

# Valley First 5s to sue state over fund grab

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By Barbara Anderson / The Fresno Bee

First 5 commissions in Fresno, Madera and Merced counties plan to sue today to stop Gov. Jerry Brown from taking \$1 billion from early childhood programs statewide to fill California's budget hole.

The commissions are the first in the state to ask the courts to invalidate legislation signed by the governor last month requiring them to turn over the money. They plan to file a petition in Fresno County Superior Court.

The First 5 commissions contend that only voters have the authority to approve a state takeover of the funds, which provide services to young children. The funds were created from a Proposition 10 tobacco tax approved by voters in 1998.

First 5 commissions said the law is clear: "These funds don't belong to the state. It's the kids' trust funds," said Kendra Rogers, executive director of First 5 Fresno County.

State officials say the funds can be used without taking the issue to voters because the money will pay for health services for low-income children up to age 5, consistent with the goals of Prop. 10. They say even the most notable supporter of First 5, actor Rob Reiner, supports the governor's decision.

The governor would take roughly half of each commission's fund balance as of July 30.

In Fresno County, the state would take \$16.7 million. First 5 of Madera County would have to turn over \$3.3 million and the take from Merced County would be \$3.1 million. Commissions have until June 30, 2012, to give the state the money.

The commissions' petition names Brown, state controller John Chiang and Ana Matosantos, director of the state Department of Finance.

Kenneth Price, a Fresno attorney representing the Fresno, Madera and Merced commissions, said he expects other First 5 commissions also will take legal action to stop the state before funds have to be turned over next year.

"We really think we have a strong case here and what the state did was wrong," Price said.

The state is again attempting to get around voter approval to take First 5 funds, said Zoua Vang, a spokeswoman for First 5 Fresno County.

In 2009, voters rejected Prop. 1D that would have taken First 5 money out of the hands of local commissions, she said.

State officials said Assembly Bill 99, the legislation allowing the state takeover of First 5 funds, meets legal requirements.

The money will be used for programs for early childhood health, said H.D. Palmer, a spokesman for the governor's administration. The money will be funneled into the Medi-Cal program, he said.

"We think the use of these funds is in the furtherance of the proposition approved by voters," he said. "It clears that legal threshold."

Palmer said Reiner, who was the chief proponent in the campaign for Prop. 10, issued a statement in support of the governor's budget proposal.

Reiner's statement said in part: "These are tough budget times, and it is unfortunate that First 5 will lose so much of its existing funding. But the alternative proposals were much, much worse."

Palmer said the state will be able to tap into First 5 funds only once -- a provision Reiner wanted to ensure was included in the budget proposal, he said.

In addition to taking First 5 funds, the state also approved billions in cuts to welfare, medical programs for low-income families, in-home care for the elderly and disabled, and adult day care.

The bills signed March 24 by the governor cut \$8.2 billion from the state's \$26.6 billion budget deficit. Combined with other measures, \$11.2 billion was trimmed from the deficit.