

# Rethinking the State-Local Relationship: An Overview

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## Summary

Governor Jerry Brown sparked renewed interest in the relationship between state and local government with his January 2011 budget proposal, which called for shifting responsibility and funding for many programs from the state to localities. This shift of responsibility is commonly known as “realignment.” Realignment generally means that the state provides local governments—usually counties—with a revenue source, perhaps assigns them new responsibilities, and allows them the authority to shape realigned programs to best accommodate local conditions and priorities.

This report provides an introduction to realignment—that is, rather than discuss specific proposals or programs in detail, it offers a framework for thinking about how realignment might work and what difficulties it might face, regardless of program particulars. It also sets realignment in the context of broader possible improvements in California’s state-local government structure.

As an overview, this report is designed to help decisionmakers at all levels of government think through the key components of any realignment process and to help other interested Californians understand what realignment is all about. It clarifies basic principles for realigning services, identifies the central legal constraints, and examines critical funding issues.

Forthcoming reports in this series, *Rethinking the State-Local Relationship*, will provide more detail about what realignment and other adjustments in state-local government would mean in specific program areas, including [child welfare services](#), [corrections](#), [local economic development](#), and [K–12 education](#).

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# Introduction

California delivers government services through a complicated mix of state agencies, cities, counties, school districts, and other special districts. These structures have grown by accretion over California's more than 160 years of statehood, some in mimicry of eastern states and some in response to particular conditions or conflicts in California. They are difficult for citizens to understand and keep track of, cost more than is necessary, likely duplicate or at least complicate functions, and produce poor results in some areas, such as prisoner rehabilitation and school graduation rates. They are also remarkably resistant to fundamental change. It may be time for California to contemplate whether it can do better.

One approach to improving these arrangements is called "realignment." In general, realignment means shifting primary responsibility for providing a specific public service from state government to local government, particularly counties. This shift of responsibility is usually accompanied by both a revenue source and the authority to shape that particular public service program to best accommodate local conditions and priorities. Realignment might also go the other way, shifting program or funding responsibility to the state.

Realignment was featured prominently in Governor Brown's January 2011 budget proposal. The main features of this proposal are:

- Counties would house certain low level offenders and juvenile offenders now in state custody. They would also supervise paroled prisoners.
- Counties would increase responsibility for services in mental health, alcohol and drug treatment, child welfare, and adult protective care.
- Redevelopment and enterprise zones would be phased out. Local taxes and bonds for these and related purposes would be able to pass with 55 percent voter approval, rather than the two-thirds approval currently required.
- Temporary increases in the sales tax and vehicle license fee that are set to expire would be extended for five years, with revenue to go to local governments to pay for these changes, if voters approve. This extension would raise \$5.9 billion.

Some of these proposals, such as eliminating redevelopment, bring realignment efforts to new areas. But the concept of realignment has been part of the insider budget conversation in the state for 25 years. These proposals come up most often during recessions and budget crises, as demonstrated this year by the governor's January budget proposal. This may happen for two reasons. On the one hand, realignment is often considered to be a money-saver: it is hoped that local governments, if they had more flexibility, could accomplish more with less state funding. There is little evidence that this proposition is actually true, although it may be. On the other hand, realignment is a way to guard against program cuts: it has historically involved committing funds from a specific revenue source, such as a sales tax increase or extension, to programs that have shifted from state to local responsibility. That revenue commitment may protect these programs from funding cuts and provide a rationale for a tax increase otherwise unlikely to be enacted.

However, the historical congruence of realignment and recession is somewhat misleading. If realignment is a good idea, then it is a good idea during good economic times as well as bad. In a few instances, California has pursued realignment during times of budgetary abundance. The most important recent example occurred in 1997, as discussed in more detail below.

Realignment is not easily done. Opposition may come from local officials, from groups that benefit from the services being realigned, from taxpayer groups, from state agencies and employees whose roles may be realigned out of existence, and perhaps others. Litigation is likely to accompany realignment efforts. And it may be hard to get the details right, both because of opposition with other goals and because experience with and careful analysis of genuinely effective state-local reform is limited.

This report provides an introduction to realignment—that is, rather than discuss specific proposals or programs in detail, it offers a framework for thinking about how realignment might work and what difficulties it might face, regardless of program particulars. It also sets realignment in the context of broader possible improvements in California’s state-local government structure.

