

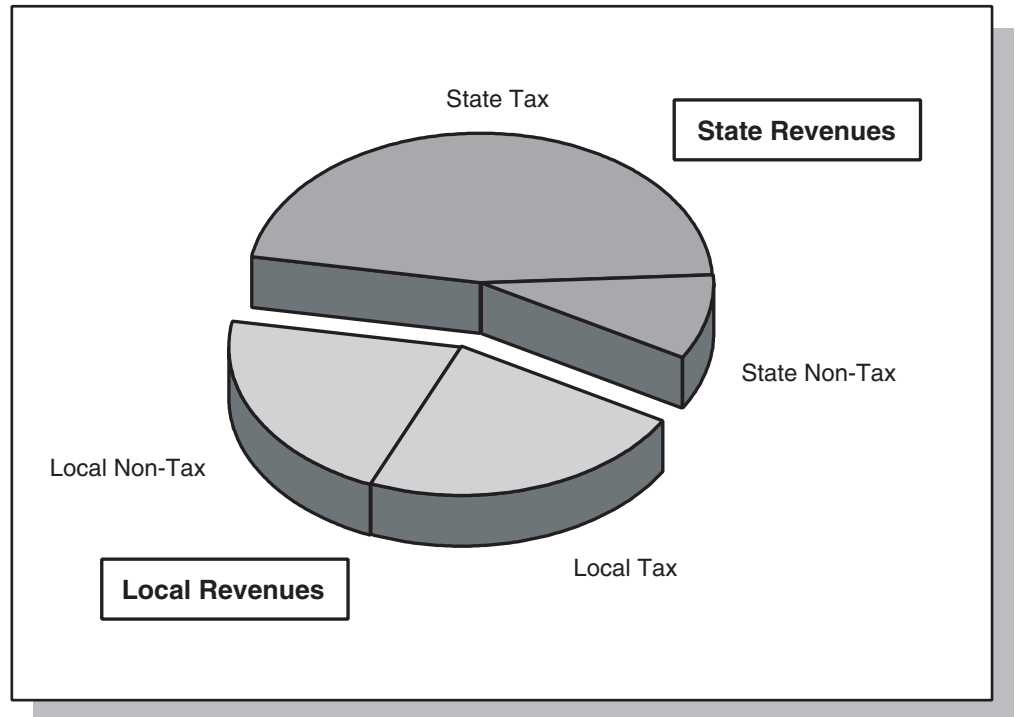


An Overview of Proposition 37

Presented To
Senate Committee on Revenue and Taxation,
Senate Committee on Environmental Quality, and
Assembly Committee on Revenue and Taxation



California's State and Local Revenues



- State and local governments fund their programs through a wide range of revenue sources.
- Relative to other states, California is somewhat below average with respect to taxes and slightly above average in terms of fees, charges, and miscellaneous revenues.



Approval Requirements for State And Local Revenues



State Level	Legislative Approval	Voter Approval
Taxes	2/3	None
General obligation bonds	2/3	Majority
Other debt ^a	Majority	None
Fees	Majority	None
Local Level	Governing Body Approval	Voter Approval
City or county "general" taxes (revenues used for unrestricted purposes)	2/3 (Majority for charter cities)	Majority
City or county "special" taxes (revenues used for specific purposes)	Majority	2/3
All school or special district taxes	Majority	2/3
General obligation bonds	Majority	2/3 ^b
Other debt ^a	Majority	None
Property assessments	Majority	Majority of affected property owners. Votes weighed by assessment liability
Property-Related fees	Majority	2/3 of voters, or majority of affected property owners ^c
Fees—All other	Majority	None
^a Includes revenue and lease payments bonds and certificates of participation. ^b Exception: Article XVI, Section 18 specifies that bonds used for repairing or replacing unsafe public school buildings can be approved by a majority of voters. ^c No vote required for gas, electric, water, sewer, refuse, or developer fees.		





Proposition 37—Major Provisions

Fees are taxes if they meet one or both conditions:

1. The fee is:

- Compulsory.
- Enacted to address the societal or economic effects of an activity.
- Unaccompanied by other significant requirements on the fee payer.

2. The fee is:

- Regulatory.
- Set at an amount which exceeds reasonable cost of regulating activity.

Exemptions:

- Fees imposed as damages associated with a specific event.
- Fees authorized before July 1, 1999.
- *Possibly*: real property development fees, and property-related fees and assessments imposed consistent with provisions of Proposition 218.



Discussion of Proposition 37's Possible Impact on Fees

Restaurant Health Inspection Fee

- Levied to pay for inspection program, not mitigate societal effects of an activity.
- Part of a larger food safety regulatory program.

