

From: Edward De La Rosa
Sent: Friday, September 18, 2009 7:20 PM
To: Walker, Margie
Subject: Comments from Commissioner De La Rosa

Mr. Chairman, Commissioners:

Upon my reflection on our discussion during Monday's meeting, I respectfully offer my observations and recommendations.

1. I believe there is a risk that the package, if adopted, will result in the transfer of our state's tax burden from California's highest, to its lowest income earners. This could result from the way the BNRT affects the prices of consumer goods. I remain particularly concerned about the effect of this shift on purchases of consumer goods by the approximately 13 million taxpayers making less than \$100,000 per year.
2. I remain unconvinced that it's a good idea to eliminate the current corporate tax and replace it with the BNRT. I find it particularly troubling that we received very few expressions of public support for the BNRT; not even from the business community nor from academics and tax experts that appeared before us.
3. The operation and phasing included in the current package pays for any underperformance by the BNRT with a delay in a reduction in the sales tax. I'm concerned that a reduction in our state's very regressive sales tax could be delayed if the BNRT generates less revenue than expected.
4. The current plan does not enable employers to deduct the cost of employer-paid health care premiums.

That being said, I appreciate the fact that our Commissioners have strived to find a consensus, while remaining true to our individual principles. In light of that sentiment, so persuasively advanced by some of our fellow Commissioners, I could support the package currently under consideration, if my support were accompanied by my statement of concerns, above, and by my suggestions, below.

1. The cost of providing a 30% break for earners between \$20,000 and \$75,000 would be about \$1 billion. We could provide this break to these brackets by reducing the \$7.6 billion break planned for those earning above \$200,000. This would reduce the break to these top earners from about 30% to about 26%. That's still a great deal for the top earners, and it would be terrific to increase the break provided to the lower brackets.
2. The idea of replacing the Corporate Tax with the BNRT needs further study, public hearings and full consideration by the Legislature through its normal process. Only after rigorous analysis and testing, should such a replacement be considered.
3. In the event the Legislature studies the package, the following adjustment to its operation and phasing should be seriously considered. Underperformance by the BNRT should be paid for by a delay in the PIT reduction for those earning above \$200,000, rather than a delay in a reduction in the sales tax. With this approach, the most regressive tax would be reduced first, and any reduction of the personal income tax on high earners would be contingent on performance of the untested BNRT. There are methods routinely used by the State, such as interim financing, that can also be used to smooth the effect of these adjustments on the State's revenue stream.

4. Employers should be able to deduct the cost of employer-paid health care premiums. I think the idea that we discussed during Monday's Commission meeting made sense; cover it with an increase in the corporate tax rate, or the BNRT rate if that is adopted.
5. The rainy day reserve fund is a great idea. I would remove the Governor's authority to use it for natural disasters. There are often several natural disasters each year, so withdrawals might be routine, rather than the exception. Recent experience in California suggests that communities whose voters refuse to vote for taxes to pay for flood control, fire protection or other services or infrastructure to address natural disasters, would receive a huge subsidy from such withdrawals from the rainy day reserve. This would not be fair to California's taxpayers nor to other communities whose voters do elect to provide financial support for such services and infrastructure.
6. If it is true that adoption of an oil severance tax would make California equal to states like Texas, Louisiana and Alaska, I think it's a good idea to encourage the Legislature to consider its adoption. I would strongly recommend that the Commission refrain from a recommendation for more exploration. There is already a method by which such decisions are made here in California, and furthermore, our encouragement of more drilling is outside the scope of the Governor's Proclamation

Having made the statements above, I would like to thank Chairman Parsky for his leadership, and for the considerable effort he has made to develop a plan that our Commission can support. I do think our Commission made some great progress in our discussion of ways to lower income and business taxes, and to apply business taxes across a broader range of services than is currently the case. In that regard, I think those ideas were consistent with the principles outlined in the Governor's executive order.

Of course, time is a limited resource, and I wish we had more of it. If we did, here's how I would suggest we work through perhaps three more public meetings. During the first, we could consider changes to the existing plan that would alleviate some of the concerns that I and others have expressed. Also during that meeting, Commissioners could volunteer to participate in workshops around two alternative plans. During the second meeting, we could consider the two alternative plans, making any changes necessary to make them "final." During the third meeting, we could discuss all three plans. We could then compose a statement of principles drawn from those three plans, around which the Commission could build a consensus and then advance to the Governor and Legislature. Our statement of principles could serve as a starting point to guide their discussions about modifications to our tax structure. All three plans would be attached as supporting documents.

With that approach, our Commission could forward our plan as a visionary document around which the Governor and Legislature can conduct vigorous debate. I think it would be important for us to acknowledge that it's always a difficult task to move away from established precedent toward a new paradigm, and that we fully expect expressions of support and of opposition to arise in the wake of the release of our statement of principles and the attached plans.

I consider it to have been a privilege to have worked with my fellow Commissioners under Chairman Parsky's leadership.

Sincerely,

Edward J. De La Rosa
COTCE Commissioner