The rest of the report contains the following: a short history of realignment in California, a set of basic principles to help guide realignment decisions, a discussion of funding issues, and finally, an examination of constitutional and other constraints on realignment actions.

Related papers in this series provide more detail about what realignment and other adjustments in state-local government would mean in specific program areas, including [child welfare](#), [corrections](#), [local economic development](#), and [K–12 education](#).

# A Brief History of Realignment

Realignment is a central theme of United States history. The United States Constitution assigns certain powers to the federal government, and the rest to states and “the people.” Struggle over just where the lines of authority are drawn has occupied the national courts at least since *McCulloch v. Maryland* in 1819 and was later a cause of Civil War.<sup>1</sup> But the Constitution does not shed much light on how responsibility should be shared between states and local governments, and different states deal with this question in very different ways.

In California, many public services are provided through a combination of state and local government efforts. For example, a criminal may be arrested by city police, held in a county jail, tried in a court funded mostly by the state, and sentenced to time in a state prison. Social service programs are often funded with federal, state, and local money, and staffed with county employees working under state rules and oversight. Some of these arrangements go back to early statehood.

## Early Realignment Efforts and the Effect of Proposition 13

Relations between state and local government in California have been in nearly constant conflict and evolution since the Gold Rush. The broad tidal pattern went something like this. The early decades of California’s statehood were a time when state government exercised very strong and occasionally abusive control over localities (Peppin 1941). The California Constitutional Convention of 1879 led to several changes that shifted political power toward cities and counties. The effectiveness of these changes was whittled by court decisions and further reduced during the Great Depression, when the state increased its oversight of local governments, especially districts, and took on a role in funding schools.

The current wave of realignment began with passage of Proposition 13 in 1978. Before that, cities, counties, and school and other districts levied property taxes as needed to fund their operations. Proposition 13 capped the property tax rate at one percent, limited increases in assessed values on which the tax was based, and left the state to determine how the diminished revenue would be allocated. The state softened the impact on local governments by shifting property tax revenue from schools to other local agencies and making up the difference for schools from the state’s general fund. It also assumed greater responsibility for several health and social service programs. A good deal of subsequent state-local government history has involved efforts by the state to revise parts of this package and by local governments to hang on to the parts they liked.<sup>2</sup>

## Influence of the “Reagan Revolution”

Current thinking about realignment has roots in President Reagan’s “New Federalism” and “devolution.” In 1981, Reagan proposed combining numerous federal categorical programs into block grants, and giving states greater discretion about how those funds should be used. Since this flexibility theoretically would allow

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<sup>1</sup> A landmark United States Supreme Court decision concerning a tax levied by Maryland on banknotes (i.e. currency) issued by a Bank of the United States. Maryland lost.

<sup>2</sup> The best concise summary of this struggle is the Legislative Analyst Office’s flow chart (available as page 4 at [http://www.lao.ca.gov/handouts/Conf\\_Comm/2010/Overview\\_CA\\_Local\\_Gov\\_6\\_15\\_10.pdf](http://www.lao.ca.gov/handouts/Conf_Comm/2010/Overview_CA_Local_Gov_6_15_10.pdf)), which identifies 26 major legislative actions between 1978 and 2010, each of which can be understood as a kind of realignment.

states to accomplish more with less, federal spending could be reduced. A 1982 California State Association of Counties (CSAC) task force responded to Reagan’s ideas by proposing devolving responsibilities for several health and welfare programs from the state to the counties.

In 1983, a “New Partnership Task Force on State and Local Government” was appointed by Governor Deukmejian to propose giving local governments greater control over their funding sources and to reduce state program requirements imposed on local governments. It suggested, among other things, realigning responsibility for health and welfare programs by making counties responsible for “capitated” programs, meaning those with a limited budget commitment, and making the state responsible for “entitlement” programs limited only by caseload growth. It also proposed shifting a portion of the state’s sales tax revenue to the counties to pay for these new responsibilities. In addition, it made recommendations concerning local taxing authority, general obligation bonds, and the creation of a constitutional amendment to protect at least some local revenues from the state.

