjoy this latest installment of *Eureka*—and that it gets you thinking about where California stands and whether we're moving in the right direction.

Bill Whalen is a Hoover Institution research fellow, primarily studying California's political trends. From 1995 to 1999, Bill served as Chief Speechwriter and Director of Public Affairs for former California Governor Pete Wilson.



FEATURED COMMENTARY

Ending the California Coastal Commission Lolly Scramble

By Terry Anderson

Coming from the “big sky country” of Montana where beautiful views are common around every bend in the road, I am still impressed by the green hills overlooking Point Reyes, the coastal cliffs plunging into the Pacific at Big Sur, and the vistas at San Simeon once enjoyed by Randolph Hearst. How can California, with a population of nearly 40 million and land values among the highest in the country, maintain so much open space?

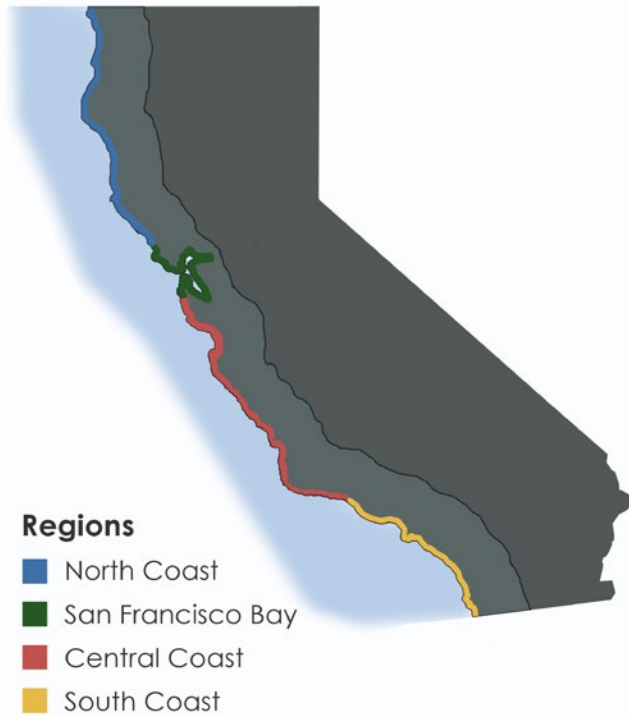
The answer in three letters is the CCC—the **CALIFORNIA COASTAL COMMISSION**. Established by the California Coastal Act in 1976, the commission has spent 40 years preserving the views I enjoy. It does this by redistributing property rights from coastal landowners to those of us who bear none of the cost of maintaining open space. In some—perhaps most—cases, the redistribution enhances the wealth of other coastal homeowners by dictating that nearby property cannot be developed or, if it is, by wrapping projects in red tape and then restricting building location, height, width, and construction materials. Put simply, the CCC redistributes property rights in what New Zealanders call a “lolly scramble,” a children's party game in which the candy is tossed on the floor and kids scramble to get it while they can before others do. The CCC's lolly scramble is made worse, however, by the fact that the lollies are continually up for grabs in the commission's ever-changing regulatory game.

At its inception, the CCC's task was to regulate development if it caused “any change in the intensity or density of land use.” This could reasonably mean limiting home building on unstable cliffs in the interest of public safety or maintaining unique natural beaches for future generations. But it did not take long for the reach of CCC regulation to expand.

The overreach of the CCC took a giant leap forward with the case of *Nollan v. California Coastal Commission* (1987), and fortunately it failed. The Nollan family wanted to tear down a dilapidated bungalow and replace it with a three-story home in Ventura County. The CCC conditioned approval of the building permit, however, by requiring that the Nollans grant a public easement for a strip of their beachfront to allow public access. The CCC argued that the house would prevent the public “psychologically from realizing a stretch of coastline which exists nearby that they have every right [as provided by the California Constitution] to visit.” The Nollans won in the



THE COASTAL COMMISSION JURISDICTION GENERALLY EXTENDS 1,000 YARDS FROM THE MEAN HIGH TIDE OF THE SEA



Source: [California Coastal Commission Statewide Map of CCA Regions](#)
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Superior Court with the judge saying the CCC could impose the condition only if it showed that “the proposed development would have an adverse impact on public access,” which it did not. Ultimately the case made it to the US Supreme Court where the late Justice Antonin Scalia called the permit requirement “an out-and-out plan of extortion.”

