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**CITY OF SACRAMENTO
CALIFORNIA**

May 10, 1990

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Law and Legislation Committee
Sacramento, California

**SUBJECT: Senate Constitutional Amendment No. 50
(Kopp) Relating to Insurance Taxation**

Honorable Members in Session:

SUMMARY

This report recommends that the Law and Legislation Committee support Senate Constitutional Amendment 50 relating to taxation of insurance companies.

BACKGROUND

Under the existing provisions of Article XIII of the California Constitution, insurers doing business in this State pay a State tax based upon gross premiums, in lieu of all other State, County, and municipal taxes and licenses, except as specified.

Until recently, this provision was not interpreted to preclude taxation, such as utility users taxes, in connection with insurance companies' active investments not related to the generation of gross premiums. Recently, however, in a case involving several municipal taxes imposed by the City of Los Angeles, the California Supreme Court held that even investment activities (e.g. owning and renting out an office building) could not be subjected to local taxation.

Senator Kopp's proposed constitutional amendment would add to the specified exceptions (i.e. local taxes which may be imposed):

(7) Any tax or fee on active investments and net income derived from active investments imposed by a charter city, any other local entity of government authorized by statute to impose any such tax or fee, or the state. For purposes of this

**Re: Senate Constitutional Amendment
No. 50 (Kopp) Relating to
Insurance Taxation**

May 10, 1990

Page 2

paragraph, "active investments" includes, but is not limited to, real estate and any other noninsurance related business activity.

FINANCIAL DATA

The financial impact of the recent State Supreme Court decision on the City of Sacramento has not yet been estimated. However, it can be said with certainty that there will be a financial effect, which effect could be reversed at least for the future by adoption of Senator Kopp's proposal.

Since the State tax is calculated on gross premium income only, all other types of income to insurance companies are untaxed at the state or local level. SCA 50 would correct this inequity.

POLICY CONSIDERATIONS

Support for this bill is consistent with the Council's policy to reduce the loss of revenue due to state exemptions from local taxes.

MBE/WBE

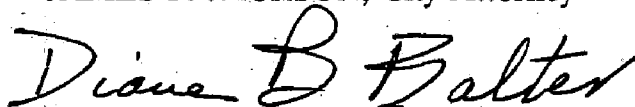
None.

RECOMMENDATION

It is recommended that the Law and Legislation Committee support Senate Constitutional Amendment No. 50 (Kopp).

Respectfully submitted,

JAMES P. JACKSON, City Attorney



DIANE B. BALTER
Deputy City Attorney

**Re: Senate Constitutional Amendment
No. 50 (Kopp) Relating to
Insurance Taxation**

May 10, 1990

Page 3

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Law and Legislation
May 17, 1990
All Districts

Introduced by Senator Kopp

April 5, 1990

Senate Constitutional Amendment No. 50—A resolution to propose to the people of the State of California an amendment to the Constitution of the State, by amending subdivision (f) of Section 28 of Article XIII thereof, and by adding subdivision (d) to Section 8 of Article XVI thereof, relating to taxation.

LEGISLATIVE COUNSEL'S DIGEST

SCA 50, as introduced, Kopp. Insurance taxation.

(1) Under the existing provisions of Article XIII of the California Constitution, a tax is imposed upon each insurer doing business in this state in lieu of all other state, county, and municipal taxes and licenses, except as specified.

This measure would include as an exception any tax or fee on active investments, as specified, and on net income from active investments imposed by a charter city, any other local entity of government authorized by statute, or the state.

(2) Article XVI of the California Constitution requires the state, commencing with the 1988-89 fiscal year, to provide a minimum level of funding for school districts and community college districts equal to the larger of 2 amounts determined in accordance with prescribed formulas. That article provides that one of those formulas is based on a certain percentage of the State General Fund revenues, as specified.

This measure would provide that, for that purpose, State General Fund revenues do not include state revenues derived from any tax imposed pursuant to the provisions of this measure described in (1) above.

Vote: $\frac{2}{3}$. Appropriation: no. Fiscal committee: no. State-mandated local program: no.

1 *Resolved by the Senate, the Assembly concurring, T.*
2 the Legislature of the State of California at its 1989-90
3 Regular Session commencing on the fifth day of
4 December 1988, two-thirds of the members elected to
5 each of the two houses of the Legislature voting therefor,
6 hereby proposes to the people of the State of California
7 that the Constitution of the State be amended as follows:

8 First—That subdivision (f) of Section 28 of Article XIII
9 thereof is amended to read:

10 (f) The tax imposed on insurers by this section is in lieu
11 of all other taxes and licenses, state, county, and
12 municipal, upon such insurers and their property, except:

13 (1) Taxes upon their real estate.