## Recent Realignment Efforts

More realignment work occurred through the 1990s and into the new century. In 1991, a group of local and state representatives worked to form a proposal for realigning mental health and other social service programs. This work began during one of California’s recurring budget crises and served at least partly to provide a comparatively stable funding source for mental health programs. The group proposed realigning mental health, some medically indigent health care, and aid for families with children. It also suggested changing state-county financing ratios for many other safety net programs and earmarking revenue from increased sales taxes and an increase in vehicle license fees (VLF) to pay the counties for their new responsibilities. This package was enacted and is often referred to, by those in the know, simply as “realignment.”<sup>3</sup>

As this brief history demonstrates, California has been trying to find the right balance between state and local responsibilities for more than 160 years. Finding a correct or optimal alignment depends on several principles and funding concepts, and must be tempered by regard for program history and constitutional and other constraints. Reasonable people differ about how these principles and concepts should be interpreted and weighted. The following sections of this paper describe these principles and concepts.

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<sup>3</sup> A 1993 LAO report, “Making Government Make Sense,” explained the reasons for the 1991 package, and laid out principles for future realignments. This was followed by “Realignment Revisited” in 2001 and papers offering rationales for realigning criminal justice programs, parole, and other state/county programs in recent years.

# Principles

With realignment, the goal is to achieve a governmental organizational structure that holds down costs, achieves good results, is responsive to local conditions and yet broadly fair, and that effectively manages public capital facilities and other kinds of capacity. As with many budget matters, decisions about programs to realign will be based on intuition, ideology, and political calculation. Data and analysis of the potential of realignment may shed light but are unlikely to yield wholly convincing determinations. However, several broad criteria can help to identify programs that would be good candidates for realignment, or more broadly, for reassignment from state to local government (or *vice versa*). These include:

## Increasing Cost Effectiveness

Other things being equal, it makes sense to assign public service tasks to the level of government that can do the required work at the least expense. Sometimes this may be the state, sometimes a city, a county, or a district. Increasing cost effectiveness could reduce overall costs or allow increased service delivery for the same overall costs.

Assigning tasks to the state is likely to be the least expensive option if there are significant economies of scale to the work to be done. For example, the state has devolved to the counties the responsibility for holding most juvenile prisoners. However, the state still imprisons the most serious juvenile offenders. This requires specialized, relatively high security prison facilities. It may require special programming appropriate to these serious offenders. In addition, it may be an advantage to keep these serious offenders away from other juveniles. For these reasons it is plausible, although not certain, that it would be more economical to hold the fairly small number of these prisoners in one or a few facilities run by the state, rather than asking each county to maintain a separate facility for their own serious juvenile offenders.

Assigning tasks to the county or other local agencies may be cheaper when knowledge of the individuals receiving services, the ability to adapt programs to local circumstances, or the flexibility to experiment and innovate are important. For example, these conditions all apply to programs that protect children from abuse and help explain why these programs are administered locally. In the field of mental health, California once favored large institutional hospitals run by the state for treating the mentally ill. The state gradually shifted to community-based treatment programs through the 1960s and 1970s, at least in part for cost-saving.

In many cases, cost comparisons can be based on actual experience and cost data. For example, both the state and counties incarcerate relatively low level offenders. It is possible to calculate costs for each level of government, compare them, and make the most cost-effective choice. Debate about accounting details may still arise, but the range of disagreement should be much narrower than it would be without this kind of information.

## Creating Better Outcomes

Outcomes are important for government programs. Better outcomes include reducing the likelihood that parolees will return to prison or that students will drop out of school. In concept, realigning one or several programs should allow for the possibility of better outcomes for citizens.



Again, economies of scale matter, and state government is most likely to achieve better outcomes with programs for which the advantages of scale are substantial. For instance, it makes sense for the state to build intercity highways and statewide water projects.

Local agencies are most likely to achieve better outcomes with programs for which unique local circumstances and differences between individual service recipients are most important. Programs that closely relate to other services already provided by the locality are also good candidates for local administration. For example, a paroled prisoner might have a higher likelihood of a successful return to a job and other attributes of a normal life if parole were combined with drug and alcohol treatment, job placement, help with housing, and adult education. Similarly, a family involved with child protective services is likely to have need of some or all of these programs.

