



PROPOSITION 98 WOULD BE DEVASTATING TO THE ENVIRONMENT AND NATURAL RESOURCE PROTECTION

Buried in the definitions of Proposition 98 are provisions that would invalidate many of California's programs to protect the environment and natural resources. Specifically, section 19(c)(3)(iii) of the measure prohibits laws and regulations that "*transfer an economic benefit to one or more private persons at the expense of the private owner.*" Prop 98 would also ban the use of eminent domain to acquire property for a use that is "substantially similar" to the current use. These provisions will have a very broad impact on natural resource protection, including:

- **Planning and Zoning.** The California Supreme Court has said that most zoning ordinances create an economic transfer of benefits. Zoning rules to control development on hillsides or in habitat could be said to transfer an economic benefit to the neighbors at the expense of the owner. Even rules to control the spread of liquor stores could be said to protect residential property values at the expense of liquor store owners.
- **Climate.** Many policies to implement California's landmark climate legislation AB 32 will be seen as transferring economic benefits from old polluting industries to new renewable technologies. These policies could be invalidated if Proposition 98 is enacted.
- **Coastal Protection.** The Coastal Commission has long been a target of property rights advocates. Many development controls used by the Commission can be said to benefit neighboring property values at the expense of some developer. Proposition 98 will open the Coastal Commission to a new wave of attack.
- **Habitat Protection.** The NCCP program will also be subject to attack. Property owners who are subject to habitat protection policies will claim that an economic benefit has been transferred from their properties to the properties where development is allowed. Those owners could challenge the entire NCCP instead of just suing for damages.
- **Forests.** Programs to require logging companies to protect rivers could be attacked as transferring an economic benefit to the fishing industry at the expense of the timber companies.
- **Mitigation Fees.** Virtually all mitigation fee programs will be attacked. San Francisco's affordable housing in-lieu fee was only upheld by a 4-3 vote of the California Supreme Court. The "economic transfer" language in Proposition 98 seems to enact the dissent's analysis as the new constitutional standard. Fees that will certainly be attacked will include wetland, habitat, and open space mitigation fees as well as affordable housing, park, and school mitigation fees.
- **Open Space, Historic Buildings and Cultural Sites.** The use of eminent domain to acquire these properties would be flatly prohibited.

Paid for by No 98/Yes 99, Californians to Stop the Prop 98 Attack on Renters and in Support of Prop 99, the Homeowners Protection Act. A committee of seniors, homeowners, taxpayers, renters, educators, business, labor, environmentalists, local government and public safety, League of California Cities (Non-Public Funds) and Californians for Neighborhood Protection: Yes on Prop 99, No on Prop 98, a sponsored committee of conservationists and labor

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