

March 7, 2017

# Voter Requirements for Local Taxes

L E G I S L A T I V E   A N A L Y S T ' S   O F F I C E

Presented to:

Assembly Local Government Committee

Hon. Cecilia M. Aguiar-Curry, Chair

Assembly Revenue and Taxation Committee

Hon. Autumn R. Burke, Chair

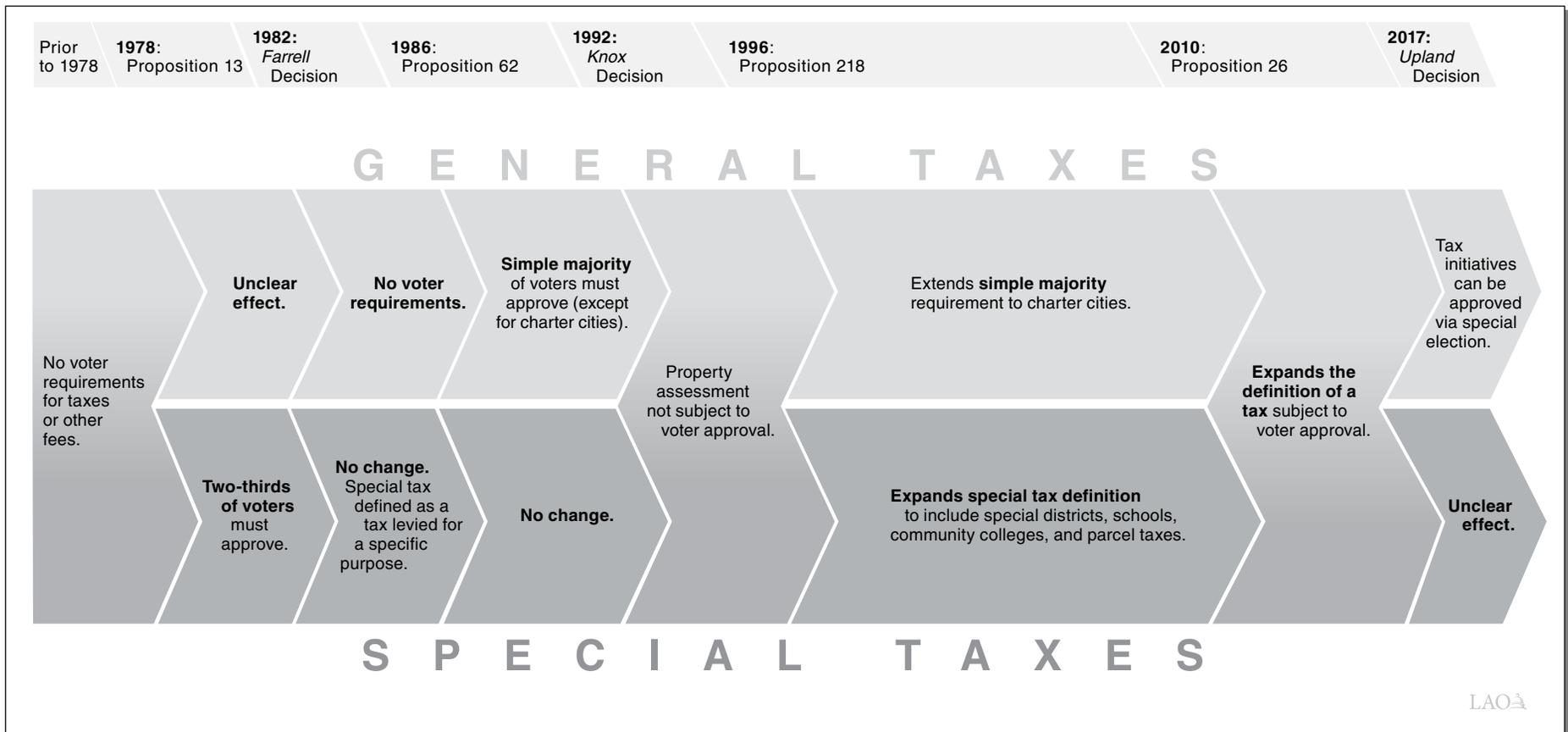
Senate Governance and Finance Committee

Hon. Mike McGuire, Chair



# Changes to Voter Requirements for Local Government Taxes

March 7, 2017  
Page 1



## ***Upland Decision Background***

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March 7, 2017  
Page 2

- Case Focused on Local Marijuana Initiative**
- The Initiative Included:**
  - A repeal of the City of Upland's ban on medical marijuana dispensaries.
  - Regulations to allow for dispensaries in the city.
  - A \$75,000 annual licensing fee for dispensaries.
  - A request that the measure be considered at a special election (under Elections Code 9214).
- The Fee**
  - City of Upland determined the fee would exceed the costs of licensing and inspecting dispensaries. Consequently, the fee would constitute a general tax.
- The Election**
  - Because the city considered the fee to be a general tax, the city determined article XIII C, section 2(b) of the State Constitution required the measure be submitted to the voters at the next general election.
  - The initiative was defeated November 8, 2016.

## ***California Cannabis Coalition v. City of Upland***

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March 7, 2017  
Page 3



### **Petition for Writ of Mandate**

- Plaintiffs alleged the city violated Elections Code by not submitting the initiative to the voters at a special election. Plaintiffs also argued that article XIII C did not apply because \$75,000 fee was not a tax, nor was the fee imposed by a local government.



### **Superior Court Denied Petition**

- Court found that the fee was a tax and had to be placed on the general election ballot.



### **Court of Appeal Reversed**

- Court held that article XIII C, section 2 only applies to taxes imposed by local governments.



### **Supreme Court Affirmed the Court of Appeal Judgement**

- Found that “local government”—as used in article XIII C, section 2(b)—does not include voter initiatives.
- Based decision on protecting the initiative power.

## Case Implications

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March 7, 2017  
Page 4

- Supreme Court Decision Focused on Election Timing as Required in Article XIII C, Section 2(b)**
  - Voter proposed taxes can be approved via a special election.
  
- Both Article XIII C, Section 2(b) and Section 2(d) Reference Local Government Imposed Taxes**
  - Section 2(d) establishes the requirement that special taxes be approved by two thirds of the electorate.
  
- Decision Did Not Address Article XIII C, Section 2(d)**
  - If “local government” does not include the electorate in section 2(d), local special tax initiatives may not be subject to a two-thirds vote requirement.

## Special Taxes Proposed (and Passed) Less Frequently

March 7, 2017  
Page 5

<b>2016 Local Measures</b>			
	<b>Measures Proposed</b>	<b>Measures Passed</b>	<b>Passing Rate</b>
<b>General Taxes</b>			
City and County	154	129	84%
<b>Special Taxes</b>			
City and County	62	30	48
Special District and Schools	63	39	62

- Lowering the Vote Threshold for Voter Initiatives Could Increase Passing Rate
- But (City and County) General Tax Measures Already Can Include Non-Binding Advisory Measure