## **Balancing Local Control and Statewide Equity**

Delivering public services through as local a government unit as possible has several advantages. Local governments are likely to be more responsive to local priorities and preferences, and more able to adapt programs to unique local circumstances. Realignment might mean that local governments would have considerably more authority over program management, perhaps including eligibility rules, benefit levels, service standards, documentation requirements, and staffing levels. In addition, they might have greater discretion to reallocate state and perhaps federal funds between social service programs.

At the same time, social services should be available uniformly to California citizens who need them, without regard to local politics or geography. This is a matter of both equity and practicality—it is important to avoid encouraging people who need public services to migrate to localities with generous programs. Local jurisdictions vary greatly in their ability to raise money for public services, and jurisdictions most needing services are often least able to pay for them. One function of state involvement is to provide some degree of equality in access to funding—for example, in social services and education.

These notions of local control and statewide equity are to some degree in conflict, and this conflict may have important consequences for the way that realignment works in practice. Local officials in rural counties or politically conservative areas may have priorities for social services that are quite different from those of urban legislators, for example. These differences of opinion may account for a fair amount of the regulatory detail that applies to these programs now.

Including service standards in laws that authorize program realignment could help to balance local control and statewide equity. Taking this step would mean that even though local governments would be free from state regulations and the state supervisory bureaucracy, they would still be required to provide services that meet statewide standards. If local governments failed to meet these standards, or if there were a difference of opinion about whether standards were being met, resolution might come by appeal to the state bureaucracy or to the courts. However, it is unclear whether this system would truly be more efficient than the existing state regulatory system, let alone an improved one.

Balancing local and state interests will not be easy. Differences among localities might be quite modest if California were a politically homogeneous state and if attitudes about how social service programs should be conducted were fairly uniform. To the degree that California displays marked geographic differences about these matters, realignment could be followed by extended conflict in localities, in the courts, and in the state legislature. The scope of dispute may be closely related to the amount of real program flexibility given to local governments through the realignment process.

# Constraints

Even if the principles outlined above led to an ideal state and local governmental structure, it would not be easy to put that structure into place. Both the California Constitution and federal law impose restrictions on realignment proposals.

## Constitutional Constraints

The constitutional constraints described below would apply to most reassignments of state and local functions. These restrictions could be eliminated or at least changed if the voters were willing to do so, perhaps in a constitutional amendment proposed as part of a realignment package. But these restrictions enjoy considerable support, and changing them is likely to be difficult.

### State Mandates

The California Constitution contains two phrases that may create a very precise standard for the funding to be provided to local governments to cover the costs of any realigned program responsibilities.

- Article XIII B, Sec. 6(a) says that the state must reimburse local agencies for the cost of providing any new or higher level of service mandated by the state.
- Article XIII B, Sec. 6(c) adds the important clarification that the state must reimburse a local agency if the state tries to reduce the state's share of the cost of a state mandated program.

Realignment is likely to impose a mandate for which reimbursement is required. For example, Governor Brown's January 2011 realignment proposal would provide counties with additional revenue to pay for realigned programs, and perhaps this would satisfy the constitutional requirement that the state reimburse localities for new state-mandated programs. If realignment requires a county to provide a specified service until the money provided by the state runs out, perhaps these requirements would be satisfied. But if, for example, realignment requires counties to house as many low-level prisoners as the criminal justice system produces, regardless of the level of state money provided, then the state might be obligated to later reimburse county costs or the requirement might be suspended. Unhappy counties might ask a court to determine whether the amount of money was sufficient or whether they were being asked to handle too many cases for the amount paid.

Mandate reimbursement is not new. The requirement has been in the California Constitution since 1979. Statute specifies that reimbursement be determined by a Commission on State Mandates and sets out general procedures for calculating the amount. But it is unclear just how the Commission would respond to a realignment mandate claim, or what standards the courts would apply to determine if the amount of reimbursement was fair.

The drafters of California's 1991 realignment package were aware of these risks. They included a "poison pill" provision as protection. This provision said that if the Commission or a court determined that more than \$1 million would have to be paid to reimburse a mandate (beyond the revenue explicitly provided as part of realignment), realignment would become inoperative. That threat was effective because realignment provided mental health programs, for example, with more secure funding than they would otherwise have had. Mental health providers were unlikely to put this secure funding at risk by challenging the precise amount they were getting. But this strategy might not be so effective for some of the 2011 proposals.