Despite this early legal setback, the “extortion” has continued and gotten worse as the CCC has encroached on what should be local issues resolved by neighbors. For example, consider the question of who gets to surf which waves. Yes, that is something the CCC has taken under its purview on the grounds that increased competition for “surf breaks,” as they are called, constitutes a “change in the intensity or density of land use.” Use of surf breaks could be subject to the “tragedy of the commons,” meaning that surfers would race to catch waves and in the process interfere with another’s enjoyment of the break.

The potential for such interference might be a reason for government intervention, but in example after example,

economists and political scientists have documented how local groups create rules for preventing the tragedy of the commons. Just as [cattlemen’s associations](#) established rights to grazing territories on the western frontier long before the government sanctioned homesteading, [“surfer gangs” have created local rules](#) for determining who gets to use the best waves, usually local surfers who are better than others.

Like all rules, however, those regulating the use of surf breaks require enforcement often in the form of verbal reprimands or even physical sanctions (e.g., interfering with non-local riders considered interlopers). Despite the rules created by surfer customs and culture, the CCC intervened in a surfing dispute contending that verbal and physical interference to allocate the use of surf breaks constituted “development” and required a coastal development permit to determine the use of waves. The upshot of the surfing example is that top-down CCC regulation became a heavy-handed substitute for a bottom-up solution.

Another example going beyond what a reasonable person might call development is a CCC regulation that required a landowner wanting to put cows in a previously ungrazed field to obtain a permit. Again the CCC “rationale” was that the grazing constituted a “change in the intensity or density of land use.” As with the surfing example, cattle grazing is a local issue involving long-standing agricultural uses and community values. If neighbors found the grazing offensive, they had the option of consulting with the landowner to find a win-win solution rather than relying on the CCC to take the landowner’s property rights through regulatory procedures.

Many of the CCC regulations could have been handled with far less acrimony and bureaucratic red tape by local people clarifying property rights and negotiating over the use of those rights. The Nollan case shines as a beacon for how such issues could be resolved if only the CCC would clarify property rights rather than redistribute them. Because beach access is subject to the “tragedy of the commons,” meaning there is crowding, littering, and general competition for use, coastal landowners would have an incentive to limit access, perhaps with courtesy, customary rules, or even pay booths. This would increase the value of California beaches. Come to think about it, this is precisely what the state has had to do to with its user fees and limits on beach access, but at a much higher cost.

Recently [J. David Bremer, writing for the Pacific Legal Foundation’s blog](#), concluded that “the Commission needs to re-focus on truly state-wide problems or take a ‘mission accomplished’ victory lap and disband.” The latter is unlikely

to occur given the nature of bureaucracies, but the former provides a fruitful suggestion. If the CCC would focus on clarifying and strengthening private property rights to coastal land use and delegate more authority and responsibility to local entities, be they governmental or non-governmental (e.g., as surfing clubs or environmental groups), it could end the lolly scramble and encourage productive, private solutions to environmental conflicts. On its 40th anniversary, it is time to rein in the CCC by limiting its actions to public health and safety rather than perpetuating a childish game.

Terry Anderson is the John and Jean De Nault Senior Fellow at the Hoover Institution and the William A. Dunn Distinguished Senior Fellow at the Property and Environmental Research Center.



CALNOTES:
CALIFORNIA COASTAL
COMMISSION



Established in 1972 by Proposition 20, the California Coastal Commission is a quasi-judicial-regulatory agency tasked with protecting, conserving, restoring, and enhancing California's coastline via reviewing and permitting development. As defined by Proposition 20, development is that which changes the density or intensity of use of the land. The Commission consists of 12 voting members—four each appointed by the Governor, Senate Rules Committee, and Assembly Speaker—and Secretaries of the Resources and the Business and Transportation Agencies and the Chair of the State Lands Commission, who are non-voting members.

The Imperative of an Open, Transparent, and Accountable Government

By Sam Blakeslee

Few people are aware that the motto of the California State University system is *Vox Veritas Vita*: “Speak truth as a way of life.” It is an imperative, calling upon all students, professors, and indeed all of us, to seek out truth, and to proclaim it loudly. It is a call to action, and not merely contemplation.