14 (2) That an insurer transacting title insurance in this
15 state which has a trust department or does a trust business
16 under the banking laws of this state is subject to taxation
17 with respect to such trust department or trust business to
18 the same extent and in the same manner as trust
19 companies and the trust departments of banks doing
20 business in this state.

21 (3) When by or pursuant to the laws of any other state
22 or foreign country any taxes, licenses and other fees, in
23 the aggregate, and any fines, penalties, deposit
24 requirements or other material obligations, prohibi
25 or restrictions are or would be imposed upon California
26 insurers, or upon the agents or representatives of such
27 insurers, which are in excess of such taxes, licenses and
28 other fees, in the aggregate, or which are in excess of the
29 fines, penalties, deposit requirements or other
30 obligations, prohibitions, or restrictions directly imposed
31 upon similar insurers, or upon the agents or
32 representatives of such insurers, of such other state or
33 country under the statutes of this state; so long as such
34 laws of such other state or country continue in force or
35 are so applied, the same taxes, licenses and other fees, in
36 the aggregate, or fines, penalties or deposit requirements
37 or other material obligations, prohibitions, or restrictions,
38 of whatever kind shall be imposed upon the insurers, or
39 upon the agents or representatives of such insurers, of
40 such other state or country doing business or seeking to

1 do business in California. Any tax, license or other fee or
2 other obligation imposed by any city, county, or other
3 political subdivision or agency of such other state or
4 country on California insurers or their agents or
5 representatives shall be deemed to be imposed by such
6 state or country within the meaning of this paragraph ~~(3)~~
7 of subdivision ~~(f)~~.

8 ~~The provisions of this~~ This paragraph ~~(3)~~ of subdivision
9 ~~(f)~~ shall not apply as to personal income taxes, nor as to
10 ad valorem taxes on real or personal property nor as to
11 special purpose obligations or assessments heretofore
12 imposed by another state or foreign country in
13 connection with particular kinds of insurance, other than
14 property insurance; except that deductions, from
15 premium taxes or other taxes otherwise payable, allowed
16 on account of real estate or personal property taxes paid
17 shall be taken into consideration in determining the
18 propriety and extent of retaliatory action under this
19 paragraph ~~(3)~~ of subdivision ~~(f)~~.

20 For the purposes of this paragraph ~~(3)~~ of subdivision
21 ~~(f)~~, the domicile of an alien insurer, other than insurers
22 formed under the laws of Canada, shall be that state in
23 which is located its principal place of business in the
24 United States.

25 In the case of an insurer formed under the laws of
26 Canada or a province thereof, its domicile shall be
27 deemed to be that province in which its head office is
28 situated.

29 ~~The provisions of this~~ This paragraph ~~(3)~~ of subdivision
30 ~~(f)~~ shall also be applicable to reciprocals or
31 interinsurance exchanges and fraternal benefit societies.

32 (4) The tax on ocean marine insurance.

33 (5) Motor vehicle and other vehicle registration
34 license fees and any other tax or license fee imposed by
35 the state upon vehicles, motor vehicles or the operation
36 thereof.

37 (6) That each corporate or other attorney in fact of a
38 reciprocal or interinsurance exchange shall be subject to
39 all taxes imposed upon corporations or others doing
40 business in the state, other than taxes on income derived

1 from its principal business as attorney in fact.

2 A corporate or other attorney in fact of each exchange
3 shall annually compute the amount of tax that would be
4 payable by it under prevailing law except for the
5 provisions of this section, and any management fee due
6 from each exchange to its corporate or other attorney in
7 fact shall be reduced pro tanto by a sum equivalent to the
8 amount so computed.

9 *(7) Any tax or fee on active investments and net*
10 *income derived from active investments imposed by a*
11 *charter city, any other local entity of government*
12 *authorized by statute to impose any such tax or fee, or the*
13 *state. For purposes of this paragraph, "active*
14 *investments" includes, but is not limited to, real estate*
15 *and any other noninsurance related business activity.*

16 Second—That subdivision (d) is added to Section 8 of
17 Article XVI thereof, to read:

18 (d) For purposes of subdivision (b), State General
19 Fund revenues do not include state revenues derived
20 from any tax imposed under paragraph (7) of subdivision
21 (f) of Section 28 of Article XIII.

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