Fee on Purchasers of Cigarettes to Pay for Health Programs to Help Victims of Second-Hand Smoke

- Levied to mitigate health effect on others due to smoking.
- May not have other regulatory requirements.

A Fee on Liquor Store Permits to Pay for Increased Law Enforcement Because of Neighborhood Nuisance

- Levied to mitigate public safety effects of inappropriate drinking.
- Determination dependent on other regulatory requirements.

Fees on Homeowners to Finance Curbside Recycling Program

- Addresses societal concern, but fee levied to pay for program of collection.
- Other regulatory requirements.



Fees Are Largest Source of Funding for State Environmental Protection Programs

- In recent years, a majority of funding for state environmental protection programs has come from fees. For example, total 1999-00 estimated expenditures for Cal-EPA departments are about \$976 million, with funding as follows:

	1999-00	
• General Fund	\$156 million	(16 percent)
• Other state funds (mainly fees)	\$583 million	(60 percent)
• Federal funds	\$162 million	(16 percent)
• Bonds	\$75 million	(8 percent)

- For 2000-01, projected Cal-EPA expenditures total about \$1.5 billion, of which the largest portion (about 40 percent) is from fees. (Much of the increase in expenditures over 1999-00 reflects the availability of Proposition 13 water bond funds.)



Overview of Environmental Fees

- In general, most environmental “fees” have been enacted on the basis that they were not in effect taxes. Therefore, a majority vote requirement applied to most of these fees. However, there are exceptions. For example, Legislative Counsel has opined that the “environmental fee” levied by the Department of Toxic Substances Control is in effect a tax.

- Typically, a fee levied by a Cal-EPA department supports a wide range of activities, many, *but not necessarily all*, of which relate to regulatory requirements placed on the fee payer. For example, the integrated waste management fee (the “tipping fee” on solid waste disposal) funds the enforcement of landfill regulatory requirements as well as the development of markets for recycled goods.

- Fees provide only partial support for a number of regulatory programs. For example, fees have recently supported only about one-third of the expenditures of the State Water Resources Control Board’s core regulatory program (permitting, inspections, enforcement).



Selected Environmental/Resources/ Public Health Fees



Pesticide Mill Assessment (Department of Pesticide Regulation)

- **Fee Payer:** Pesticide manufacturers and distributors based on the first point of sale of pesticides for use in California.
- **Enacted:** Before July 1, 1999.
- **Sunset?** Yes—current rate of 17.5 mills (\$0.0175 per dollar of sales) reverts to 9 mill rate on January 1, 2003. (Under both the 17.5 and 9 mill rates, 6 mills goes to County Agricultural Commissioners, the balance to the Department of Pesticide Regulation.)
- **1999-00 Revenues:** \$29 million (the mill assessment funds about 55 percent of the Department of Pesticide Regulation’s operations).
- **Activities Funded:** Pesticide registration; worker safety; risk assessments; monitoring; enforcement.
- **Impact on Programs When Mill Assessment Reverts to 9 Mills:**
 - At current programmatic funding levels, the Department of Pesticide Regulation would have a funding shortfall of about \$23 million (or about 50 percent) of its state operations budget if the mill rate reverted to 9 mills. According to the department, the reduced level of funding would mean that the enforcement, worker safety, and monitoring programs could no longer be supported, and only the pesticide registration functions would remain.



Selected Environmental/Resources Public Health Fees (Continued)



Environmental Fee (Department of Toxic Substances Control)

- **Fee Payer:** Corporations with at least 50 employees.
- **Enacted:** Before July 1, 1999.
- **Sunset?** No.
- **1999-00 Revenues:** \$25 million.
- **Activities Funded:** Cleanup and cleanup oversight at toxic waste sites (including “orphan” sites); promotion of pollution prevention; evaluation of hazardous waste source reduction plans of waste generators; certification of new environmental technologies.



Various Hazardous Waste Control Account Fees (Department of Toxic Substances Control)

- **Fee Payer:** Hazardous waste generators, transporters, and disposal, treatment, and storage facilities.
- **Enacted:** Before July 1, 1999.
- **Sunset?** No.
- **1999-00 Revenues:** \$27 million.
- **Activities Funded:** Permitting, inspections, enforcement and oversight of corrective action in respect of regulated facilities.



Selected Environmental/Resources Public Health Fees (Continued)

- Tire Recycling Fee (Integrated Waste Management Board)**
 - **Fee Payer:** Fee levied on sales of new tires.
 - **Enacted:** Before July 1, 1999.
 - **Sunset?** December 31, 2000.
 - **1999-00 Revenues:** \$5 million.
 - **Activities Funded:** Permitting of waste tire facilities; registration of used tire haulers; enforcement; research and development of markets for recycled tires; cleanup of waste tire piles.