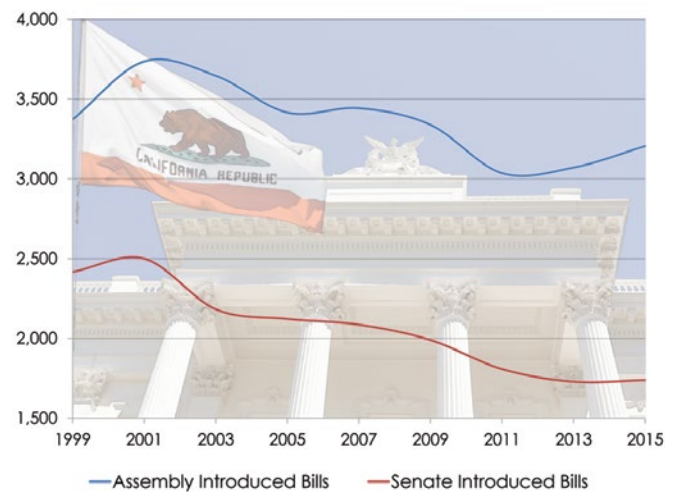
This motto and its imperative rest at the heart of what we do at the Cal Poly Institute for Advanced Technology and

Public Policy, where I serve as Founding Director. Working collaboratively with experts in academia, the private sector, and with some of the finest college students to be found anywhere, the Institute seeks to identify key public policy issues and problems, and then create technology-based solutions to those problems that reduce costs, improve productivity, and most importantly, empower ordinary individuals to better help themselves and engage with and influence their government.

Nowhere is this more evident than in our efforts to seek to bring the promise of the “data revolution” to our institutions of government. Regardless of one’s political philosophy or party affiliation, the prospect of making our institutions of government more accessible, open, and transparent to all persons holds out tremendous hope—not merely for increased civic participation and engagement, but also for profound reform and cost savings.

In governments across our state and nation, tremendous strides are being made to access, aggregate, and analyze the myriad data sets created by government, and to use this information to improve all manner of government services. While profound technical, political, and other challenges and roadblocks exist, the prospects for harnessing “big data” to address major issues of public policy are truly encouraging.

SINCE THE 1999–2000 SESSION, THE STATE LEGISLATURE HAS INTRODUCED, ON AVERAGE, 5,427 BILLS



Source: [California Legislative Information](#)

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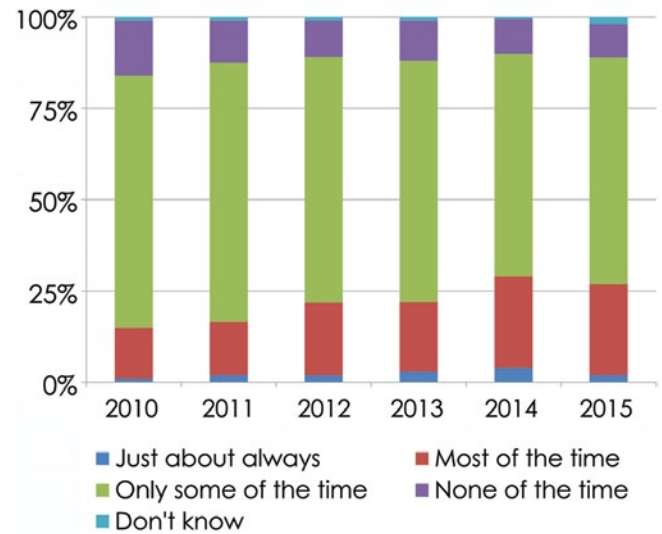
At the Cal Poly Institute, we have joined this effort in earnest with the creation and deployment of “Digital Democracy.” This remarkable, one-of-a-kind technology platform transcribes every word spoken in every televised hearing of the California State Legislature, and transforms that transcript into a universally searchable, three-dimensional, information-rich environment. Digital Democracy not only identifies every speaker and every interest group affiliation, but also provides information on every campaign contribution, every version of the bill at issue, and even allows the viewer to “cut-paste-and-send” portions of the written transcript and the actual video to anyone they choose. All available 24/7, and at no cost to the public.

The remarkable advances of technology that allow for the creation of tools like Digital Democracy—and which have been responsible for the profound gains in economic productivity and transformative changes in so many aspects of our daily lives—must be harnessed to restore, reform, and revitalize our institutions of government. For our part, we at the Cal Poly Institute are seeking to deploy Digital Democracy to all 50 states, with the goal of being active in New York, Florida, and Texas by year’s end. There remains much to do, and while the deployment of transformative technologies can play a profound role, it is by no means sufficient on its own.

That is one reason why, as a private citizen, and in a completely separate capacity from my role as Founding Director of the Cal Poly Institute, I am honored and pleased to partner with leading philanthropist and reformer Charles Munger, Jr. in attempting to qualify a major reform effort for this year’s ballot, and to seek voter approval of the Legislature Transparency Act this November.