## **Proposition 98 (1988)**

This proposition added a complicated formula to the state constitution to establish a minimum amount of funding for schools each year. The formula generally requires that schools receive a specified percentage (roughly 45 percent) of the state “General Fund proceeds of taxes” and “allocated local proceeds of taxes.” This means that if the state were to enact a new tax, or extend an existing tax, 45 percent of the resulting revenue would have to go to schools in most cases.

California’s 1991 realignment was crafted so that revenue from an increased sales tax dedicated to newly realigned programs did not go to the state’s General Fund and therefore was not subject to the 45-percent-to-schools requirement. Instead, the money was collected by the state and went to a special fund for allocation to local agencies. This strategy allows all the money raised by the extended taxes to go toward funding the realigned programs, rather than only about 55 percent of it. The administration has suggested using this same technique for its January 2011 budget proposal.

However, this approach may violate Proposition 98. A judge might find that the realigned programs used to be funded through the General Fund, that the predecessor taxes used to go into the General Fund, that the realignment is in good part intended to avoid Proposition 98’s rules, and that Proposition 98 applies to the extended taxes. That conclusion would reduce the amount of funding available for realigned programs from extended taxes by about 45 percent.

California’s 1991 realignment had another poison pill provision for this scenario, which would kick in if Proposition 98 were found to apply to the dedicated sales tax increase. In that case, the sales tax would be repealed. Again, this provision might not be an effective deterrent for the programs proposed for realignment in 2011, because some counties may view this year’s realignment as less than a win—and may be willing to challenge it in court.

## **Propositions 1A (2004) and 22 (2010)**

Passed in 2004, Proposition 1A amended the state’s constitution to protect local revenue sources from state control. It prohibits the state from reducing the portion of the sales tax that goes to local governments and from changing the way the resulting revenue is allocated among local governments. It prohibits the state from shifting additional property tax revenue to schools and from reducing the allocation of vehicle license fee revenue that goes to local governments. It also tightens up the state mandate protections described above.

Although this initiative does not directly intersect with the 2011 realignment proposals, it prohibits a number of broader adjustments to state-local relations. For example, it is sometimes argued that current sales tax allocation rules cause cities and counties to compete excessively for shopping centers and car dealerships, which can be contrary to statewide economic development interests. Proposition 1A’s sales tax provision prevents the state from doing much about this. In addition, Proposition 1A’s property tax allocation provision rules out proposals to shift money from cities to the state and then to county social service or criminal justice programs. Whether state action in these areas is a good idea or not is debatable, of course. But Proposition 1A takes it off the table without constitutional change.

Proposition 22 prohibits the state from making changes in or borrowing fuel money, which is generally dedicated to transportation purposes. Of more immediate importance, it prohibits the state from reallocating funds (called tax increment revenue) that go to redevelopment agencies. The Brown administration has proposed eliminating redevelopment agencies, an act of realignment or at least of broader state-local restructuring. It contends that Proposition 22 prevents state reallocation of redevelopment revenue, but does not prevent the state

from eliminating redevelopment agencies completely and then doing something new with that revenue. Proposition 22 supporters contend that the initiative eliminates all possibilities along these lines. This debate will need to be resolved in the courts.

### **Propositions 13 (1978), 218 (1996), and 26 (2010)**

All of these propositions limit the ability of state and local governments to raise revenues. Proposition 13 limits the property tax rate to one percent and restricts assessment increases. Proposition 218 requires a two-thirds vote for most local tax increases and puts additional restrictions on local assessments and charges. Proposition 26 broadens the definition of a state tax for which a two-thirds vote is required and imposes some additional requirements for local levies. These propositions were intended to make it more difficult for governments to raise revenues, and they have been successful. They also rule out many changes to state-local relationships having to do with revenue sources.

### **Federal Constraints**

Many health and welfare programs depend on federal funding to pay a substantial part of program costs. As a condition for receiving this funding, states and localities must meet federal standards and satisfy federal procedural and reporting requirements. As an example, federal funds for child welfare services are largely tied to services for children placed outside the care of their immediate family. Less money is available to keep families intact. Little room is left for local flexibility or authority.