- Reenacted Tire Recycling Fee (SB 876, Escutia)
(Integrated Waste Management Board)**
 - **Fee Payer:** Fee levied on sales of new tires, including tires on vehicles purchased from new and used motor vehicle dealers.
 - **Enacted:** After July 1, 1999.
 - **Sunset?** No.
 - **Projected Revenues:** \$20+ million.
 - **Activities Funded:** Enforcement, market development, substantial funds targeted to tire pile cleanup.



Selected Environmental/Resources Public Health Fees

(Continued)



Used Oil Recycling Fee (Integrated Waste Management Board)

- **Fee Payer:** Oil manufacturers (\$0.04 per quart of lubricating oil sold or transferred in state or imported for use in state).
- **Enacted:** Before July 1, 1999.
- **Sunset?** No.
- **1999-00 Revenues:** \$21 million.
- **Activities Funded:** Public information and education program; grants to local used oil collection programs; payment of recycling incentives; research; demonstration projects; inspections and enforcement at used oil recycling facilities.



Integrated Waste Management Fee (Integrated Waste Management Board)

- **Fee Payer:** Owners and operators of solid waste landfill facilities (per ton of waste disposed).
- **Enacted:** Before July 1, 1999.
- **Sunset?** No.
- **1999-00 Revenues:** \$48 million.
- **Activities Funded:** Permitting and inspection of solid waste facilities; cleanup of abandoned waste sites; review of local waste management plans; public education; market development to promote recycling-based industries and alternatives to land disposal.



Selected Environmental/Resources Public Health Fees (Continued)



Waste Discharge Permit Fees (State Water Resources Control Board)

- **Fee Payer:** Dischargers of waste into waters of the state.
- **Enacted:** Before July 1, 1999.
- **Sunset?** No.
- **1999-00 Revenues:** \$14 million.
- **Activities Funded:** Permitting, inspections, and enforcement.



Oil Spill Prevention and Administration Fee (Department of Fish and Game)

- **Fee Payer:** Marine terminal and pipeline operators on each barrel of oil delivered through marine terminals or transported into state by means of a marine pipeline.
- **Enacted:** Before July 1, 1999.
- **Sunset?** No.
- **1999-00 Revenues:** \$18 million.
- **Activities Funded:** Oil spill prevention and research; implementation, installation, and maintenance of emergency programs, equipment, and facilities to respond to oil spills.



Selected Environmental/Resources Public Health Fees (Continued)



“AB 3158” CEQA Filing Fees (Department of Fish and Game)

- **Fee Payer:** Project applicants whose projects are reviewed by the Department of Fish and Game under the California Environmental Quality Act.
- **Enacted:** Before July 1, 1999.
- **Sunset?** No.
- **1999-00 Revenues:** \$2 million.
- **Activities Funded:** CEQA review.



Beverage Container Processing Fee (Department of Conservation)

- **Fee Payer:** Beverage manufacturers using containers with low recycling rates (glass or plastic).
- **Enacted:** Before July 1, 1999.
- **Sunset?** No.
- **1999-00 Revenues:** \$15 million.
- **Activities Funded:** Fee is used to subsidize beverage container recyclers.



Selected Environmental/Resources Public Health Fees (Continued)



Exotic Species Control Fee (State Lands Commission)

- **Fee Payer:** Owners or operators of vessels entering a California port with ballast water loaded from outside the Exclusive Economic Zone.
- **Enacted:** After July 1, 1999.
- **Sunset?** January 1, 2004.
- **Activities Funded:** Enforcement of statutory requirements regarding vessels' management of ballast water; research of ballast water management alternatives and studies of baseline conditions in coastal waters.



Childhood Lead Poisoning Prevention Fee (Department of Health Services)

- **Fee Payer:** Companies presently or formerly involved in manufacture of or selling of products containing lead.
- **Enacted:** Before July 1, 1999.
- **Sunset?** No.
- **1999-00 Revenues:** \$12 million.
- **Activities Funded:** The fee is the major source of funding for the Department of Health Services' Childhood Lead Poisoning Prevention Program, including evaluation and screening of children for lead poisoning.



Selected Environmental/Resources Public Health Fees

(Continued)



Occupational Lead Poisoning Fee (Department of Health Services)

- **Fee Payer:** Employers in 110 industries where work-related lead poisoning has been identified.
- **Enacted:** Before July 1, 1999.
- **Sunset?** No.
- **1999-00 Revenues:** \$3 million.
- **Activities Funded:** The fee supports the Department of Health Services' Occupational Lead Poisoning Prevention Program, which operates an occupational blood lead registry, investigates work-related lead poisoning cases, and has a public education prevention component.