The Legislature Transparency Act is an initiative constitutional amendment that not only recognizes that the people are sovereign, but seeks to give true meaning to that constitutional imperative. The Act requires that every hearing in the California Legislature—all committee hearings, budget hearings, and all Floor sessions—be audio/video recorded in their entirety, and the videos be made available to the public free of charge within 24 hours of the conclusion of the proceedings. The Act allows individuals who come to Sacramento to testify or witness their Legislature in action to use their own devices to record their government in action. And the Act requires all bills to be in print and available online to the public and the elected Members of the Legislature for a full **72 HOURS BEFORE A VOTE** is taken, unless the Governor expressly requests the immediate passage of a bill due to a declared emergency, and both houses

ON AVERAGE, 66% OF LIKELY VOTERS TRUST THE STATE GOVERNMENT TO DO WHAT IS RIGHT ONLY SOME OF THE TIME



Source: *Public Policy Institute of California Statewide Surveys, 2010 to 2015*
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of the Legislature also votes to accelerate action on that particular bill.

As a former member of the California State Senate and Assembly, I speak from firsthand experience when I say that nowhere is the need for increased transparency and public input greater than in our own State Legislature. Technology solutions like Digital Democracy, and vital changes in law like those included in the Legislature Transparency Act, are essential to opening up the institutions of government to “we the people.” Yet even the most fundamental reforms are meaningless if the public is unwilling to act.

At a time when public distrust in our institutions of government is high, and cynicism too often replaces idealism, we must actively pursue efforts to restore the public’s faith in and understanding of our institutions of government. We must provide the hardworking men and women of our state and nation the ability to engage in both a timely and meaningful manner in the affairs of their government; to let them know that their voice is being heard, and can make a difference on the issues they care about most, and that most affect their lives.

As never before, the use of technology can offer unprecedented opportunities for just this kind of civic engagement, renewal, and reform. Technology, however, is only a tool;

what we choose to do with these tools will define not only our future, but ourselves as well.

Sam Blakeslee, PhD, is the founder of Cal Poly's Institute for Advanced Technology and Public Policy. Sam was a strategic planner and senior research scientist with Exxon and served in the California State Assembly.



CALNOTES:

GUT-AND-AMEND



The 72-hour rule requires legislation to be made publicly available for at least 72 hours prior to a vote. This rule aims to eliminate gut-and-amend legislation. Normally, legislation is introduced and then reviewed and voted on by multiple legislative committees and the entire legislature. Sometimes, though, bills that have made it through the legislative process are completely gutted of their original content and amended to something completely different. These gut-and-amend bills then receive very little to no review before being presented for a full floor vote.

Financing Medi-Cal: Navigating Scylla and Charybdis While Blindfolded with Both Hands Tied behind Your Back

By Lucien Wulsin

California Governor Jerry Brown's proposed [2016–17 state budget](#) projects that Medi-Cal enrollment—free or low-cost health coverage for children and adults with limited income and resources—will increase from 12.5 million to 13.5 million subscribers over the coming year at a total cost of \$86 billion. Of that sum, \$19 billion comes from the state's General Fund, with the remainder a mix of federal matching funds, local funds, and state special funds.

Adding in covered California subscribers means 14 to 15 million Californians – roughly three in eight Golden State residents – will be covered between the two programs. Who's on the programs? Low-income seniors, the disabled, the developmentally disabled, the severely mentally ill, children, parents, and pregnant women are the basic eligibility categories. California pays a 50/50 match for most of these program-eligibles. The Affordable Care Act (i.e.,

Obamacare) added other uninsured low-income adults and increased the Medicaid income eligibility for parents from 100% of poverty to 138% of the poverty level (about \$16,243 for an individual).

Over 80% of Medi-Cal subscribers are enrolled in managed care plans, otherwise known as HMOs. The rest are in a traditional fee for service system. Medi-Cal's cost per eligible is low compared to other states due to three important factors: 1) low reimbursement, 2) low utilization, and 3) a younger and healthier population than the Northeast, Southern, and Midwestern states.

SO WHY THE SCYLLA AND CHARYBDIS ANALOGY?

First, Scylla.

Since the mid-1970s, the percentages of Americans (and Californians in particular) with employment-based coverage have steadily declined. At the same time, health insurance premiums and costs have been growing at far faster rates than the rest of the nation's economy.

This puts enormous pressure on Medi-Cal to accommodate steadily growing numbers of subscribers who no longer have access to private coverage through their jobs and constant pressure to keep up with the supercharged growth in private sector health spending, prices, and premiums. California's uninsured rates steadily grew to over 20%—among the nation's highest—impacting nearly 7 million California residents before the implementation of the ACA. Medi-Cal enrollment grew from about 3.5 million in 1983 to 7.8 million Californians by December 2013 at the advent of the ACA.