Federal requirements vary from program to program, are numbingly complex, and are beyond the scope of this short paper. These matters are different for each potentially realigned program and will be discussed in the program area reports in this series, *Rethinking the State-Local Relationship*.

# Funding

Getting the flow of money correct is central to realignment and most other forms of state-local rearrangement. A working premise of most realignment proposals has been that local governments should receive sufficient funding to pay for any new program responsibilities they are assigned. The state constitution requires this, at least if the shift is from the state to local government. This section describes several issues involved in getting the funding right, explains the importance of building incentives into the funding mechanism, identifies issues special to realignment during recessions, and briefly discusses possibilities for broader changes to funding state-local services.

## Sufficient and Reliable Funding

Working out the correct level of funding is likely to be complicated by differences in the goals of state and local participants. Local governments will certainly want to receive sufficient money to pay for costs, preferably generously measured, with guarantees to cover possible cost overruns and to provide certainty about the revenue sources. They may insist that no jurisdiction receive less state funding for any program than it gets now.

By contrast, the state is likely to prefer to make minimal cost estimates and to want local governments to share in the risks of costs increases, revenues declines, and insufficient revenue growth. The state might even prefer that local governments bear an increased part of the financial burden of providing program services, perhaps by contributing additional local revenues. Some state authorities suggest that revenues going to local governments for realigned responsibilities need only be roughly proportional to the costs of those responsibilities. Local governments are likely to agree to this only if they have reason to expect the estimated revenues to exceed costs—and to be deeply suspicious otherwise.

Measuring the actual costs of providing specified public services at either the state or local government levels is less straightforward than it might seem. Public accounting systems are seldom set up to make functional cost measurement easy, and sufficiently detailed cost data may not be available. For any particular function, there is room for debate—and fudging—in determining the appropriate amount of overall city or county management and capital cost overhead. There will certainly be differences between jurisdictions in staff cost per case, in benefit levels, in cases per capita, in management costs, and in other measures—all of which can raise questions about whether this or that jurisdiction's costs are too high or its services either too meager or too generous. These are not new questions, and methods for dealing with them have been worked out by the Commission on State Mandates, as described below. But controversy remains.

State and local authorities may have different views about how the risk of changing costs should be handled. Program costs may change because of caseload growth, changes in public employee compensation levels, or changes in benefit or service levels (which could come about because of state or federal legislative changes, court decisions, changes in available technologies, or changes in local administrative practices). Local governments are likely to want realignment to include a mechanism to adjust payments to local governments that would account for these kinds of changes.

Revenues may also deviate from expectations. The state's revenue commitment to pay for realigned programs might take any number of forms. It might involve earmarking revenue from a particular tax levy (such as a specified portion of the sales tax). It might involve appropriation of a specified dollar amount or an amount determined automatically each year by a formula set out in statute, perhaps from a specific tax source. It could

involve appropriation of an amount determined each year by the legislature, although local governments would probably not sleep well with this option.

Each option carries risks. The revenue from a half-cent sales tax, for example, would vary from year to year, depending on economic conditions and the rate of erosion of the sales tax base. Revenue determined by a formula would depend on how well the formula achieved its intended policy goals. A revenue source that exists for only a few years, such as the governor has proposed this year, would carry the obvious “what happens next” risk.

A key rationale for realignment is the notion that local governments will be able to provide more service at lower cost. If this is correct, realignment may produce savings. Where should these potential savings go—to local governments or the state? Considerable disagreement is likely to arise over this choice. Local governments will have the strongest incentive to actually produce savings if they are able to keep the savings. State government will have the strongest incentive to transfer program authority to local governments if savings go to the state. There may be room for compromise here. Moreover, it is important to remember that, at this point, the cost savings of realignment exist as a potential—not a confirmed reality—and have little evidence, analysis, or example to back them up.

## Capacity Investments

Funding is about more than the day-to-day costs of providing a public service. It is also about supporting the underlying capacity to provide that service. For example, suppose realignment involves moving certain prisoners from state prisons to county jails. The counties involved would have to have the capacity to handle this change. This would mean having the necessary employees on the job, with sufficient training to do the work. It would also mean having the appropriate authorizations and regulations enacted to meet public policy objectives and to ensure that constitutional and statutory legal requirements are satisfied. It may also mean that local agencies have adequate capital facilities to perform their new functions, including adequate jail space, adequate facilities for providing medical care and other necessary services, and adequate office and warehouse space. In some cases, these facilities could be leased. In others, they would need to be funded, designed, approved, and constructed before realignment could fully proceed.

