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**Court rules in favor of voters in First 5 dispute with State**  
*\$2.5 million in tobacco tax revenues will stay in Yolo County for children 0 - 5*

**Background:** On November 21, 2011 Fresno County Superior Court Judge Debra J. Kazanjian ruled against the State of California and with First 5 Children and Families Commissions in a challenge to state legislation requiring First 5's to transfer \$1 billion to the State Treasury. First 5 Yolo's proportionate share of the mandated transfer was approximately \$2.5 million.

Led by the First 5 Commission of Fresno County, 10 counties, filed suit against the State in response to its passage of AB 99 in April 2011. Yolo County First 5 Children's and Families Commission did not participate in the lawsuit.

AB 99 authorized the raiding of the Children's Trust Fund which comes from a tobacco tax and is administered by First 5 Commissions.

Judge Kazanjian ruled, "The entire bill is invalid." She also said, "To claim that transferring decision-making from local communities to the state legislature is 'consistent with' Prop 10 is like asking the court to find that black means white."

The State argued AB99 was necessary in addressing the budget crisis, but Judge Kazanjian ruled, "That argument is disingenuous in that it was the legislature that 'chose' to cut funding to existing services instead of taking what might be an unpopular step of raising revenue."

In 1998, California voters passed Proposition 10 which taxed tobacco products. First 5 Commissions were charged with dispersing the funds in each county to fund non-existing critical health and educational services that help to ensure children from the prenatal stage to age five will enter school ready to learn. The funding targets prevention-focused programs.

Since it was passed in 1998, there have been two attempts to gut Proposition 10 and both times voters have sided with keeping First 5 Commissions and their funding intact. The last effort, in the 2009 special election, voters rejected Proposition 1D, a ballot measure to divert Proposition 10 funds to the State.

Judge Debra Kazanjian ruled the legislation, AB 99, did not further Proposition 10 (the initiative which created the First 5 program for children ages 0 to 5) and that it was inconsistent with its purpose as articulated in the 1998 ballot measure and the arguments made to the voters in the official voter pamphlet.

AB 99 was approved by the Legislature and signed by Governor Brown on March 24, 2011. The bill required First 5 county commissions to transfer \$950,000,000 to the State and First 5 California to transfer another \$50,000,000 for a total of \$1 billion in Proposition 10 funds to be sent to the State Treasury. The lawsuit challenging AB 99 was filed in the Fresno County Superior Court in August of 2011.

### **Reaction Statements from First 5 Yolo:**

Chair of First 5 Yolo and Yolo County Supervisor Don Saylor:

“We believe the judge understood the will of the voters and made the appropriate decision in favor of the First 5 Commissions.

This is a huge win for our children and reaffirms the decision California voters made in 1998.

It keeps the decisions about how the tobacco tax money will be spent at the local level, where the Commissioners live and work. We believe the children are best served when local people are making the funding decisions to support the most critical needs of our children and their families.”

First 5 Yolo Executive Director Julie Gallelo:

“Needless to say, we are very pleased the court ruled in favor of the First 5 Commissions.

This means about \$2.5 million that was slated to be given to the State as part of AB 99’s mandated transfer of funds, can now stay in Yolo County.

The big whoosing sound you hear is the collective sigh of relief coming from First 5 Yolo and all of our funded agencies. Hopefully, now we can get back to funding local programs and services that meet critical health, early education and child care needs for Yolo County children.”

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### **About First 5 Yolo**

*Research shows a child’s brain develops most dramatically in the first five years and what parents and caregivers do during these years to support their child’s growth will have a meaningful impact throughout life. In November 1998, California voters passed a statewide ballot initiative to add a 50-cent-per-pack tax on cigarettes. The funds collected are utilized to fund education, health and childcare programs that promote early childhood development from prenatal through age 5. For more information about First 5 Yolo, please visit [www.First5Yolo.org](http://www.First5Yolo.org).*