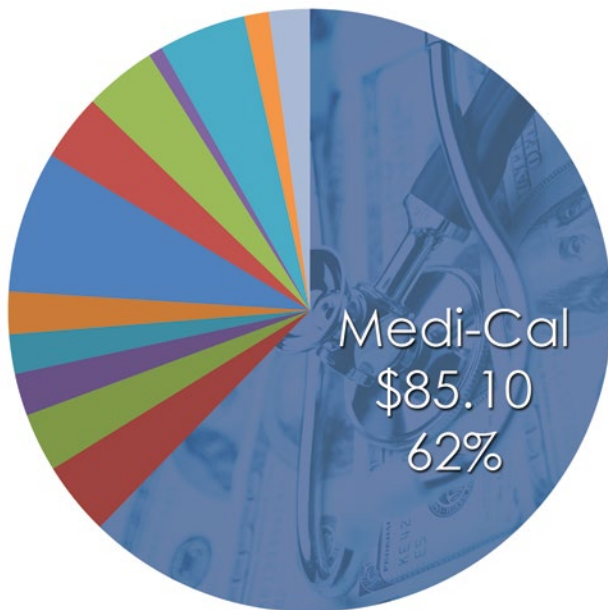
Now, Charybdis.

Since the late-1970's, California voters have tied state and local finances in a serie of knots. Nineteen seventy-eight's [Proposition 13](#) froze the growth in local property taxes, which funded public schools, public hospitals, and county and municipal governments and their programs. The following year, [Proposition 4](#) froze the growth in state spending (the so-called "Gann Limit") to the growth in population plus the Consumer Price Index. In the late-1980s, [Proposition 98](#) walled off a percent of the state's General Fund committed to public schools. And a series of tough on crime initiatives filled state prisons. Supermajority vote requirements for legislative actions on budgets and taxes and partisan gridlock in the State Capitol further drove advocates to submit a series of successful ballot initiatives to fund care of the uninsured.

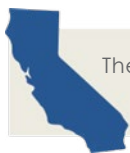
Enter the ACA which expands coverage in two respects: Medicaid (Medi-Cal) expansion for the lower-income



MEDI-CAL ACCOUNTS FOR OVER 60% OF THE HEALTH AND HUMAN SERVICES BUDGET



Source: *Health and Human Services Proposed Budget, Fiscal Year 2016–2017*



The next largest expenditure item is In-Home Supportive Services accounting for 7.6%.

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uninsured and refundable tax credits through Covered California (California's Exchange) to help with affordability of premiums. About 6 million Californians are enrolled due to the ACA and the numbers of uninsured Californians have declined by more than half. To date, the federal government has paid 100% of the new Medicaid expansion categories, but over the next three years that will slowly decline to a 90/10 match. California's projected share will rise from about \$500 million in 2016–17 growing to about \$1.5 billion in 2019–2020.

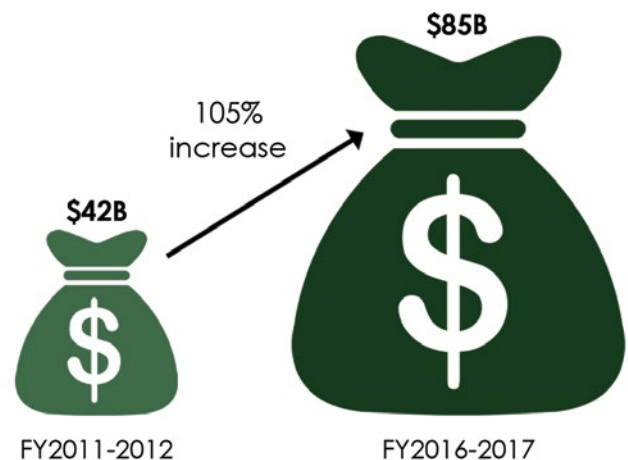
County governments play a key role in financing Medi-Cal. After the passage of Prop 13 and the Gann Limit, California began a process of transferring state funding streams (principally the sales tax) and responsibilities to county governments for public health, indigent health, behavioral health, and local law enforcement; this process goes under the name of realignment. The counties in turn may and do use these and other local funds as the Medicaid match for behavioral health programs, and county hospital roles in providing care to their low-income patients.

Hospitals and health plans have committed their own resources in the forms of special fund taxes and fees to support the Medi-Cal program as well. These fees and taxes must comply with the federal restrictions on provider taxes and [the recent renewal](#) of the state's managed care organization tax of over \$1 billion serves as an example of both their commitments to the Medi-Cal program and the arts of deft compromise necessary to preserve this funding.