As the example above demonstrates, capacity constraints will shape the timing of realignment. It takes time to hire and train employees and to adopt regulations. Constructing jail space and other facilities could take years. The amount of time required may vary a great deal because of public opposition to facilities considered unneighborly (such as jails), because of unforeseen environmental or structural complications, or because of economic issues, such as an inability to sell bonds when expected. It may be possible to devise transitional arrangements to speed things along, but these arrangements would need to be realistic.

## Incentives

Any funding structure should provide incentives for local governments to manage their realigned programs to produce good outcomes. Turning again to corrections for an example, the range of incentive strategies may become clearer.

If local governments were responsible for parole supervision of released prisoners, they might be able to reduce the likelihood of an individual’s return to prison by providing drug and alcohol treatment, mental health services, and help with housing, job training, or adult education. Both state and local governments would save



considerable money if the adroit application of county services resulted in the individual becoming a law-abiding, self-supporting citizen (especially if he would have otherwise returned to prison). The individual would presumably have a better and more productive life. Potential crime victims would be spared.

How to encourage counties to achieve such results? To continue the example: An ideal model would be to pay each county an extra amount of money for each year a likely recidivist remained in the county without returning to prison or jail. This amount might reflect some part of the saving to the state for not having the individual back in state prison. The county would then have substantial economic reason to redouble its efforts to provide services that would help the former inmate adapt to post-prison life. An alternative (or perhaps supplementary) approach, more in keeping with California's current practice, would be to require the county to share in the incarceration cost if the parolee were returned to prison (though this may violate the state's constitution, as described above).

Incentives may have goals other than producing good outcomes. Incentives may encourage counties to attempt to minimize caseload growth (a goal desirable for budget reasons, but perhaps not for the program or its intended recipients). For example, counties might be required to bear much of the additional cost of caseload growth beyond a certain level. Alternatively, payment rules might encourage counties to provide services generously by allowing the county to pass on all costs to the state and to generously staff programs, which might translate to better services. Or they might encourage the opposite. In any case, these kinds of incentives play a broader role in shaping the accessibility and reach of various services.

## Realignment During Recession

Realignment can occur during times of recession or times of plenty. Two funding issues are particularly salient during recessions, when both state and local governments find it necessary to make substantial program cuts. First, realignment can provide a way to make necessary cuts with the least damage. Suppose that the state, to manage a budget shortfall, finds it necessary to reduce funding substantially for certain social service programs. It might rationally combine the cut with realignment, by giving local agencies greater flexibility to run the program with less funding. After all, realignment theory has it that local officials can manage this sort of thing best by reducing programs in ways that do minimal harm to local circumstances and that are most responsive to local preferences. Sufficient flexibility should ensure that the constitution's mandate requirements are not violated. If necessary, cut-by-realignment might be undertaken in phases, so that an eventual large reduction occurs gradually over several years.

Second, realignment during recession may create a "fiscal safety zone" for realigned programs. For example, California's reasonably successful 1991 realignment transferred new program responsibilities along with discrete revenue sources (a specified percentage of the sales tax and vehicle license fee revenue) from state to local governments. The realigned programs were entitled to the amount of revenue produced by the pledged tax source and were protected from ravages occurring elsewhere in the state's budget. For counties, this relative security can be an attractive feature of realignment and probably accounts for local government support of the 1991 realignment, especially of mental health programs. A downside of this feature is that it further divides the state's budget into restricted locked boxes, reducing the legislature's and governor's capacity to manage future budget crises. Moreover, fiscal safety zones are likely to be more rigid if tax revenues earmarked for realigned programs come from tax increases or extensions approved by voters specifically for these programs and if the state constitution's requirements about funding state mandates are interpreted rigorously by the courts.

