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Voter-Approval Requirements for Local Taxes

LEGISLATIVE ANALYST'S OFFICE

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Hon. Raul Bocanegra, Chair





Brief History of Voting Requirements for Local Taxes

- ☑ ***For Most of California's History, Local Governments Could Raise a Tax by a Vote of the Governing Board.***

- ☑ ***Support for Voter-Approval Requirements.*** Beginning in 1978, voters approved a series of constitutional amendments that established voter-approval requirements for new local taxes.
 - ***Proposition 13 (1978).*** Greatly constrained local government ability to raise property tax rates and required all new local government "special taxes" to be approved by two-thirds of voters.
 - ***Proposition 62 (1986) and Proposition 218 (1996).*** Required new "general taxes" to be approved by majority of voters. Extended voter-approval requirements to other property-related levies not covered by Proposition 13.
 - ***Proposition 26 (2010).*** Broadened the definition of "tax" to include some levies previously considered fees or charges, resulting in a wider application of voter-approval requirements.

- ☑ ***Two Measures Relaxed Restrictions for New Taxes.*** Following the passage of Proposition 13, two measures relaxed restrictions on property tax increases to repay local infrastructure bonds.
 - ***Proposition 46 (1986).*** Allowed property tax rates to be increased above the 1 percent rate to finance infrastructure bond debt with approval of two-thirds of voters.
 - ***Proposition 39 (2000).*** Lowered voter-approval threshold for most school facilities bond debt to 55 percent.



What Is a Special Tax?

- ☑ **Proposition 13 Did Not Define Special Tax.** Proposition 13 required two-thirds voter approval for all new special taxes, but did not specifically define the term.
- ☑ **Court Defined Special Tax.** In 1982, the California Supreme Court found that special taxes are those used for a specified purpose.
- ☑ **Proposition 218 Added Definition of Special Tax to the State Constitution.** Proposition 218 added the following provisions to the Constitution:
 - All taxes levied by local governments are either special taxes or general taxes.
 - Special taxes are those imposed for a specified purpose, even if the proceeds are deposited in an agency's general fund.
 - All taxes levied by a single purpose district (such as a school district or special district) are special taxes.



Voting Requirements Under Current Law

Measure	Governing Body		Voters
State			
Tax	2/3		—
Fee	Majority		—
General obligation bond	2/3	+	Majority
Lease-revenue bond	Majority		—
Initiative proposing revenue or debt	—		Majority
Constitutional amendment (Legislative)	2/3	+	Majority
Local			
Tax:			
Funds used for general purposes	2/3 ^a	+	Majority
Funds used for specific purposes	Majority ^a	+	2/3
Property assessment	Majority	+	Majority ^b
Fee	Majority ^c		—
General obligation bond:			
K-14 districts	2/3	+	55%
Cities, counties, and special districts	2/3	+	2/3
Other debt	Majority		—
^a For most local agencies.			
^b Votes weighted by assessment liability of affected property owners.			
^c Fees on property (excluding water, sewer, refuse collection, gas, and electric fees) require voter approval.			



Voter-Approval Requirements Vary. California's current system of voter-approval requirements varies considerably based on the:

- Type of local government raising the revenue.
- Choice of revenue mechanism—such as a property tax, other tax, fee, or assessment.
- Use of the revenues and authority of the local government to change that use.



Thinking About Changes to Voter-Approval Requirements

- ☑ ***No Single “Right” Approval Process for Local Taxes.*** Approval processes for local tax measures vary across states. Many states do not require local tax measures to be approved by local voters.

- ☑ ***Voter-Approval Requirements Should Follow Some Basic Principles.*** Ideally, a state’s requirements for approving local tax measures should be easy for residents to understand and reflect overarching objectives regarding local resident involvement in local taxation decisions. California’s voter-approval process for local tax measures is (1) complex and (2) does not appear to follow any particular set of unifying principles.

- ☑ ***Questions for Legislative Consideration.*** In evaluating potential changes to California’s voter-approval requirements, we suggest the state begin by considering what objectives voter-approval requirements are intended to fulfill and evaluate potential changes based on whether or not they serve these purposes. Some questions for the state to consider include:
 - Should voter-approval requirements vary based on the use of the revenue?
 - Should voter-approval requirements vary across local governments?
 - How should voter-approval requirements for revenues measures to repay infrastructure bonds or other long-term debt differ from requirements for revenues raised for local government operations, if at all?
 - What objectives does the existing distinction between general taxes and special taxes achieve?