The MCO tax was first established with the support and leadership of the local Medi-Cal managed care plans as the state struggled to maintain services and coverage during the Great Recession. The federal government determined that it was not sufficiently broad based as required by federal law—i.e., it did not apply to all health plans, but only to those participating in the Medi-Cal program. Its continuation was a high priority for Governor Brown, as its repeal would reduce state funding by over \$1 billion with a consequent loss of \$1 billion in federal matching funds. The bipartisan compromises necessary to secure its passage included offsets with the state's Gross Premiums Tax on health plans and improvements in Medi-Cal reimbursements for care to the developmentally disabled.

While local matches and plan and provider taxes are not ideal for a host of reasons, they have been necessary components to threading the constitutional and statutory needles necessary to fund California's Medi-Cal program. California has been one of the nation's pioneers in ACA implementation; its

SINCE GOVERNOR BROWN'S 1ST BUDGET, MEDI-CAL SPENDING HAS INCREASED 105%



Source: *Health and Human Services Proposed Budget, Fiscal Year 2011–12 & Fiscal Year 2016–2017*

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ongoing and future success will depend on correctly aligning plans, providers, and three levels of government.

Lucien Wulsin is the founding Executive Director of Insure the Uninsured Project. Lucien is an attorney specializing in health law and health policy.



CALNOTES:

SCYLLA AND CHARYBDIS



Featured most prominently in Homer's Odyssey, Scylla and Charybdis have come to represent two equally dangerous situations that must be traversed. Scylla was once a beautiful naiad who was turned into a 6-headed monster either by a jealous Amphitrite or Circe. Venturing too close to her cave resulted in her quickly snatching crew from the deck of your ship. Charybdis, either a monster who created a treacherous whirlpool or just the whirlpool itself, was located on the other side of the narrow strait from Scylla. Attempting to avoid Scylla snatch your crew could result in complete destruction by Charybdis.

California's Crumbling Condition—The Past, Present, and Future of Infrastructure in California

By Carson Bruno

The modern California was built on an expansive and well-thought-out infrastructure plan. Today, however, that system is crumbling beneath our feet and the bill just to repair it—et alone modernize it for the next generation of Californians—is steadily growing: some estimate it to be around \$500 billion or roughly 3 times the proposed 2016–2017 total state expenditure budget.

To best examine the path forward, we first have to understand how the state got to this point.

Pat Brown had a vision of a modern and robustly growing California. Starting under his direction during the better part of the 1950s and 1960s, the Golden State engaged in expansive infrastructure development putting in place some of the most state-of-the-art transportation, water, and school

infrastructure in the country. This allowed California to grow and prosper. Between 1950 and 1970, California's population doubled and between 1963 and 1972, California's GDP also doubled. But then the infrastructure development, for the most part, stopped and since then only essential maintenance has largely occurred.

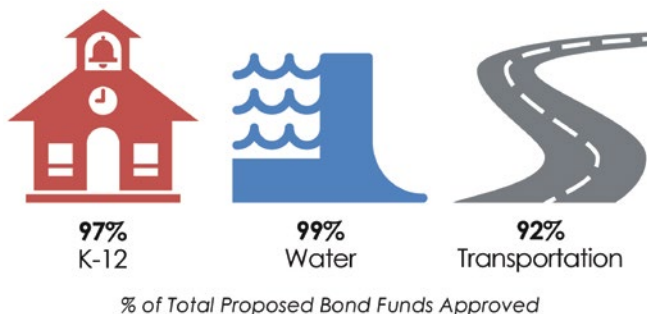
The reasons: 1) Jerry Brown's "small is beautiful" mentality, 2) Proposition 13 and its legacy ballot measures, and 3) term limits.

Born of the 1970s and championed by Pat Brown's son Jerry Brown—then in his first stint as Governor—"small is beautiful" cast aside the notion that robust growth was good, instead viewing it as unsustainable and irresponsible. Therefore, state policy quickly shifted away from Pat Brown's vision of constant-infrastructure-investment to one of "if we don't build it, they won't come."

But then the 1978 tax revolution occurred in the form of Proposition 13. Successful in reining in the out-of-control and punitive tax increases plaguing the state, Proposition 13 and its legacy ballot measures—those inspired by Prop 13 and aiming to further its original mission—ravaged local government revenue. With the state downshifting its infrastructure responsibilities, local governments found themselves having to pick up the slack, but without the funding ability to do so. And while these restrictions have been loosened over the years, local governments still don't have the ability they once did to raise funds for expensive infrastructure projects.