## Realignment with New Local Revenue Options

Recent realignment proposals in California seek to give counties more flexibility and more state funding. An alternative would be to give local agencies increased flexibility along with increased authority to raise revenues to pay for programs. For example, the state could continue to fund social service programs at a baseline level and could also authorize counties to levy additional sales taxes, property taxes, other taxes, or charges by majority vote to pay for locally optional supplemental services. This strategy would give local officials and citizens a great deal of control over programs affecting people within each community. Arguably, government would become more responsive—citizens would have close at hand the local officials responsible for delivering and paying for programs.

However, this approach would have several downsides. Most glaringly, it would require changing the state's constitution. In addition, it would probably result in unequal access to basic social services throughout the state. Some communities would choose to provide services generously. Some would prefer to do that, but would have only a limited tax base with which to fund these services. Others would go with the state's baseline level. This degree of inequality would raise constitutional issues and would certainly be contrary to California's recent traditions.

## Evaluation and Adjustment

Realignment and associated funding arrangements are something of an experiment. It is by no means clear how additional realignment steps will work out. Will local governments actually be able to improve service delivery? Will fewer parolees return to prison as quickly as they do now? Will social service recipients become healthier, drug free, and financially independent? Will large differences develop across counties in the availability of social services? Will public costs per case actually drop? Will realignment lead to extensive litigation?

To answer such questions, good evaluations of realigned programs will be necessary. Evaluation should be considered an important part of structuring realignment funding. It should start with a clear statement of the state's intended goals in adopting realignment, probably in legislation. Realignment proposals should include provisions for both reporting on program activities and funding program evaluations. Continued funding for realigned programs might reasonably depend on these evaluations, and program structures should be subject to change based on their findings. Program modifications might result in greater taxpayer savings and even more effective performance if these modifications are guided by good information about which parts of realignment work and which do not.



# Conclusion

Balancing the division of governmental tasks and revenue sources between the state, counties, cities, districts, and perhaps private contractors is important, complex, and perpetually changing. This overview of realignment has been designed to help decisionmakers at all levels of government think through the key components of any realignment process—clarifying basic principles for realigning services, identifying the central legal constraints, and examining critical funding issues.

The realignments undertaken in California in recent decades, and proposed in the Governor Brown’s January 2011 budget, are only a start. A broader realignment agenda includes:

**Corrections.** Responsibility for incarcerating prisoners of differing security risk levels could be redistributed among the state, counties, and perhaps regions. This has to include a plausible plan for funding construction of needed facilities (and it is hard to imagine a sensible plan for funding prison/jail/youth incarceration that did not include a careful consideration of this matter). Responsibility for supervising released prisoners of various categories and managing their transition to civil life could also be realigned.

**Health and human services.** Social service and health programs could be realigned to contain costs and maximize program effectiveness. This almost certainly has to include changes to federal rules to allow more state and local flexibility. It also needs to include finding a balance between local preferences and statewide standards of equity. It may need to include an examination of whether counties with very limited financial resources can remain the ultimate back-up safety net. Alternatively, county indigent health care responsibilities could be a candidate for reassignment to the state in light of federal reform’s coverage expansions that will extend Medi-Cal in 2014 to populations for which the counties are responsible today.

**K–12 education.** Realigning K–12 education should include allowing districts greater discretion in using funds currently assigned to so-called categorical programs. School funding could also be restructured to create incentives for teachers, schools, and districts to improve student performances (but not without difficult judgments and certain controversy).

**Economic development.** Responsibility for economic development, infrastructure financing, and other public investments that contribute to economic growth could be reapportioned between the state and local governments.

**Local relations.** City, county, and district functions could be realigned. For example, counties are currently responsible for many social service programs used mainly (but not exclusively) by residents of cities.

**Revenue structures.** To achieve these tasks, the revenue structure of state and local governments should be realigned.

This list is by no means exhaustive, but it demonstrates the potential for a wide-ranging rethinking of the state and local relationship. But assigning functions and revenue streams to levels of government is not something we can expect to get right once and for all. Government alignment needs to change, at least from time to time, in response to evolving demographics, economic conditions, technologies, and human culture. If we can keep track of fundamental principles motivating change of this sort, we have a better chance of improving California.

This report has provided an overview of general issues related to realignment. Forthcoming reports in this PPIC series, *Rethinking the State-Local Relationship*, will examine many of the topics listed above, including [child welfare services](#), [local economic development](#), [K–12 education](#), and [corrections](#).

## References

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