Then, in the 1990s California introduced term limits. The political music chairs started whereby local elected officials and state legislators alike were constantly looking to their next office rather than paying attention to the needs

VOTERS TEND TO APPROVE K-12, WATER, AND TRANSPORTATION INFRASTRUCTURE BONDS



Source: 2016 California Five-Year Infrastructure Plan

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of their current one. Secondly, any incentive to build cross-aisle relationships (or even intra-party ones, for that matter) was greatly reduced. During a time when the infrastructure that Pat Brown started was beginning to reach its end-of-life usage, California's elected officials weren't incentivized to concern themselves with long-term policy making or building the relationships necessary to do so.

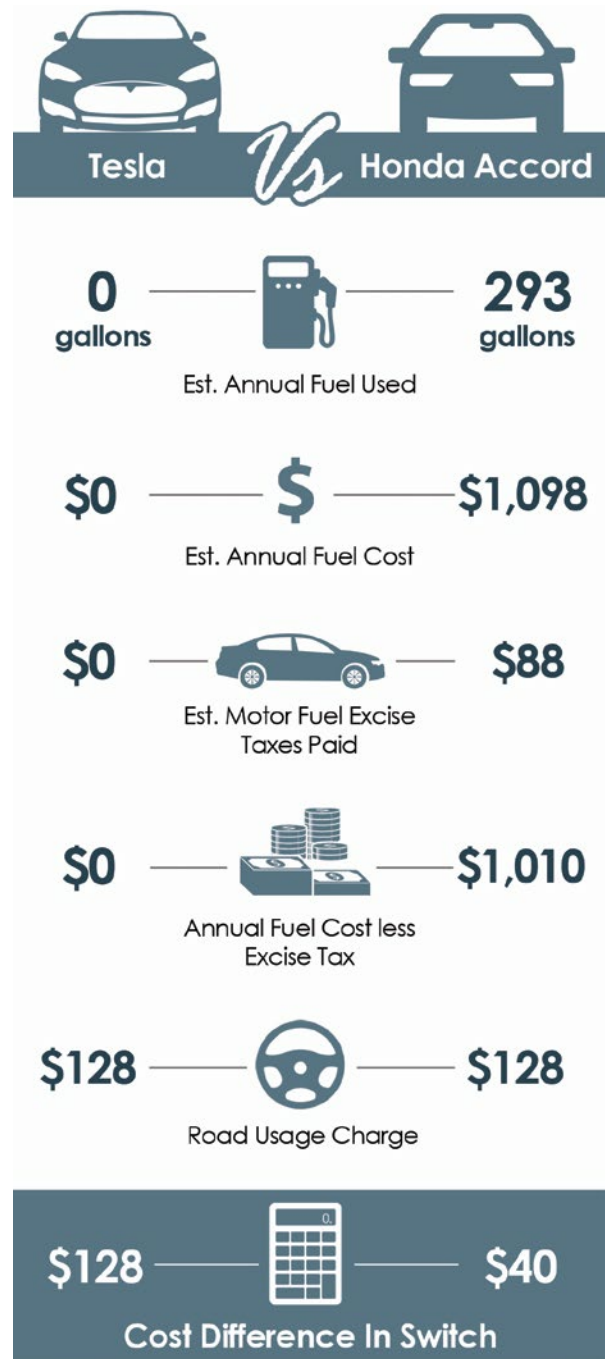
This brings us to today. According to the [Center for Cities and Schools at UC–Berkeley](#), California's K-12 schools will require, over the next decade, approximately \$117 billion in total capital investments to ensure the state's school facilities remain adequate learning environments. Based on the Department of Transportation's [April 2015 Ten Year Planning Report](#), the state needs to invest an additional \$5.7 billion per year over the next decade to meet basic road and transportation maintenance needs. And as estimated by the [US Environmental Protection Agency](#), California's aging water systems need approximately \$45 billion over the next two decades to ensure safe water conditions.

But Sacramento has yet to act (or at least aggressively and comprehensively) on any of these issues. As a result, the state is either getting ad hoc and intermittent policy fixes like the Legislature placing Proposition 1 on the 2014 ballot or private citizens submitting ballot measures for signature circulation and qualification. In 2016 alone, Californians could be voting on as many as 7 ballot initiatives that are at least tangentially connected to water, K-12, and transportation infrastructure, including the [Water Supply Reliability and Drought Protection Initiative](#), proposed by former Deputy Secretary of the California Natural Resources Agency Gerald Meral, the [California Reallocation of Bond Authority to Water Storage Initiative](#), introduced by Board of Equalization member George Runner and State Senator Bob Huff, and the [Public Education Facilities Bond Initiative](#).

But none of these ballot measures will address the fundamental reasons why California remains incapable of adequately prioritizing its infrastructure. Even worse, policy fixes by the ballot box are inflexible—since voter-passed measures can only be amended by subsequent votes by the public (unless the initial ballot measure gives amendment authority to the Legislature, which is a rarity).

And while Jerry Brown in his second stint as Governor appears to have given up on the “small is beautiful” mentality, there still isn't a pervasive and collective belief in strong infrastructure investment by any major figure in the state's capital. Moreover, while term limits have recently been amended to apply a little more flexibility, it appears Californians are

COST COMPARISON IN SWITCHING FROM GAS EXCISE TAX TO ROAD USAGE CHARGE



Source: [US Department of Energy, Federal Highway Administration, California Energy Commission, & American Petroleum Institute](#)

Note: 2014 Avg. Weekly Regular Gas Price = \$3.74 per gallon; 2014 VMT per capita = 8,511 miles; Honda Accord combined fuel economy = 29 miles per gallon; Only state excise tax (30 cents per gallon) would be replaced; Mileage Tax = 1.5 cents per mile driven

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willing to keep the concept in place, regardless of the negative downsides.

Thus solutions moving forward must focus on easing the restrictiveness of funding—at both the state and local level.

One proposal is lessening Prop 13's legacy restrictions. After Prop 13, other ballot measures put further restrictions on a host of other taxes, fees, and bonds. On occasion, however, voters have been open to loosening those restrictions—such as 2000's Proposition 39, which lowered the passage threshold from a 2/3 majority to a 55% majority for local school districts seeking bond authorization. Applying similar thresholds to other municipalities would increase the ability of raising funds for other infrastructure projects, such as water systems or transportation. Of course, however, Prop 13 and its legacy measures were put in place because of rampant abuse by local and state elected officials. Lowering the thresholds would, again, open that possibility of over indebtedness and taxation.

Another approach is making revenue-generation more efficient by more closely attaching usage of the infrastructure with payment for it. As explored in the [January 2016 issue of Eureka](#), California's current funding regime for road maintenance and modernization is no longer adequate. While the gas tax once was a decent proxy for road usage, advances in fuel efficiency in traditional vehicles and the advent of hybrid and electric vehicles has severed that relationship. A mileage tax in lieu of the gas tax or more widespread use of toll roads (or both) would better align road usage and funding of the maintenance. Moreover, the Legislature should heed [Orange County Senator John Moorlach's advice](#) and work to ensure that the funds collected for road maintenance actually go toward it.

Finally, California could work to make projects less expensive by better promoting and allowing the use of **PUBLIC-PRIVATE PARTNERSHIPS** for infrastructure construction and maintenance, enhancing the competitive bidding process, and reducing the prevalence of project-labor agreements, which benefit more expensive unionized labor. While not revenue-generating mechanisms, all of these can save money making projects previously considered too expensive more manageable even with the revenue-raising limitations stipulated by Prop 13 and its legacy laws.

Regardless of what happens in 2016, California has a daunting pile of infrastructure investment needs building up that will only continue to grow unless serious and decisive action happens soon.

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CALNOTES: PUBLIC-PRIVATE PARTNERSHIPS (P3)



A contractual agreement between a public agency (such as the State of California or the City of Palo Alto) and a private sector company, P3 combines the competitive advantages of both entities to deliver a service or implement a project for general use all while ensuring both sides share the risks and rewards. The benefits of P3s could include cost savings for taxpayers via more efficient implementation and operation, better use of new innovations, enhanced accountability, access to specialized expertise, and less political interference. Current California law permits P3 for both state and local projects; however, P3 authorization sunsets in 2017.



EUREKA

ABOUT THE PUBLICATION

Eureka was created to serve as an occasional discussion of the policy, political, and economic issues confronting California. Like the Golden State motto from which this forum's title was borrowed, the goal here is one of discovery—identifying underlying problems and offering reasonable and common-sense reforms for America's great nation-state.

Ever since Archimedes supposedly first uttered the word, *eureka* has meant joy, satisfaction, and a sense of accomplishment. Drawing on the combined wisdom of Hoover's policy experts and leading California thinkers, we hope that you'll find enlightenment in these pages. Hoover research fellow Bill Whalen, who has nearly two decades of experience in California politics and public policy, serves as this forum's editor.

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